



# MONTHLY TAX UPDATE

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## JANUARY 2022

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January 2022 MTU



We are honoured to present our January 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 issue are as follows:

- Suspension and rebates of duties on various products
- VAT exemptions on supplies to domestic tourists
- Tax Case on the meaning of a trust for purposes of donation deduction
- Recovery of tax from beneficial owner of company
- Restriction measures on VAT claims
- Company sages (non-executive directors) gets tax relief
- Credit for hiring physically challenged persons
- Special excise duty on change of ownership of second hand motor vehicles
- Measure instituted by the government to enhance the domestic use of the Zimbabwean Dollar



*Marvellous Tapera*  
Chief Executive officer



## 1. Matrix Group News!

Matrix Tax School brings you the SAIT Accredited Certificate in VAT Course.






## Certificate in Value Added Tax Practice (VAT) The Principles and Protocols of VAT


01 March 2022 - 31 May 2022

Virtual

This course provides insight into the intricacies of VAT by providing practical flair to the VAT theory and concepts. It simplifies the not so simple subject of VAT that enables businesses to avoid violations and penalties arising from misapplication of the law. This course focuses on principles and protocols that define the Zimbabwean VAT system.

**Topics to be covered**

- Fundamentals of Valued Tax Added
- The legal framework to VAT registration
- Supplies and the general principles
- Time & Value of Supply Rules
- Zero-rated Supply of Goods & Services
- VAT Exemptions
- Sectorial peculiarities of the VAT system
- VAT calculation & Payment
- Tax Invoice and Records
- Filing of VAT Return
- VAT on Imports & Exports
- Inspection, Search, Seizure, and Arrest under VAT
- Objection and Appeals under VAT

**Who should attend?**

Tax practitioners in advisory firms, Beginners in tax commercial and trade industries Government officials, Tax regulation bodies, In-house tax directors /managers, Legal counsel and lawyers, Tax advisors, Audit personnel, Finance Professionals, Business Owners, Finance Managers, General Accountants, Management Accountants, Corporate Accountants, Financial Controllers

**Attending dates**

- Wednesday 2.30 pm - 4.30 pm (CAT)
- Friday 2.30 pm - 4.30 pm (CAT)

**Investment Per Delegate**

- US\$350

**Course Duration**

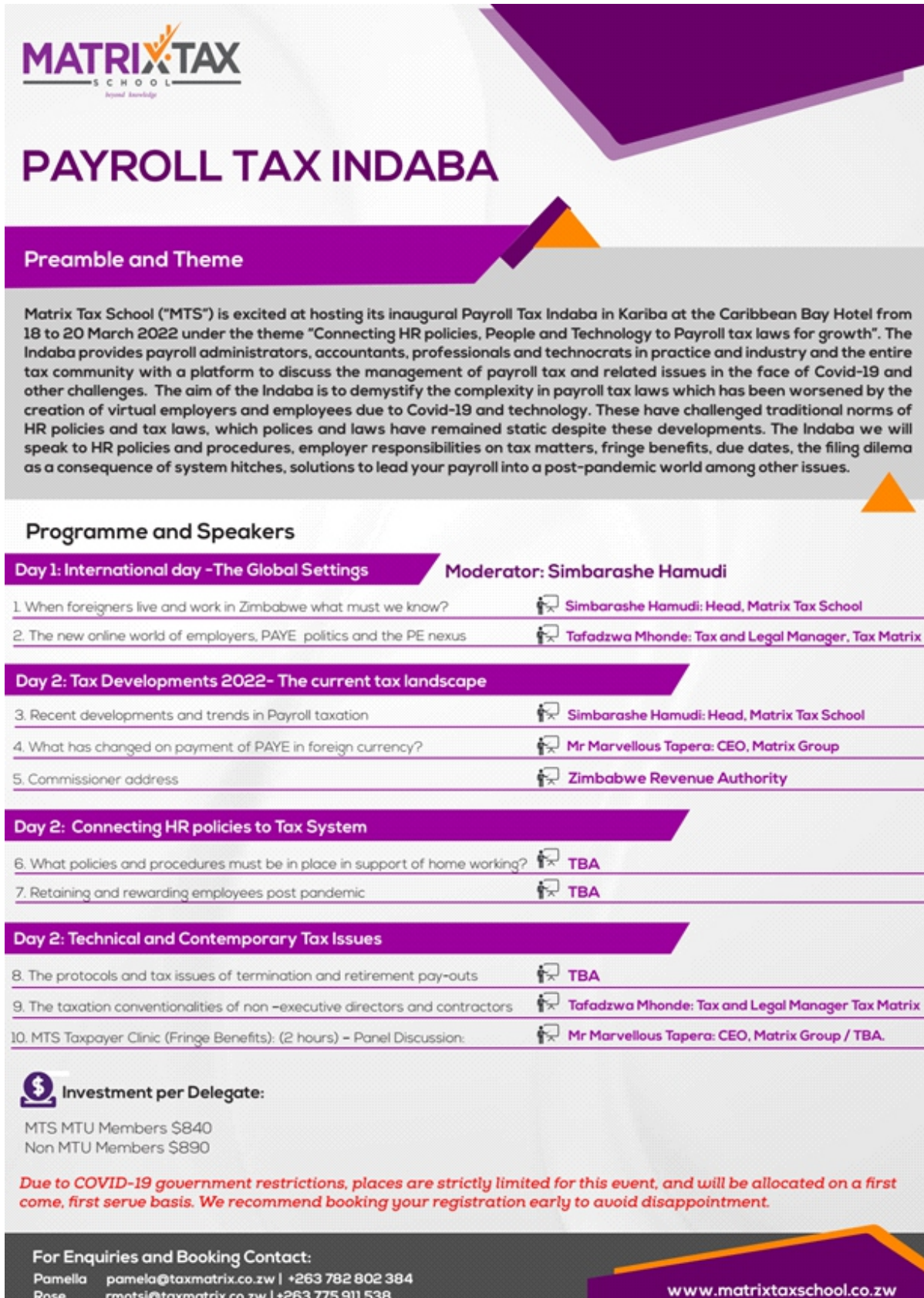
- 12 Weeks

**For registrations or enquiries, please contact:**

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 Matrix Tax School  
 Matrix Tax School  
 @matrix\_tax

Join us for the Payroll Tax Indaba!!!



**MATRIX TAX SCHOOL**  
beyond knowledge



## PAYROLL TAX INDABA

### Preamble and Theme




Matrix Tax School ("MTS") is excited at hosting its inaugural Payroll Tax Indaba in Kariba at the Caribbean Bay Hotel from 18 to 20 March 2022 under the theme "Connecting HR policies, People and Technology to Payroll tax laws for growth". The Indaba provides payroll administrators, accountants, professionals and technocrats in practice and industry and the entire tax community with a platform to discuss the management of payroll tax and related issues in the face of Covid-19 and other challenges. The aim of the Indaba is to demystify the complexity in payroll tax laws which has been worsened by the creation of virtual employers and employees due to Covid-19 and technology. These have challenged traditional norms of HR policies and tax laws, which polices and laws have remained static despite these developments. The Indaba we will speak to HR policies and procedures, employer responsibilities on tax matters, fringe benefits, due dates, the filing dilemma as a consequence of system hitches, solutions to lead your payroll into a post-pandemic world among other issues.

### Programme and Speakers



**Day 1: International day -The Global Settings** Moderator: Simbarashe Hamudi

1. When foreigners live and work in Zimbabwe what must we know?	 Simbarashe Hamudi: Head, Matrix Tax School
2. The new online world of employers, PAYE politics and the PE nexus	 Tafadzwa Mhonde: Tax and Legal Manager, Tax Matrix




**Day 2: Tax Developments 2022- The current tax landscape**

3. Recent developments and trends in Payroll taxation	 Simbarashe Hamudi: Head, Matrix Tax School
4. What has changed on payment of PAYE in foreign currency?	 Mr Marvellous Tapera: CEO, Matrix Group
5. Commissioner address	 Zimbabwe Revenue Authority

**Day 2: Connecting HR policies to Tax System**

6. What policies and procedures must be in place in support of home working?	 TBA
7. Retaining and rewarding employees post pandemic	 TBA

**Day 2: Technical and Contemporary Tax Issues**

8. The protocols and tax issues of termination and retirement pay-outs	 TBA
9. The taxation conventionalities of non –executive directors and contractors	 Tafadzwa Mhonde: Tax and Legal Manager Tax Matrix
10. MTS Taxpayer Clinic (Fringe Benefits): (2 hours) – Panel Discussion:	 Mr Marvellous Tapera: CEO, Matrix Group / TBA.

**Investment per Delegate:**

MTS MTU Members \$840  
Non MTU Members \$890

*Due to COVID-19 government restrictions, places are strictly limited for this event, and will be allocated on a first come, first serve basis. We recommend booking your registration early to avoid disappointment.*

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## 2. New Legislative Provisions

### VAT exemptions on supplies to domestic tourists

#### The law and Interpretation

The Finance Minister has published SI 008 of 2022 which is amending the provisions relating to VAT exemptions on the supply of services to domestic tourists previously published in SI 87 of 2021. The exemption was for a period of 12 months from 26 March 2021 to 26 March 2022. Services exempted under this SI are as follows:

- food and beverages served at accommodation places;
- shuttle services;
- car rental services;
- marine and ferry services;
- sport fishing;
- safari operations;
- touring national museums and monuments **and**;
- Recreational activities provided by companies registered with the Zimbabwe Tourism Authority.

SI 008 of 2022 has added, as part of the exemption list, the supply of accommodation services to domestic tourist for the period 1 August 2021 to 31 July 2022. Furthermore, SI 008 has revised the period of VAT exemption on the supply of services listed above. The revised period starts from the 1<sup>st</sup> of August 2021 to 31<sup>st</sup> of July 2022.

#### Decision Impact

The exemption of VAT will hinder the domestic tourist service providers from claiming input tax, and in turn lead to these entities meeting the cost burden of the VAT incurred on purchases. Furthermore, the entities will most probably pass on the burden to customers and in turn raise the cost of the end product.

### Duty rebates for various products

#### The law and Interpretation

SI 9 of 2022 has been published to provide for and amend conditions relating to rebates of duty as follows:

**Warehousing of goods-** The Customs and Excise Regulations provided for the prohibiting of persons from warehousing or re-warehousing any goods upon which the duties have not been paid, or to enter such goods for warehousing or re-warehousing, unless the warehouse in which they are to be placed has been duly licensed and appointed. SI 9 of 2022 has added a clause which mentions that with effect from 1st December, 2021, the reference to goods aforementioned shall not include preowned motor vehicles. The effect is all preowned vehicles are no longer allowed to be warehoused without paying duties.

**Rebate of duty on civil servant immigrants-** A rebate of duty on imported motor vehicles may be granted to civil servants who previously resided in Zimbabwe, on returning to Zimbabwe. SI 9 has amended the conditions for claiming the rebate of duty. The condition is that any immigrant to whom a rebate of duty has been granted shall notify the Commissioner of any change of their residential address within fourteen days of the date of such change; and report to the nearest Customs office once every twelve months during the currency of the rebate, on the failure of which the full duty waived at the time of importation shall become due and payable.

**Rebate of duty sport kits and equipment donated to Sports Associations-** A rebate of duty has been granted on donated sports kits and equipment which are recommended by the Sports and Recreation Commission and the Ministry responsible for Education and Sport. Below is the indicative list of sports kits to be imported under rebate of duty:

Sporting Discipline	Goods donated to Sports Associations
Cricket	Cricket gloves, Pads, Jumpers, Hats, Balls, Bats, Helmets, Stumps, Floppy hats, Gloves, Bibs
Football	Balls, Magnetic clip boards, Whistles, Soccer balls, Shin guards
Basketball	Referee Kits, Balls
Rugby	Balls, Shin Guards, Mouth Guards, Skull Cap
Taekwando	Head gear, Trunk protector, Trunk transmitter, Foot protector
Karate	Mats, Mitts, Belts, Shin Guards, Foot Guards, Mouth Guards, Sports Medals
Handball	Handball Balls
Tennis	Tennis balls, Nets, Rackets
Athletics	Short Put balls, Javelin Spears, Discus Equipment, Mattresses
Baseball	Smushballs, Baseball Gloves
Judo	Judo Mats, Elbow Pads, Grappling Dummies, Shin Guards, Mouth Guards
Net ball	Nets, Balls
Volley ball	Balls, Nets
Swimming	Goggles, Caps, Costumes, Inflatable Arm Bands, Swim Fins.
Hockey	Hockey sticks, Gum Guards
Cross-cutting	Sports attire, (uniforms), sports medals, referee kits, stop watches, nets and trainer shoes, travel bags.

## Decision Impact

By removing the preowned motor vehicles from the list of goods that can be warehoused in the bonded warehouse, the Minister aims to reduce customs duty and taxes evasion on the importation of pre-owned motor vehicle, whilst promoting the purchases and sale of brand-new motor vehicle in Zimbabwe. The decision of the Minister is to increase instant revenue collection for the fiscus as ZIMRA will collect the customs earlier than what was in the practise prior to the new legislation. Furthermore, the amendment to the conditions for the immigrant rebate will reduce the abuse of this rebate through requiring those who have utilised the rebate to report to the ZIMRA for updates. This will reduce the abuse of the rebate by different individuals. The impact of this decision is to stop the practise of buying a motor vehicle for other people using a rebate and of utilising the rebate and return back to a foreign land. Lastly the rebate on sports kits will promote local sports, harness the sporting industry and create employment for the youths. Whilst these rebates are appreciated as such rebates are prone to being misused by the general public, hence the need for the Minister to continue putting controls.

### The law and Interpretation

SI 010 of 2022 has been published to amend the regulations on the suspension of customs duty on motor vehicles and other goods as follows:

**Suspension of customs duty on motor vehicles and other goods imported for use by physically handicapped persons-** With effect from 1st January, 2022, any person who has been granted such a suspension of duty shall for a period of two years after the granting of the suspension notify the Commissioner of any change of their residential address within 14 days of the date of such change. The maximum import value for any motor vehicle to benefit under this suspension is US \$ 40,000.

**Suspension of duty on specified motor vehicles imported by safari operators -** The suspension is extended to the 31<sup>st</sup> of December 2023 after the previous suspension expired on the 31<sup>st</sup> of December 2021.

**Suspension of duty on specified new buses imported by tour operators -** The SI has defined the following terms: Exclusive use of new buses means being used entirely for the purposes of the business in respect of their specified use, other than as a benefit to the employees or to the owner of the tourism business; Tour operator means a person or organization (a) registered with the Zimbabwe Tourism Authority and the Tourism Business Council of Zimbabwe for a period of not less than two years; or (b) approved by the Minister, Specified bus” means a new bus with carrying capacity of 8 to 55 passengers including the driver, imported or taken out of bond by the tour operator.

**Suspension of duty of specified new buses for exclusive use in the tourism business by tour operators-** Approved tour operators shall, for a period of two years beginning on 1st January, 2022, be allowed to import new buses of a sitting capacity of at least 8 to 55 passengers including the driver duty free.

**Suspension of duty on motor vehicles imported by immigrants-** A suspension of duty may be granted in respect of motor vehicles, imported by an immigrant if such motor vehicles are shown to the satisfaction of the Commissioner to have been owned by such immigrant at least six months before the time of his or her arrival and at the time of their importation. They should be intended for personal use in Zimbabwe by such immigrant but not for trade or commercial purposes and are imported at the time of arrival of such immigrant or at such time as the Commissioner may, in his or her discretion approve. They must have an import value that is not in excess of forty thousand United States dollars. There is no duty suspension on any motor-vehicle imported by an immigrant who is, at the time of his or her arrival, under the age of sixteen years; on more than one motor-vehicle imported by an immigrant or motor vehicles imported for commercial or trade purposes. The duty suspension is not applicable to a civil servant immigrant granted a rebate under SI 9 of 2022.

**Suspension of duty on powdered milk imported by approved importers-** The suspension, which was previously granted to the 31st of December, 2021” has been extended to the 31st of December, 2022. The suspension is applicable as follows:



Name of company	Proposed allocation for 2022 (Kgs)	
	Full Cream Milk Powder	Skimmed Milk Powder
Dairibord Zimbabwe (Pvt) Ltd	1,000,000	1,000,000
Dendairy (Pvt) Ltd	1,000,000	1,000,000
Kefalos Cheese Products	350,000	500,000
Machiareer Investments (Pvt) Ltd, ( <i>trading as Mr. Brands</i> )	30,000	10,000
Nestle Zimbabwe (Pvt) Ltd	500,000	—
Prodairy (Pvt) Ltd	750,000	120,000

**Suspension of duty on Raw Cheese imported by approved importers-** The suspension has been extended from the 31st of December, 2021 to the 31st of December, 2022. The suspension is applicable as follows:

Name of company	Ring-fenced Quantities of Raw Cheese (Kgs for 2022)
Kefalos Cheese Products (Pvt) Ltd	200,000
Gouda Gold trading as Yomilk	10,000".

These suspensions of duties have been made and renewed to continue supporting tax payers in different industries. Such incentives show to a greater extent the effort by the Minister in incentivising products for taxpayers to boost the industries granted such rebates.



## 3. Court Case

### The meaning of a trust for purposes of donation deduction

Case name	M. M. W. (PVT) LTD versus ZIMRA HH 31-22 ITC 01/17
Summary Facts	<ul style="list-style-type: none"> <li>• MMW paid a donation to a Charity Institute and deducted it for income tax.</li> <li>• The ZIMRA disallowed the deduction on the basis this was not permissible in term of s 15(2) (r) (iii) of the Income Tax Act because the Institute was not a charitable trust and was not administered by the Minister.</li> <li>• The ZIMRA proceeded to impose a 60 % penalty following the tax assessment.</li> <li>• MMW filed an objection which the ZIMRA rejected 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 the Institute is a charitable trust administered by the Minister responsible for Social Welfare for the purposes of section 15(2)(r)(iii) of the Act</li> <li>• Whether the Institute's registration as a private voluntary organization exclude it from being construed as a charitable trust for the purposes of Act</li> <li>• Whether the ZIMRA penalty should be reduced and what amount</li> </ul>
Decision date	<ul style="list-style-type: none"> <li>• 21 June 2021 and 19 January 2022</li> </ul>
Decision	<ul style="list-style-type: none"> <li>• The appeal was allowed in full.</li> <li>• The decision of the Commissioner was set aside and the Commissioner ordered to: <ul style="list-style-type: none"> <li>✓ Reduce its assessment of MMW's taxable income by the deductible donation.</li> <li>✓ Remove the penalty imposed on MMW relating to the objection.</li> <li>✓ Authorize a refund to MMW for its overpayment of tax and penalties made</li> </ul> </li> </ul>

#### The facts

MMW made a donation to Cultural Institute, a registered private voluntary organization which it deducted in its income tax computation in accordance with the provisions of s 15(2) (r) (iii) of the Income Tax Act. This provision allows a deduction on a donation to a charitable trust administered by the Minister responsible for Social Welfare or the Minister responsible for Health in his or her capacity as such, or by any official in his or her ministry in his or her official capacity. According to the ZIMRA all the elements of this provision must be present for a deduction to be allowable. The ZIMRA disallowed the deductions on the basis that the payment did not fall within the scope and ambit of the permissible deductions in s 15(2) (r) (iii). This was on the basis that the Cultural Institute was not a charitable trust and was not administered by the Minister responsible for Social Welfare as contemplated by s 15 (2) (r)(iii). Hence the current court case.

## Competing arguments

The ZIMRA	
<p>Whether the Institute is a charitable trust administered by the Minister responsible for Social Welfare</p>	<ul style="list-style-type: none"> <li>• That the Institute was registered as a welfare organization in terms of the Welfare Organizations Act and is governed by a Constitution and its operations of the Institute are carried out for no profit in accordance with its constitution and objectives.</li> <li>• That the Act in terms of which the Institute is registered as a welfare organization is administered by the Minister responsible for Social Welfare, but the Institute is not a charitable trust and as such donations made to it is not deductible.</li> <li>• That the Institute is not a trust as it is a private voluntary organization (PVO) governed in terms of the Welfare Organization Act.</li> <li>• That s 2(1) of PVO Act defines it as an institution which is not a trust established directly by any enactment or registered with the High Court and accordingly a PVO is not a trust.</li> <li>• That it is important to note however that it is not just any trust that benefits from the provisions of section 15(2) (r) (iii).</li> <li>• That for the trust to benefit it has to be a charitable one and further be administered by the Minister responsible for Social Welfare.</li> <li>• That while the Institution is a charitable organization, it is not a charitable trust and not administered by the Minister of Social Welfare.</li> <li>• That the word “trust” is not defined in the Act, trustee is the word that is defined.</li> <li>• That therefore its meaning must be deduced from the definition of trustee.</li> <li>• That the Act also defines a trust instrument in s 2.</li> <li>• That therefore a trust is an organization which is managed or administered by a trustee and which is created in terms of a trust instrument.</li> <li>• That further the Institute's Constitution does not disclose that it is a trust and accordingly the Institute falls outside the definition of a trust.</li> </ul>
Taxpayer (MMW)	
<p>Whether the Institute is a charitable trust administered by the Minister responsible for Social Welfare</p>	<ul style="list-style-type: none"> <li>• That its correct a “trust” is not defined in the Act, but when construing the term, its ordinary and natural meaning as demanded by legislative context will apply.</li> <li>• That a trust arises in a situation where ownership or control of an asset are separated from the benefit and enjoyment of the asset i.e. where one entrusted with control exercises it on behalf of and in the interest of another.</li> <li>• That whilst the Institute owns and controls the funds and other assets, it does this not on its own behalf but in the interests of 3rd party beneficiaries i.e. members of Harare's Muslim community.</li> <li>• That the deductibility of charitable donations indicates that the legislature's aim was to encourage taxpayers to make donations to institutes that assist the Social Welfare of citizens.</li> <li>• That it is common cause that the Institute is charitable and that it aims to assist the social welfare of the relevant community and is therefore a trust.</li> </ul>

Issue	Court reasoning and decision
<p>Whether the Institute is a charitable trust administered by the Minister responsible for Social Welfare</p>	<ul style="list-style-type: none"> <li>• That it is common cause that the Institute is a charitable PVO registered in terms of s 9(5) of the PVOA.</li> <li>• That there is no definition within the Act of the word “trust”.</li> <li>• That the judge had to look to the common law for the definition of “trust”.</li> <li>• That the characteristic of a trust is that it permits the separation of legal ownership and beneficial interest.</li> <li>• That while the Act does not define the word trust it does give guidance as to what type of relationship it envisages as being subject to tax as a trust.</li> <li>• That rather than applying its mind as to whether a trust relationship had been created, the ZIMRA adopted a restrictive definition of trust.</li> <li>• That the ZIMRA opined that the Institute is not a charitable trust but a PVO undertaking charity work.</li> <li>• That there is nothing that precludes a PVO from being a trust.</li> <li>• That the definition of trustee in the Act is couched very widely, and would include persons such as officers of the PVO.</li> <li>• That further, the registration certificate and the Constitution of the Institute reinforce the construction of the Institute as a trust.</li> <li>• That the Act does not provide that all trusts must be established by way of a trust instrument.</li> <li>• That the Act implies that there may be trusts that have been established in some way other than by a trust instrument.</li> <li>• That the court was concerned with the reality of a taxpayer's position and not with the characterization of that position by the taxpayer or anyone else.</li> <li>• That otherwise the entirety of the Act could be easily defeated by taxpayers simply mischaracterizing their true position.</li> <li>• That the essence of a trust, is the separation of ownership or control from enjoyment i.e. where one entrusted with control exercises it on behalf of and in the interest of another and this is exactly what the Institute's Constitution prescribes.</li> <li>• That the Institute may raise funds, invest the same, purchase property etc.</li> <li>• That however, all of these powers must be exercised for the Institute's objectives, viz in the interests of beneficiary Muslim community in Harare.</li> <li>• That it is for these reasons that the Institute was a charitable trust.</li> <li>• That MMW is thus entitled to benefit from the provisions of s 15(2) (r)(ii)</li> </ul>
<p>Decision</p>	<ul style="list-style-type: none"> <li>• The appeal was allowed in full.</li> <li>• The decision of the Commissioner was set aside.</li> <li>• The Commissioner was ordered to: <ul style="list-style-type: none"> <li>✓ Reduce its assessment of MMW's taxable income by the deductible donation.</li> <li>✓ Remove the penalty imposed on MMW relating to the objection.</li> <li>✓ Authorize a refund to MMW for any overpayment of tax and penalties made</li> </ul> </li> </ul>

## Decision Impact

It is very essential for taxpayers to be knowledgeable of the provisions of the Tax Acts as well as the definitions prescribed in those Act. Where definitions of items are not in the Act, the ordinary meaning of these terms can be adopted. ZIMRA had incorrectly defined what a trust is due to the legislation not giving a proper definition, however the judge applied the general meaning of the word and MMW was granted deduction of the donation.



### 4. Technical interpretation

#### Recovery of tax from beneficial owner of company

##### The law and interpretation

Clause 11 of the Finance Act 7 of 2022 amends s 77 of the Income Tax Act Tax Act by inserting subsection 9 which provides that: *“No person who, by his or her own representations or to all appearances, derives the benefit from any business from which, or property in respect of which, any tax is recoverable in terms of this Act, can avoid liability for paying the tax on the basis or alleged basis that he or she is not the beneficial owner of the business or property in question, unless— (a) the fact of such beneficial ownership, and the name or names and other relevant particulars of the beneficial owner or owners, were fully disclosed by the person in any return relating to such business or property that was filed with the Commissioner within a period of not more than twelve months preceding the date when any claim for the recovery of the tax in question was made by or on behalf of the Commissioner; and (b) the beneficial owner or any one of them is ordinarily resident in Zimbabwe or is otherwise amenable to being sued for the recovery of the tax in Zimbabwe.”* This has the effect of piercing the corporate veil due to tax debts to require that troubled companies declare their shareholders/ beneficial owners including shadow shareholders when filing the income tax returns to allow tracing of the same to the new companies that are created to take over those companies. The individual is precluded from refusing to be the beneficial owner of the business.

##### Decision Impact

This measure enables government to recover revenue from companies that participate on tenders whose directors and shareholders are relatives or people who do not have any idea what the business is all about including beneficial owners of troubled companies.

#### Restriction measures on VAT claims

##### The law and Interpretation

Finance Act 7 of 2021 in clause 23 has placed restriction measures for the claiming of VAT input tax. With effect from the 1 January 2022, input tax claims will be based at fiscalised tax invoice. It states that a tax invoice shall mean a fiscal tax invoice strictly printed by a fiscalised electronic register or fiscal memory device used by a registered operator. All such documents now strictly required to contain the words “fiscal tax invoice” in a prominent place. VAT tax invoices that were generated before the 31st of December, 2021 (inclusive), shall only be used to claim input tax no later than the 31st March, 2022.

##### Decision Impact

The effect is that any invoice issued on after 1 January 2022 which is not a fiscal tax invoice is invalid for purposes of claiming input tax and will add to the cost of doing business on the part of recipient (customer). Taxpayers should therefore be diligence and ensure they are only dealing with compliant suppliers. Meanwhile, the drive towards compliance has also been intensified through the denial of tax clearance until fiscalisation, which will mean that operators that are not fiscalised will suffer 30% withholding tax for not having a tax clearance certificate.

### Company sages (non-executive directors) gets tax relief

#### The law and Interpretation

The Finance Act number 7 of 2021 has amended the definition of “remuneration” to exclude “...any amount of non-executive director’s fees paid or payable to any individual by any company in respect of services rendered or to be rendered by such individual to such company; © any amount of fees paid or payable to the chairperson or a member of a board of any statutory corporation in respect of services rendered or to be rendered by such chairperson or member on such board”. It provides further that amounts payable to a non-executive director which are in the nature of fees or such amount from which 20% withholding tax has been deducted would not be subject Pay as You Earn “PAYE” rules. The effect of these amendments is that NEDS receiving any items of remuneration from the same payer will not be deemed employees. Whereas under the old law, NEDs fees would not include amounts of remuneration of the kind given to an employee e.g fringe benefits such a mere allocation of a company car to him or her, travelling allowance, food hampers, hotel accommodation, fuel coupons, laptops, retainer fee among others. If they did, PAYE would be deducted from all the NED earnings including the fees. Under the new law aggregates all the fees, fringe benefits and any other remuneration items given to the non-executive director are subject to 20 % withholding taxes.

#### Decision Impact

The amendment provides tax relief to NEDs and easy the administrative burdens on the part of companies, since companies no longer need to implement PAYE on fringe benefits given to non-executive directors when another director in a similar position who is not entitled to such benefits will be only subject to withholding tax of 20%. Whilst this is appreciated, however the legislation has loosened corporate governance in that directors could negotiate for fees and goes on to enjoy other fees through fringe benefits without being penalised which was the case under the repealed system.

### Credit for hiring physically challenged persons

#### The law and interpretation

The government has introduced tax credit for qualifying employers who employ physically challenged persons of USD50 (or the equivalent in ZWL) for every additional employee up to a maximum of USD2250 (or the equivalent in ZWL.) per year of assessment. The Act has defined a physically challenged person as an individual having a medically ascertainable physical condition or impairment that makes it difficult for him or her to do things that other individuals without the same physical condition or impairment can do easily. For purposes of this provision an employee excludes: an individual having a medically ascertainable physical condition or impairment that makes it difficult for him or her to do things that other individuals without the same physical condition or impairment can do easily. The qualifying employer should be Registered with ZIMRA and compliant with ZIMRA and NSSA and should be in possession of a valid report of physical challenge of the employee from doctor of a government hospital. If the qualifying taxpayer has credit exceeding income, it shall not entitle the taxpayer to a refund. If qualifying taxpayer is a loss making position, the credit shall be added to the assessed loss for the purpose of carrying it over to the next year of assessment. Meanwhile credit is claimable after completion of 12 months’ employment with employee earning minimum taxable income

#### Decision Impact

Whilst the Minister recognises the need to promote employers by granting credit, the Minister remains vigilant to the potential of exploitation of the fiscus through arbitrage opportunities. This is the reason why the Minister has put the stringent requirements that should be met before the credit can be granted. Meanwhile the credit is not sufficient enough to incentive employers to employ physically challenged persons.



### 5. Announcement and Interpretations

#### Special excise duty on change of ownership of second hand motor vehicles

##### Background

ZIMRA, through public notice 5 of 2022 wishes to advise the public that with effect from the 1st January, 2021, the amounts of excise duty payable on change of ownership of second hand motor vehicles are as per the table below: -

Number of Years from Date of Manufacture	Engine Capacity	Excise Duty Rate (US\$)	Excise Duty Rate (ZWL)
0-4	Up to 1000 cc	300	39 000
	1001cc to 1500 cc	400	52 000
	1501cc to 2000 cc	500	65 000
	2001cc to 2500 cc	600	78 000
	2501cc to 3000 cc	600	78 000
	3001cc to 3500cc	600	78 000
	Above 3500 cc	600	78 000
5-10	Up to 1000 cc	150	19 500
	1001cc to 1500 cc	200	26 000
	1501cc to 2000 cc	250	32 500
	2001cc to 2500 cc	300	39 000
	2501cc to 3000 cc	400	52 000
	3001cc to 3500cc	400	52 000
	Above 3500 cc	400	52 000
11-15	Up to 1000 cc	75	9 750
	1001cc to 1500 cc	100	13 000
	1501cc to 2000 cc	150	19 500
	2001cc to 2500 cc	200	26 000
	2501cc to 3000 cc	200	26 000
	3001cc to 3500cc	200	26 000
	Above 3500 cc	200	26 000
16-20	Up to 1000 cc	50	6 500
	1001cc to 1500 cc	75	9 750
	1501cc to 2000 cc	100	13 000
	2001cc to 2500 cc	150	19 500
	2501cc to 3000 cc	150	19 500
	3001cc to 3500cc	150	19 500
	Above 3500 cc	150	19 500
Over 20 years	All Engine Capacity	50	6 500

## Decision Impact

Please note that where a second hand vehicle is sold in foreign currency, the special excise duty is payable in foreign currency. Likewise, for vehicles sold in local currency, the special excise duty is payable in local currency.

## Measures instituted by the government to enhance the domestic use of the Zimbabwean Dollar

### Background

The government, through various agencies has been implimenting various measures to enhance the formal use of the domestic currency. These measures are meant to avoid negative economic implications of illegal foreign currency trading. Whilst the foreign currency auction system has provided a platform for the continuous and sustainable use of the local currency by individuals and corporations, the government is now expanding the areas which the Zimbabwe Dollar should be used in the economy and further provide incentives for its use. In this regard, the public is advised that the following measures now apply with immediate effect:

- a. All mining royalties are now payable in Zimbabwe Dollars up-to a limit of 50% of royalties due.
- b. All duties and taxes on the importation of designated motor vehicles are now payable in Zimbabwe dollars again up-to a limit of 50% of duties and taxes payable.
- c. All domestic taxes due from exporters on their export receipts are now payable in both foreign and local currency in direct proportion to the approved export retention levels. As an example, an exporter who receives foreign currency of say USD1000.00 at a 40% surrender ratio (60% retention) will pay taxes on the 40% in Zimbabwe dollars and the 60% in foreign currency.

## Decision Impact

These measures reflect Government's commitment to promote the wider use of the Zimbabwe Dollar and to continuously strengthen the economy so as to build long lasting macro- economic stability. Furthermore the measures are a great incentive for taxpayers, considering that the ZWL components will be exchanged from the USD values using the interbank market rates. However to be effective they need to be supported by legal instruments such as statutoy instuments.





## Our Contact Details

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