



# MONTHLY TAX UPDATE

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APRIL 2022

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We are honoured to present our April 2022 Monthly Tax Update (“MTU”) which is designed to keep businesses and individuals informed of the latest tax issues and also bring value to both.

Each month we will consider the latest changes to the tax rules – legislative, case law, and Authorities announcements and interpretations that bring relevancy to the business environment.

Monthly Tax Updates ensure that our valued members are kept in tune with changes in the tax arena. They provide you an opportunity to stay on top of developments that directly and indirectly affect you and your clients/business. The focus is on key guidance from legislation, tax agencies and the courts that represent new interpretations, as well as guidance on new laws.

The updates are accompanied by an insightful commentary pointing out the key takeaway points from the material. Aside to what our regular Newsletters provide, MTUs are meant to help you:

- Identify new tax planning opportunities.
- Keep you updated with all changes in the tax world.
- Keep you aware of current revenue and fiscal announcements and interpretations.
- Recognize pitfalls many professionals miss.
- Minimize compliance errors and offer practical and effective tax solutions.

The contents of this month's MTU edition are as follows:

- Advisory Opinion fees amendment
- Revision of the maximum exportable amounts
- Insurance and pension commission levy
- NSSA pension rates revised
- Suspension of duty on importation of public service buses
- Taxability of technical fees for NRTFs
- Measures to restore macroeconomic stability
- VAT regime for farmers a double delight
- Key issues to watch out for in the preparation of the 2021 ITF 12 C computation
- Declaration and payment of tax in foreign currency
- Exclusion of ore-owned specified vehicles
- Security Alert

A handwritten signature in blue ink, appearing to read 'Marvellous Tapera'.

*Marvellous Tapera*  
Chief Executive officer



## 1. Matrix Group News!

Matrix Tax School brings you the 2022 Annual Tax Conference.



**MATRIX TAX SCHOOL**  
beyond knowledge

**ELEPHANT HILLS RESORT-VIC FALLS**

**ANNUAL TAX CONFERENCE**

**25 - 29 MAY 2022**

*"Reviving Fiscal Citizenship and Investment Climate Amid Crisis"*

### SCOPE

- THE ZIMBABWEAN TAX ENVIRONMENT
- E-FILLING SYSTEM & FISCALISATION
- ZIMBABWE'S 2022 LEGISLATIVE UPDATES
- THE NEW WITHHOLDING TAX REGIME
- REMOTE WORKING
- TRANSFER PRICING
- PAYMENT OF TAXES IN FOREIGN CURRENCY
- TREATMENT OF WORKING FROM HOME BENEFITS & OTHER FRINGE BENEFITS
- CUSTOMS AND EXCISE
- INTERNATIONAL ASPECTS OF WITHHOLDING TAXES

### SPEAKERS

 <b>Regina Chinamasa</b> ZIMRA Commissioner General Zimbabwe	 <b>Marvellous Tapera</b> Chief Executive Officer Matrix Tax School Zimbabwe	 <b>Kayn Woolmer</b> Director Anthony Norman & Associates South Africa	 <b>Prof. Gift Mugano</b> Director - Africa Economic Development Strategies & Adjunct Zimbabwe	 <b>Cynthia Mutasah</b> Head of Tax Grant Thornton Zimbabwe
 <b>Simon Gwenzi</b> Author and Lecturer in VAT (ICAZ)/ (ZITA) Zimbabwe	 <b>Maxwell Ngorima</b> Tax Partner BDO Zimbabwe	 <b>David Masaya</b> Associate Director PWC Zimbabwe	 <b>Simbarashe Hamudi</b> Commercial Training Manager - Matrix Tax School Zimbabwe	 <b>Tafadzwa Mhonde</b> Tax & Legal Manager - Tax Matrix Zimbabwe

### Investment per Delegate USD

	Full Package	Full Package (Excluding Airfares)	Conference Only	Deadline
Early Bird (Members-MTU Subscribers)	\$1,790	\$1,530	\$950	30/04/22
Early Bird (Non Members)	\$1,900	\$1,630	\$1,020	30/04/22
Late (Members-MTU Subscribers)	\$1,980	\$1,680	\$1,060	20/05/22
Late (Non Members)	\$2,190	\$1,860	\$1,180	20/05/22

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## 2. New Legislative Provisions

### New fees for the Competition and Tariff Commission Advisory services

#### The law and Interpretation

SI 56 of 2022 amends the fees payable to the Competition and Tariff Commission in respect of any advisory opinion sought by an applicant for interpretation of the provisions of the Competition Act [Chapter 14:28] to US\$1,500, payable in Zimbabwe dollars at the prevailing official auction rate of the day of payment of the fees. SI 125 of 2020 which is being revised had fixed this at ZWL\$ 10,000.

#### Decision Impact

The pegging of the fees in US\$ provides stability in price changes.

### Revision of the maximum exportable amounts

#### The law and Interpretation

SI 57 of 2022 revises the maximum amounts of moneys permitted to be exported outside Zimbabwe to ZWL\$20,000 and US\$5,000, from ZWL\$50,000 and US\$2,000, respectively.

#### Decision Impact

The revision of the US\$ amounts will open flood gates for the exportation of the foreign currency thereby allowing people to bypass exchange control regulations.

### Diplomatic agents to contribute to NSSA

#### The law and Interpretation

SI 63 of 2022 is making diplomatic agents contribute to the NSSA Accident Prevention and Workers' Compensation Scheme. A diplomatic agent means the head of an Embassy, International Organisation or Consulate including members of their staff or agents mandated to act on their behalf. These were exempted from both the Accident Prevention and Workers' Compensation Scheme and the Pension and Other Benefits Scheme until the publication of SI 169 of 2021 which made them part of the Pension and Other Benefits Scheme. SI 63 of 2022 now makes it compulsory for the agents to contribute to the Accident Prevention and Workers' Compensation Scheme. They shall be deemed to be employers liable to register, contribute and pay premiums in terms of the scheme for all its staff employed under the diplomatic agent who are Zimbabwean nationals or other nationals permanently resident in Zimbabwe. The SI goes further to amend the maximum amount to be paid towards the funeral expenses of a worker who dies as a result of an accident at the workplace from ZWL\$2 000 to ZWL\$15,000. The SI also stipulated the monthly amount fixed for the purposes of payment of lump sum in lieu of pension or children's allowance as follows:

- (a) worker—ZWL\$8050;
- (b) widow/widower—ZWL\$5 366.67;
- (c) children—ZWL\$1 006,25;
- (d) full dependants' allowance—ZWL\$1 788.89;
- (e) partial dependence allowance—ZWL\$1 341.67.

## Decision Impact

The addition of these agents may be viewed as another way the government is seeking to raise revenue.

## Revision of NSSA pension rates

### The law and Interpretation

SI 64 of 2022 has provided for the rates to be used in calculating pension paid upon retirement with effect from 1 January 2022 as follows:

- one and one-third percent (11/3%) of an amount derived by multiplying an employee's average salary of the last 12 months' insurable earnings preceding the date of his or her date of retirement by the contributory period up to a maximum of 30 years; and
- where the period of contributions exceeds 30 years, an additional 1% of an amount derived by multiplying an employee's average salary of the last 12 months' insurable earnings preceding the date of his or her date of retirement by the number of years in excess of 30 shall also be payable.

Policy	Framework
The minimum retirement pension	ZWL\$6,900, with a 15% increase across the board with effect from 1st January, 2022.
The rate of retirement grant	Revised from US\$150 to ZWL\$700 with effect from 1st July, 2021.
The rate of funeral grant	Has been revised from ZWL\$5 000 to ZWL\$15 000 with effect from 1st July, 2021.
Maximum pension contributions	Is to be calculated based on the previous 3-month average Total Consumption Poverty Line for a family of 5, multiplied by a factor of 3,5 and may be reviewed quarterly:

## Decision Impact

Employers and employees should take note of the NSSA changes and ensure proper enforcements of such measures. The pay-outs are not adequate

## Suspension of duty on importation of public service buses

### The law and Interpretation

Duty on busses imported by ZUPCO has been suspended by SI 66 of 2022 with effect from the 1st of January 2022. The ZUPCO, as an approved importer shall, for a period of twelve months with effect from the aforementioned effective date be allowed to import a maximum of 500 public service buses under suspension of duty. ZUPCO is however not allowed to dispose of these buses unless a written authority of the Commissioner is obtained; or payment of the duty suspended has been made.

## Decision Impact

The suspension will help in resolving the current chaos but ZUPCO may not have the capacity to by buses.



## 3. Court Case

### Taxability of technical fees for NRTFs

Case name	E (Pvt) Ltd vs ZIMRA HH 10-22 ITC 9/20
Summary Facts	<ul style="list-style-type: none"> <li>• E (Pvt) Ltd is a licensed telecommunications company.</li> <li>• It was audited by the ZIMRA whereupon it was discovered that it was paying fees to nonresident persons without deducting NRTFs</li> <li>• E objected arguing that the fees paid where not technical.</li> <li>• The ZIMRA dismissed the objection but reduced the penalties from 20% to 5% and hence the current court case.</li> </ul>
Jurisdiction	<ul style="list-style-type: none"> <li>• Special Court for Income Tax Appeals</li> </ul>
Issues	<ul style="list-style-type: none"> <li>• Whether or not the fees should be subjected to Non- Residents tax on fees.</li> <li>• Whether the fees are taxable in Zimbabwe.</li> <li>• Whether there is a legal basis for the imposition of a 5% penalty.</li> </ul>
Decision date	<ul style="list-style-type: none"> <li>• 8 July 2021, 6 January 2022</li> </ul>
Decision	<ul style="list-style-type: none"> <li>• That the services rendered to E by the foreign entities were services of a technical nature to which fees paid are subjected to NRTFs.</li> <li>• That no evidence was led to show that the 'fees' amounted to profits and hence the non-resident fees are taxable in Zimbabwe.</li> <li>• That the CG is empowered to charge 100% penalty and there was no evidence by E to prove the Commissioner was wrong in charging the 5% penalty.</li> </ul>

### The Facts

ZIMRA undertook an audit on E, whereupon it undertook that E was not withholding tax as required by section 30 of the ITA as read with the Sch. The ZIMRA then issued additional assessments and charged 20% penalty which was subsequently reduced to 5%. Aggravated by the ZIMRA's decision, E Ltd filed an objection whereupon it argued that the fees paid to the foreign entity where not for technical services. The objection was dismissed save for the penalties which were reduced to 5% from 20%. E then lodged an appeal.

### Competing arguments

Issue	Competing arguments
Whether or not the fees should be subjected to Non-Residents tax on fees?	<p><b>E's arguments:</b></p> <ul style="list-style-type: none"> <li>• That 'fees' are limited to the service that is provided by the non-resident person.</li> <li>• That the ZIMRA is wrong in regarding the fees a technical nature and hence it is stopped from relying on the other adjectives forming part of the meaning of fees such as 'managerial', 'administrative' or 'consultative'</li> <li>• That the ZIMRA was estopped from changing the basis upon which it levied additional assessments.</li> </ul>

Issue	Competing arguments
<p>Whether or not the fees should be subjected to Non-Residents tax on fees?</p>	<p><b>E's arguments:</b></p> <ul style="list-style-type: none"> <li>• That that the Court should adopt the meaning of 'technical services' adopted by the High Court of India which held that 'where equipment is provided with the usage of technology, there is no provision technical services'.</li> <li>• That the supply of equipment or facilities without human involvement would not qualify as a technical service within the meaning of the Indian statute.</li> <li>• That accordingly the interconnection service supplied by the entity to it did not fall within the definition of 'fees' as it is not a technical service.</li> </ul> <p><b>ZIMRA's arguments:</b></p> <ul style="list-style-type: none"> <li>• That if the nature of the services rendered to E by the foreign entities is such that it falls within the definition of any of the four adjectives namely technical, administrative, consultative and managerial.</li> <li>• That on the above basis, E was obligated to withhold and remit NRTF to the ZIMRA.</li> <li>• That the established position in Zimbabwe is to adopt the ordinary meaning of words, unless doing so leads to absurdity unintended results by the legislature.</li> <li>• That the dictionary definitions of the word 'technical' include connected with the practical use of machinery or of specializing in industrial, practical or mechanical arts and applied sciences or marked by or characteristic of specialization.</li> <li>• That the concession by E that the entity is required to use its own software and equipment to signal traffic was an admission that the entity provides specialized and technical facilities in the discharge of its obligations.</li> <li>• That the various decisions from the Indian jurisdiction relied upon by E that 'technical services' require a human element are of no application within our jurisdiction since the Indian statute is differently worded.</li> <li>• That unlike the Income Tax Act of Zimbabwe, the Indian Income Tax Act contains a definition of 'technical services' which expressly includes managerial, and consultancy services.</li> </ul>

Issue	Court reasoning and decision
<p>Whether or not the fees should be subjected to Non-Residents tax on fees.</p>	<ul style="list-style-type: none"> <li>• That services to be provided by the entity were all products, facilities, equipment, expertise, know-how, management, systems and software.</li> <li>• That the word 'technical' is not defined in the Act but has been interpreted in previous decisions of this Court.</li> <li>• That in <i>M CO v ZIMRA</i> the <i>Oxford Advanced Learner's Dictionary</i> renders the word technical as connected with the skills needed for a particular job.</li> <li>• That <i>M CO v ZIMRA</i> supra found that the skills and expertise of the agent in the trade of tobacco fell within the ambit of technical services.</li> <li>• That the ZIMRA's argument that the interconnection services or the roaming services are services and facilities provided by the non-resident entities to E was correct</li> <li>• That the word 'technical' is of sufficiently wide import to embrace the interconnection and roaming services rendered to E by the foreign entities because they are specialized services which require the expertise and knowhow of those specially trained and equipped with skills necessary.</li> <li>• That the definition adopted in the case of <i>M CO</i> is correct.</li> <li>• That the Indian cases cited by E were of no assistance because they were decided on the basis of a differently worded statute.</li> <li>• That it was the obligation of E to produce evidence and other acceptable material in support of its case and failure to discharge is fatal to its case.</li> </ul>



Issue	Court reasoning and decision
Whether or not the fees should be subjected to Non-Residents tax on fees.	<ul style="list-style-type: none"> <li>• That the interconnection and roaming services provided to E were shown even on E's evidence, to require human intervention.</li> <li>• That accordingly these services of a technical nature within the definition of 'fees' in the 17<sup>th</sup> Sch of the ITA.</li> <li>• That ZIMRA was correct in levying NRTF on interconnection and roaming fees.</li> <li>• That the non-residents' tax was correctly held by the Commissioner to be due on the fees paid by E to these entities in respect of those services.</li> <li>• That another reason why this appeal could not succeed was that the services rendered to E clearly include managerial and administrative services as show in agreements.</li> <li>• That the Court cannot turn a blind eye to services which fall within the definition of 'fees' simply because the parties chose to focus on one limb of the definition.</li> <li>• That the application of the principle in <i>Econet v Zimra</i> to divorce one adjective from the other three contained in the definition of "fees" was erroneous.</li> <li>• That in the final analysis, E failed to show to the satisfaction of the Court that the decision of the Commissioner was wrong.</li> </ul>
Whether the fees are taxable in Zimbabwe.	<ul style="list-style-type: none"> <li>• That E submitted that if the court was to rule that the fees are 'technical fees', such fees are not taxable in Zimbabwe owing to the DTA with Mauritius where the non-resident is domiciled.</li> <li>• That the DTA does not have provisions regulating the taxation of fees earned from a source in Zimbabwe, hence such fees are business profits (article7)</li> <li>• That these are not taxable in Zimbabwe as the providers of the interconnection and roaming services do not operate through a permanent establishment in Zimbabwe.</li> <li>• That the fees were taxed on the basis of Article 22 paragraph 3 of the DTA.</li> <li>• That para 3 would take precedence over paragraphs 1 and 2 and the fees become taxable in Zimbabwe at 15% as there is no concessionary rate.</li> <li>• That the DTA has the same force and effect as if enacted as part of the ITA.</li> <li>• That accordingly the same principles governing fiscal statutes are applicable, that is, one must adhere to the words of the statute.</li> <li>• That save for business profits, interest and royalties, none of the other taxes covered by the DTA are provided for as being excluded from taxation within Zimbabwe.</li> <li>• That in the circumstances, the provisions of the DTA which provides for items of income tax not dealt with expressly or explicitly in the DTA, become applicable.</li> <li>• That therefore, income which arises within Zimbabwe and has not been specifically dealt with in the Articles under the DTA may be taxed in Zimbabwe.</li> <li>• That the paragraph on the treatment of fees as business profits was fallacious and runs contrary to para (3) of Article 22 of the DTA.</li> <li>• That the paragraph clearly states that where no specific provision is made in the DTA for certain income, that income may be taxed in the state in which it has arisen.</li> <li>• That nowhere is it provided that such income should be treated as business profits.</li> <li>• That in any event, E has not shown that the income concerned amounted to profits.</li> <li>• That the common ground is that these are fees paid for services to E.</li> <li>• That profits in the ordinary sense of the word are normally an excess of income over expenditure.</li> <li>• That no evidence was led to show that the 'fees' amounted to profits.</li> <li>• That at most for E, the payment of fees constituted income for the non-resident contracting party.</li> <li>• That the ZIMRA is correct in its submission that no provision was made elsewhere in the DTA to exempt the fees and accordingly they are taxable in Zimbabwe.</li> </ul>

Issue	Court reasoning and decision
Whether the fees are taxable in Zimbabwe.	<ul style="list-style-type: none"> <li>• That no argument was presented to the Court in respect of the other countries listed in the issue to be determined nor were the DTAs with those countries except for SA.</li> <li>• That the provisions of the DTA with SA differ from the Mauritian one.</li> <li>• That this judgement is confined to the DTA with Mauritius since no submission was made in respect to other DTAs.</li> </ul>
Whether there is a legal basis for the imposition of a 5% penalty?	<ul style="list-style-type: none"> <li>• That the legal basis for charging penalty is in terms of paragraph 6 (1) (b) of the Schedule to the ITA and this empowers the ZIMRA to charge penalty of 100%.</li> <li>• That it was not surprising to the judge that the legal representatives of E made no submissions on this issue.</li> <li>• That accordingly, this appeal was dismissed in its entirety.</li> </ul>
Decision	<ul style="list-style-type: none"> <li>• That the services rendered to E by the foreign entities were services of a technical nature to which fees paid are subjected to NRTFs.</li> <li>• That no evidence was led to show that the 'fees' amounted to profits and hence the non-resident fees are taxable in Zimbabwe.</li> <li>• That the CG is empowered to charge 100% penalty and there was no evidence by E to prove the Commissioner was wrong in charging the 5% penalty.</li> </ul>

## Decision Impact

The decision may result in payment of the right of use of an asset being inappropriately classified as fees, affecting the rate of WHT especially with the DTA. Secondly, if such fees are paid to related parties then they would be subject to the 1% deduction limit in term of section 16 (1) (r) whereas payment for the right of use of properties, i.e. royalties have no deduction limit.



## 4. Technical interpretation

### Measures to restore macroeconomic stability

#### The law and interpretation

The government has announced policy measures meant to restore confidence, preserve value and restore macroeconomic stability. It indicated the existence of economic fundamentals which are supporting the ZWL to make it a stable currency. The government justified this with the amount of foreign currency being generated in the economy. This is seen by the country's fiscal position which has been favourable since 2020 enabling the government to avoid monetisation of the budget deficit which increases money supply and inflationary pressures in the economy. The government did not however turn a blind eye to the currency inflationary levels, which it says are owing to negative sentiments by economic agents rather than the economic fundamentals that the government defended as being effective in foreign currency generation. We cherry pick some of these policy measures and offer our views on them as follows:

Policy	Framework	Decision impact
Restoration of lost value on bank deposits	Individuals who had funds amounting to US\$1000 or less as of end of January 2019 are to be compensated and the process has already begun. Furthermore, a framework is also being established to compensate individuals with amounts above US\$100,000.	This may restore value for the affected individuals but is a confession by the government that SI 33 of 2019 was bad policy on the general populace. Hence can undermine the general populace confidence in government policies. Furthermore, the mention only of individuals is intended to cut government losses as the corporate category are the ones most likely to have had balances that were lost than individuals. Individuals hardly keep monies in their bank accounts. Moreover the fact that government announced separation of actual US\$ and domestic bank accounts on 13 October 2018, the real US\$ balances that were lost especially by individuals on 1 January 2019 could have been very minimal. Why the government also discriminate against those with balance of between US\$1,000 and US\$100,000 remains a mystery.
	The clearance of the auction backlog balance by end of May 2022. Thereafter all foreign currency allotments are to be settled within 14 days provided the RBZ shall only allot foreign currency that is available.	The expectation by the government is that the willing buyer willing seller rate will create more seller of foreign currency which can then be utilised to clear the backlog since the RBZ surrender had provided insufficient. Furthermore, with the establishment of willing buyer willing seller rate there will be less players queuing for foreign currency at the auction floor. But this remains to be seen whether this will not cause inflation.

Policy	Framework	Decision impact
Clearance of foreign currency backlog	The clearance of the auction backlog balance by end of May 2022. Thereafter all foreign currency allotments are to be settled within 14 days provided the RBZ shall only allot foreign currency that is available.	The expectation by the government is that the willing buyer willing seller rate will create more seller of foreign currency which can then be utilised to clear the backlog since the RBZ surrender had provided insufficient. Furthermore, with the establishment of willing buyer willing seller rate there will be less players queuing for foreign currency at the auction floor. But this remains to be seen whether this will not cause inflation.
Continuation of the partial dollarization or dual currency system	The partial dollarization or dual currency system to continue. Furthermore, the collection of revenue in foreign currency and subsequent spending of this shall continue to support critical government programmes and projects like Covid-19 vaccines, borehole drilling equipment and completion of infrastructure projects.	This perpetuates the collection of taxes in foreign currency which undermines confidence in the ZWL\$ because the Government as the sole issuer of the ZWL currency does not have faith in local currency. It further creates distortions and arbitrage in tax reporting as well perpetuating complications in tax administration. The use of multi-currency for tax purposes not only does it increase cost of doing business but also creates uncertain tax environment, increases tax disputes and ranks Zimbabwe as a high tax jurisdiction. These issues may alienate investors and increase tax immorality especially amongst SMEs. Why government continues multi-currency tax system in light of liberalised exchange rate and other forms of foreign currency in the form 4% IMTT on foreign currency transfers remains mystery.
Exchange rate management	Exchange rate to be determined by the market and the willing buyer-willing seller foreign exchange system put in place on 1 April 2022 will continue as a benchmark for price discovery of the exchange rate and for the smooth operation of the auction system. Overtime the auction rate and the interbank market rate established through the willing buyer-willing seller mechanism will provide the basis for orderly unification of the exchange rates.	The government has been through this path before until it introduced the fixed exchange rate system in June 2020. How sustainable the new exchange rate regime in the face of devaluation of ZWL\$ this remains to be seen. When the exchange rate continues to increase this may be inflationary and impoverish the general populace whose major source of income are salaries and wages which sometimes not are revised in tandem with inflation. Exporters will be more than willing to increase the exchange rate and hold back their currency when the rate becomes unfavourable. It remains to be seen however the market rate will be sustained and the commitment by the government to use liberalised exchange remains bearable.
Reviewing the willing-buyer willing seller trading limit	With immediate effect the amount that can be traded under this arrangement has been increased from US\$1,000 per day to a maximum of US\$5000 per day with a limit of US\$10000 per week per individual.	

Policy	Framework	Decision impact																																
Retail/ Wholesale Pricing	Retailers and wholesalers are, with immediate effect, allowed to benchmark their pricing to the average interbank rate with a maximum allowable variance of 10%.	This is an indirect price control on retailers and wholesalers and that they should not take margins exceeding 10% on the average interbank rate. This may backfire if this proves insufficient and we could experience once again empty shelves.																																
Proportion of taxes payable in local currency-	Government reaffirms its commitment for exporters to pay more of their taxes in domestic currency and the framework is currently under review.	This enables exporters to use their foreign currency on critical spares, raw material and retooling to boost production within the economy. But this will not so much help the nation and exporters as well if the majority of economic players remain required to pay their taxes in foreign currency on foreign currency transactions. Government may as well scrape the laws on payment of taxes in foreign currency (see above our comment on the effects of multicurrency tax system).																																
Tax incentives for using local currency	All domestic foreign currency transfers to attract an IMTT rate of 4% with immediate effect and 2% IMMT to remain in place for local currency transfers. Foreign payments settled through the willing buyer-willing seller and foreign exchange auction system remain exempt from IMTT	The IMTT rate revision to 4% of foreign currency is likely result in ZWL\$ being the preferred payment currency for local suppliers or alternative passed on to customers or add-up to the cost of doing business of the supplier. The effect of this policy ceteris paribus when added to the existing RBZ surrender and other taxes shows the government is taking over 50% in taxes on foreign currency transactions: <table border="1" data-bbox="901 1299 1516 1713"> <thead> <tr> <th>Item</th> <th>Rate</th> <th>EX Rate diff</th> <th>US\$</th> </tr> </thead> <tbody> <tr> <td>FX received</td> <td>1000</td> <td></td> <td>1000</td> </tr> <tr> <td>Domestic surrender</td> <td>20%</td> <td>50%</td> <td>100</td> </tr> <tr> <td>VAT</td> <td>14.50%</td> <td></td> <td>145</td> </tr> <tr> <td>IMTT</td> <td>4%</td> <td></td> <td>40</td> </tr> <tr> <td>Income Tax</td> <td>24.72%</td> <td></td> <td>211</td> </tr> <tr> <td>Total taxes</td> <td></td> <td></td> <td>496</td> </tr> <tr> <td>Percentage of taxes</td> <td></td> <td></td> <td>50%</td> </tr> </tbody> </table>	Item	Rate	EX Rate diff	US\$	FX received	1000		1000	Domestic surrender	20%	50%	100	VAT	14.50%		145	IMTT	4%		40	Income Tax	24.72%		211	Total taxes			496	Percentage of taxes			50%
Item	Rate	EX Rate diff	US\$																															
FX received	1000		1000																															
Domestic surrender	20%	50%	100																															
VAT	14.50%		145																															
IMTT	4%		40																															
Income Tax	24.72%		211																															
Total taxes			496																															
Percentage of taxes			50%																															
Foreign currency Cash Withdrawal Levy	An automated financial transaction tax (AFTT) is charged and collected in terms of s36B as read with the 25 <sup>th</sup> Schedule of the Income Tax Act by a financial institution when its customer make cash withdraws or its account is debited using an automated teller machine. The rate of tax is currently set at 5cents per transaction exceeding USD10 dollars (section 22B of the Finance Act). AFTT to be increased to 2% per transaction in respect of transactions exceeding USD1000 with	Although the policy direction is to discourage withdrawal of cash which was being traded on the parallel market the appetite for cash will remain resulting another stream of revenue collection for the government in foreign currency. Furthermore, the assumption that any foreign currency that is withdrawn from the banks is traded on the parallel market is superficial individuals on their own have no influence on the exchange rate and furthermore no so many individuals have their salaries and wages in foreign currency let alone amounts in excess of US\$300. From the reading of the legislation and																																

Policy	Framework	Decision impact
	immediate effect. Meanwhile, cash withdrawals are exempt from IMTT.	the recent pronouncement by the President, the types of transactions contemplated by the provisions are cash withdrawals that are facilitated through an automated teller machine. This means that the cash withdrawal should have been made in the absence of any human intervention but processed by the automated teller machine. This means that cash withdrawals performed in the banking hall by a bank teller (human being) will not be subject to this tax. Further to that, transactions under USD10 dollars will continue to be exempt from the tax and will be subject to 5 cents per transaction as provided in section 22B of the Finance Act. Cash withdrawal transactions exceeding USD1000 however, which are processed by an automated teller machine will trigger the automated financial transactions tax at the rate of 2% of the amount withdrawn. Therefore, amounts under USD1000 but more than USD10 will continue to be charged tax at the rate of 5 cents per transaction.
Settlement of foreign currency tax obligations in local currency (ZIMRA rate)-	The settlement of the local currency component of the foreign currency tax obligations for duty, royalties and other taxes will, with immediate effect be at the interbank rate established through the willing buyer-willing seller exchange rate system. Meanwhile RBZ surrender portion of export proceeds to be paid at willing buyer willing seller rate with immediate effect	The policy brings parity to tax settlement in either currency. If there is use of market rate for purposes of conversion, we do not see how this is an incentive to export except for those wishing to recapitalize or retool.
Capital Gains Tax for short term investments on the stock exchange	The CGT on shares traded shares held for a period not exceeding 270 days to be taxed at 40% in line with the marginal tax rate for PAYE up from 20% capital gain tax.	The measure may discourage short term trading in securities. Please note however those listed shares are exempt from CGT in terms of s 10 (j) of the CGTA but subject to final withholding tax. Hence the 20% CGTA was quoted out of context. The Finance Act 7 of 2021 has amended the final withholding tax rates on stock market shares as follows: <ul style="list-style-type: none"> <li>1.5% of price it was sold at for shares held for a minimum period of 6 months.</li> <li>2% of price it was sold at for shares held for less than 6 months</li> </ul>

## Decision Impact

These measures have been passed with immediate effect, yet there are no laws enacting these into force. Hence in effect, the application of these measures is debatable considering there is not law enactment in that regard. Additionally, the Settlement of Foreign Currency Tax Obligations in Local Currency at ZIMRA (Willing-Buyer Willing-Seller) Rate is a public confession by the Government that the auction system rate should not be considered when pricing goods and services. What it entails is that businesses should consider prices from a true price discovery process. The measures remain a speech until the necessary Statutory Instruments are issued in terms of section 3 of the Finance Act [Chapter 23:04]. However, it remains prudent to implement the measures because when the law comes into effect it may be implemented with retrospective effect. We anticipate the legislature to provide regulations to that effect.

## VAT regime for farmers a double delight

### The law and Interpretation

Farm produces are generally exempt from VAT. These were exempted by SI 9 of 2016 with effect from 1 February 2016, prior to this date they were generally zero rated. Further, additional farm produces like rice, margarine, cereals, mahewu, and others were also exempted through SI 20 of 2017 and SI26A of 2017. On the other hand, agricultural goods are generally zero rated in s13 of the VAT Regulations of 2003 (SI273 of 2003) as read with part I of the 2nd schedule of the same Act. These are comprised of goods used in farming activities namely; animal feed, animal remedy, fertilizer, plants, pesticide, seed in a form used for cultivation, tractors used for agricultural purposes and parts thereof and equipment or machinery, fertilizer and pesticides. This makes the farmer VAT regime a double delight. They do not account for output VAT, have no administrative burden of processing VAT returns and yet also low-cost base because zero-rating of inputs. But the only key matter is that farm products pricing is generally government controlled.

### Decision Impact

Supporting of agriculture is key for enhancing economic growth. Farmers contribute largely to the well-being of the economy; hence it makes sense for them to get tax incentives that continue to promote production.

## 2021 ITF 12 C matters to watch for.

### The law and Interpretation

The ZIMRA has extended the dates for filing ITF 12 C returns from the 30th of April 2022 to the 30th of June 2022 for all Small Clients, 31st of July 2022 for Medium Clients and 31st of August 2022 for Large clients through public notice 29 of 2022. While some taxpayers might have already filed these returns on the basis that there was no extension. For those that are yet to file, the following are key matters for consideration:

#### Payment of Taxes in Foreign Currency

With effect from 1 January 2021, businesses pay corporate income tax in foreign currency, based on gross foreign currency receipts remaining after deducting the prescribed retention or liquidation thresholds.

#### Rate of Tax

The rate of corporate tax and income earned by individuals from trade and investment remained at 24% plus the Aids Levy.

#### Rebasing of capital allowances

Unredeemed capital allowances as at 1st January 2021 should be rebased to the local currency equivalent of the outstanding foreign currency invoice value at the beginning of each financial year. These are converted to ZWL using the interbank rate at 1 January 2021 namely ZWL\$81.79 to 1US\$.

#### Miscellaneous issues

- Taxpayers with approved accounting years other than 31 December should ensure that returns are submitted on dates set by the Commissioner in respect of their accounting periods.
- Income Tax Returns are to be completed in Local Currency but the Commissioner can accept returns completed in Foreign Currency upon application to the Commissioner
- Income tax returns should be completed in full and submitted on time, through the ZIMRA e-services.
- Late submission of returns attracts penalties and interest.
- Additional schedules should be attached to show the tax computations where the tax payable is in local and in foreign currency.
- Returns with declared foreign currency components must be submitted manually using e-mail addresses provided in this notice.

### Decision Impact

Considering the appetite of the fiscus in recovering taxes from taxpayers, it is essential that the 2021 tax computation is done properly, implementing all the necessary updates for 2021.



## 5. Announcement and Interpretations

### Declaration and payment of tax in foreign currency

#### Background

The ZIMRA issued public notice 24 of 2022 where it expressed a concern that some traders are still not accounting for tax in the currency of transaction. This malpractice is violating the provisions of section 4A of the Finance Act and section 38 (4) of the VAT Act, which requires that tax be paid in the currency of transaction. The following business malpractices have been noted:

- Selling goods and services in foreign currency but not declaring foreign currency transactions for tax purposes as is required by the law.
- Transacting in foreign currency and converting payments for such transactions to Zimbabwean dollars for tax purposes.
- Transacting in foreign currency and declaring a very small portion of their foreign currency sales when paying their taxes.
- Selling directly in foreign currency without receipting foreign currency received and not including such sales when paying tax.
- Receipting foreign currency transactions manually when in fact, the business has a computer aided system to receipt in the currency of trade. The proceeds from such manual receipts are not declared for tax purposes.
- Receipting foreign currency sales from back offices with stand-alone tills and proceeding not to receipt all income, thereby under declaring for tax purposes.
- Having sale points designated for forex transactions and sales from such machines not declared to ZIMRA.
- Not issuing receipts on transactions paid for in foreign currency and excluding such transactions on the sale records thereby under declaring sales.

#### Decision Impact

Taxpayers may opt to sanitise their transactions through voluntary disclosures of all undeclared, under declared and or unpaid taxes to ensure they comply with tax laws to avoid penalties.

### Exclusion of pre-owned specified vehicles

#### Background

The ZIMRA published public notice 27 of 2022 to inform and remind the public of the requirements for the clearance of pre-owned vehicles. Pre-owned motor vehicles were excluded from clearance into bonded warehouses with effect from the 1st of December 2021. Section 74 of the Customs and Excise (General) Regulations now exclude the entry for warehousing of the specified vehicles which should be cleared for consumption on entry. Any pre-owned vehicle should therefore be entered for direct consumption on entry. All pre-owned motor vehicles that were appropriately entered for warehousing in bonded warehouses before the 1st of December 2021, but still remain warehoused as of today must be entered for consumption by not later than 31st of May 2022, failure of which they will be declared forfeited to the State for appropriate disposal as provided for in the aforementioned legislation.

#### Decision Impact

Motor vehicle sellers should ensure vehicles in bonded warehouses have been sold and the respective duties paid by the specified due date. This is regardless of the fact that the due date has been placed too early to allow proper disposal of any vehicles in such warehouses.



### Security Alert

#### Background

The ZIMRA public notice 28 of 2022 is advising the public to be on the lookout for fraudsters posing as ZIMRA officials. The fraudsters who masquerade as Tax Auditors are using the following names; Mr. D. Musakwa, Mr. B. Masango, Mrs. Chibungu, Mrs. Kunaka and Mrs. Chikodzonge. The aforementioned persons have been reported as sending SMSs and have been calling tax payers announcing intention to conduct an audit and subsequently solicit for bribes to avoid carrying out the audit or affecting the results on the intended audit. Taxpayers are advised to be careful of these fraudsters and to avoid bowing to their criminal demands. Taxpayers are to take note of the following:

- ZIMRA is not associated with and has no links with the bogus Auditors purportedly conducting ZIMRA work in the manner described above.
- All ZIMRA employees have clearly defined work procedures and do not carry out ZIMRA business over unofficial personal media platforms such as SMS, WhatsApp, Twitter and Facebook.
- All ZIMRA employees carry with them valid staff identity cards when on duty and do not ask for any form of monetary deposits into their personal bank accounts for them to conduct ZIMRA business.
- ZIMRA clients should not be intimidated into unnecessarily parting with their money through actions of the bogus ZIMRA employees.

#### Decision Impact

Anyone who has been approached by the fraudsters as stated above or with information pertaining to the bogus ZIMRA officials should immediately report to the nearest Zimbabwe Republic Police (ZRP) station and nearest ZIMRA office or contact ZIMRA via the following details:

General Lines: 024-2-758891-5  
Econet toll free: 0808190  
Telecel toll free: 0732880880  
Netone toll free: 0814880  
WhatsApp : 0712790972/0772135690SMS : 0712790972  
Email : [webmaster@zimra.co.zw](mailto:webmaster@zimra.co.zw) / [pr@zimra.co.zw](mailto:pr@zimra.co.zw)

# MONTHLY TAX UPDATE

April 2022



## Our Contact Details

For a detailed discussion of how these issues might affect your business and our other group offerings, please contact:

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## 7. Disclaimer Clauses