



MONTHLY TAX UPDATE

JUNE 2022

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We are honoured to present our June 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:

- Fees for Registered Banking Institutes
- Importing Basic Commodities under Open General Import Licence.
- Securities Market Levies
- Civil penalty on foreign currency loan
- Vehicle Registration and Licensing
- Amendment of regulations on rebate of duty on motor vehicles
- Tax issues of foreign exchange differences on legacy debt
- Indirect Taxes and Transfer Pricing (TP): Year-end Adjustments
- Capital Gains Tax Relief of Related Companies
- Taxation of Fringe benefits post covid-19
- Business partner master data update
- Payment of Tax in the Currency of Transaction
- Excise return submission and payment
- E-mail address for immigrants’ clearance applications at Beit bridge border post
- Submission of income tax returns (ITF 12C) for tax year ended 31st December 2021
- Introduction of Gold Coins

A handwritten signature in blue ink, appearing to read 'Marvellous Tapera', written over a light blue circular stamp.

Marvellous Tapera
Chief Executive officer



1. Matrix Group News!

Matrix Tax School brings you the 2022 Preparers of Tax Returns Conversion.



21 - 23 July 2022



Accommodation & Conference : Kadoma Rainbow Hotel
Activities : Chengeta and Pamuzinda Safari Lodge

THEME: PREPARING TAX RETURNS IN A MULTI CURRENCY ECONOMY

The Convention is important to all return preparers and filers. It is designed keeping in mind the requirement to upgrade the practical skills of accountants, data processing employees, paraprofessional, tax personnel, bookkeepers in preparation and filing tax returns, credentialed tax preparers working in small and large businesses, in corporations and private business, and self-employed personnel etc. It is hands-on, practical course in computing tax liability and return filling.

Topics

- Key matters for consideration -VAT payable/refund in mult-currencies
- Accounting for VAT adjustments (Input and Output Tax adjustments)
- Preparing and Lodging VAT 7 returns - Practical Approach
- Fringe benefits and other contemporary PAYE matters
- PAYE Computation in multicurrency
- Income Tax liability in multicurrencies- incomes and deductions considered
- Preparing and Completing ITC12C2 (Transfer Pricing Return)
- Basic deferred tax and tax reconciliation
- A complete Income Tax Pack
- Matters for consideration in preparing Rev 5 (local and foreign WHTs)
- Return Filing - Paper to system return practical approach (Demo on E-Services)

Speakers



Marvellous Tapera
Chief Executive Officer
Matrix Tax School



Simon Gwenzi
Author and Lecturer
in VAT (ICAZ)/ (ZITA)



Simbarashe Hamudi
Commercial Training Manager
Matrix Tax School

Investment Per Delegate

US\$720 - MTU Members

US\$760 - Non- MTU Members

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2. New Legislative Provisions

2.1 Fees for Registered Banking Institutes

The law and Interpretation

Statutory Instrument 95 of 2022 revised the fees for registered banking institutes. The annual fee payable to the Registrar by a registered banking institution shall be one hundred United States dollars for every one million United States dollars' worth of assets of the banking institution. This calculated on the annual average asset size of the banking institution for each year ending on the 31st December.

Decision Impact

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

2.2 Importing Basic Commodities under Open General Import Licence.

The law and Interpretation

Statutory Instrument 103 of 2022 gazetted the addition to the list of goods that can be imported through an Open General Import Licence. It mends the Control of Goods (Open General Import Licence) (Amendment) Notice, 2018, published in Statutory Instrument 237A of 2018 by the insertion of the following products to the Open General Import Licence (OGIL)— Sugar; Milk powder; Infants milk formula; Petroleum jelly; Bath soap; Laundry bar; and Washing powder. However Sanitary and Phytosanitary (SPS) measures will remain in force.

Decision Impact

This is likely to increase supply of imported goods and a negative impact for the traditional retail shops. Job losses are therefore anticipated. The government need to balance between promoting local products "Buy Zimbabwe" and promoting importation of basic commodities from other countries.

2.3 Revision of Securities Market Levies

The law and Interpretation

Statutory Instrument 104A of 2022 revised the security market levies as shown in the table below in respect of securities sold within 270 days from the date of purchase and thereafter as follows.

Charge	Buying		Selling	
	Buying	Selling	Buying	Selling
	Within 270 days from purchase date		After 270 days from purchase date	
Brokerage fee	0.9200%	0.9200%	0.9200%	0.9200%
Securities and Exchange Commission of Zimbabwe	0.1600%	0.1600%	0.1600%	0.1600%
Zimbabwe Stock Exchange Levy	0.1000%	0.1000%	0.1000%	0.1000%
Central Securities Depository Levy	0.1000%	0.1000%	0.1000%	0.1000%

Stamp duty	0.2500%	—	0.2500%	—
Capital Gains withholding Tax	—	4%	—	1.500%
Investors Protection Levy	0.0250%	0.0250%	0.0250%	0.0250%
VAT 14.5% on Brokerage	0.1334%	0.1334%	0.1334%	0.1334%
Total Costs of Buying and Selling	1.6884%	5.4384%	1.6884%	2.9384%
Total Costs for Buying and Selling	7.1268%		4.6268%	

The SI is with effect from June 2022. A notable difference between the periods is the charge capital gains withholding taxes. Meanwhile, the Securities dealers shall be the collecting agents. The levies shall be payable not later than close of business on the Friday of the week the purchase, sale or exchange of securities on which the levy is calculated is concluded.

Decision Impact

The total cost of buying and selling securities purchased and sold within 270 days is very high 7.1268% as compared to securities purchased and sold after 270 days 4.6268%. The government is discouraging purchase of securities for speculative reasons.

2.4 Civil penalty on foreign currency loans

The law and Interpretation

SI 118 of 2022 gazetted the civil penalty on foreign currency loan. If an authorised dealer or any other banking or financial institution lends foreign currency to any person, must receive repayment of the loan or credit in that foreign currency. The breach of this requirement shall render the natural or legal person concerned guilty of a civil infringement. The civil penalty shall be a combination of a fixed penalty of the amount equivalent to the value of the foreign currency supposed to be repaid in Zimbabwe dollars; and a cumulative penalty. The cumulative penalty will be 5 % per day of the outstanding amount of the fixed penalty for a maximum of 90 days beginning on the day after the service of a civil penalty order.

Decision Impact

The measure is meant to discourage borrowing of foreign currency from the banks or any other financial institution for speculative reasons.

2.5 Importation of Petrol and Diesel with Free Funds

The law and Interpretation

Statutory Instrument 120 of 2022 has revised the NOCZIM strategic reserve levy where diesel or petrol is purchased or imported through the use of free funds. The levy shall be calculated at the rate of zero comma zero (0,000) United States dollars per litre of diesel and zero comma zero four seven (0,047) United States dollars per litre of petrol.

Decision Impact

The measure is meant to affect the price of diesel which have been increasing. This may not be enough as the increase is caused by other reasons.

2.6 Vehicle Registration and Licensing Fees

The law and Interpretation

SI 122 of 2022 gazetted the vehicle registration and licensing fees as follows.

NET MASS	4 Months (ZWL\$)	6 Months (ZWL\$)	8 Months (ZWL\$)	10 Months (ZWL\$)	12 Months (ZWL\$)
Up to 1500kg	7 000	10 500	14 000	17 500	21 000
1 501kg to 2 250kg	9 460	14 190	18 920	23 650	28 380
2 251kg to 3 000kg	11 120	16 680	22 240	27 800	33 360
3001kg to 3 750kg	22 240	33 360	44 480	55 600	66 720
3751kg to 4 250kg	27 810	41 715	55 620	69 525	83 430
4251kg to 5 000kg	33 360	50 040	66 720	83 400	100 080
5001kg to 5 750kg	36 970	55 455	73 940	92 425	110 910
5751kg to 6 250kg	38 830	58 245	77 660	97 075	116 490
6250kg to 7 000kg	44 390	66 585	88 780	110 975	133 170
7001kg to 7 750kg	47 720	71 580	95 440	119 300	143 160
7751kg to 9 250kg	51 020	76 530	102 040	127 550	153 060
9251kg to 10 000kg	54 770	82 155	109 540	136 925	164 310
10 001kg to 10 750kg	73 030	109 545	146 060	182 575	219 090
10 751kg and above	110 920	166 380	221 840	277 300	332 760

Decision Impact

The pegging of fees in local currency may result in vehicle owners taking advantage of the exchange rate and pay when the fees has lost its value. It permutates evasion of paying the fees as aforesaid.

2.7 Amendment of regulations on rebate of duty on motor vehicles.

The law and Interpretation

SI 124 of 2022 publishes Rebate of Duty on Motor Vehicles Imported by Specified Serving Public Servants and repeals SI 80A of 2022. SI 80 A of 2022 was repealed because it had only covered motor vehicles imported after 31st March 2022. Motor vehicle means a vehicle aged less than ten years from date of manufacture at the time of importation, admissible under the following Commodity Codes:

8703.21.90	8703.22.90	8703.23.19	8703.23.99	8703.24.90
8703.31.90	8703.32.19	8703.32.99	8703.33.90	8703.40.00
8703.50.00	8703.60.00	8703.70.00	8703.80.00	8703.90.90

8704.21.20	8704.21.30	8704.21.40	8704.21.50	8704.31.20
8704.31.30	8704.31.40	8704.31.50		

The maximum import value in respect of which a rebate may be granted to the serving public servants for any and all motor vehicles purchased after 31st March, 2022 shall be as follows—

Grade of Public Servant	Maximum Amount (US\$)
B and C	3 500
D and E	5 000
Deputy Director	10 000

In the event that a civil servant had purchased a motor vehicle before 31st of March 2022 and such vehicle was in the bonded warehouse it must be cleared by 30th of June and the maximum duty-free values are as follows:

Grade of Public Servant	Maximum Amount (US\$)
B1-B5 or equivalent	3 500
C1-C5 or equivalent	5 000
D1-D5 or equivalent	7 500
E1-E5 or equivalent	10 000
Deputy Director or equivalent	20 000
Director or equivalent	30 000
Principal Director or equivalent	40 000

The rebate of duty on motor vehicle imported by Health Service employees is granted on a maximum value as follows:

Grade of serving public health worker	Maximum Amount (US\$)
B and C	3 500
D and E	5 000
Deputy Director	10 000

If a serving healthy worker had purchased the motor vehicle before 31st of March 2022 and such vehicle was in the bonded warehouse it must be cleared by 30th of June. The maximum duty-free values are as follows:

Grade of Serving Health Worker	Maximum Amount (US\$)
E3 and below	7 500
E4-E5	15 000
F	30 000

Decision Impact

These measures will relieve civil servants from payment of customs duty and taxes. The opportunity to clear motor vehicles that were imported through a bonded warehouse lapsed on the 30th of June and the motor vehicles will be forfeited by the state.



3. Court Case

3.1 Withholding Tax on State Contracts.

Case name	FMC Finance Private Limited vs ZIMRA HH 311-22 ITC 4/20
Summary Facts	<ul style="list-style-type: none"> • FMC (Pvt) Ltd operates a microfinance business with the bulky of its customers being public service employees, as well as those employed by some State organs. • FMC was investigated by the ZIMRA whereupon it was discovered that it was giving loans to public service employees but did not deduct 10% withholding tax on commissions paid to the state institutions without valid tax clearance certificates. • Assessments were then issued in respect of that liability and FMC objected to the assessments, which the ZIMRA disallowed. • FMC noted an appeal against the CG's decision hence the current court case.
Jurisdiction	<ul style="list-style-type: none"> • High Court of Zimbabwe, Harare
Issues	<ul style="list-style-type: none"> • Whether FMC was obliged at law to withhold 10% on commission as foresaid. • Whether the costs be awarded to a successful litigant
Decision date	<ul style="list-style-type: none"> • 11 May 2022
Decision	<ul style="list-style-type: none"> • That the appeal be struck off the roll • That each party shall bear its own costs of suit

The Facts

FMC Pvt Ltd operates a microfinance business. It has been providing financial loans to employees in state institutions and has written agreements with these institutions in terms of which the institutions would deduct the loan repayments from the concerned employees' salaries and remit such amounts for a commission between 2.5% and 5%. FMC did not withhold 10% as obliged by Income Tax Act (ITA) s 80(2), from the amounts paid as commission to the institutions that has no valid tax clearance certificates. The ZIMRA assessed the principal tax for the default and charged 15% penalty and 10% interest on the principal tax. Subsequent engagements between the parties being revised downwards. Assessments were issued in respect of that liability and FMC objected them but ZIMRA disallowed the objection hence the dispute. On the day of hearing, FMC filed supplementary heads of argument which raised key legal points for the first time: assessments did not contain taxable income and were therefore unlawful; an assessment cannot be subject to audit; and ZIMRA could not issue an assessment for withholding tax. At the commencement of the hearing, the parties counsel was agreed that the assessments were irregularly issued and defective. The appeal had to be struck off the roll and they were disagreeing on the question of costs.

Competing arguments

Issue	FMC's Competing arguments
Whether FMC was obliged at law to withhold 10% and whether the costs be awarded to a successful party	<ul style="list-style-type: none"> • That the assessment did not contain taxable income and were therefore unlawful. • That ZIMRA could not issue an assessment for withholding tax. • That an assessment cannot be subject to audit. • That the assessments were therefore irregular. • That the Supreme Court judgment in <i>Nestle Zimbabwe (Private) Limited v ZIMRA</i>, had clearly spelt out the requirements of a valid assessment. • That ZIMRA had also adopted a wrong procedure. • That the law does not allow ZIMRA to issue an assessment for withholding taxes. • That it ought to have instituted proceedings to recover the amounts in a court of competent jurisdiction and not through assessments. • That as an administrative authority, ZIMRA had acted unreasonably in failing to apply its mind to the facts and the law. • That FMC was unnecessarily put out of pocket as a result of that conduct. • That an order of costs was therefore justified in terms of s 65(12) of the ITA.

Issue	ZIMRA's Competing arguments
Whether FMC was obliged to withhold 10% and whether costs are to awarded to a successful party	<ul style="list-style-type: none"> • That ZIMRA's conduct could not be deemed unreasonable under s 65(12) ITA. • That the assessments were raised long before the Nestle judgement, a similar case whose judgement clearly spelt out the requirements of a valid assessment. • That ZIMRA had not taken a position earlier because of internal consultations that were underway. • That ZIMRA's conduct could not be deemed unreasonable for purposes of section 65(12), of the ITA

Issue	Court reasoning and decision
Whether or not award costs to a successful litigant, and the level at which such costs must be awarded.	<ul style="list-style-type: none"> • That the award of costs is a matter wholly within the discretion of the court, but this is a judicial discretion and must be exercised on grounds upon which a reasonable person could have come to the conclusion arrived at. • That in leaving the magistrate (or judge) a discretion, the law contemplates that he should take into consideration the circumstances of each case, carefully weighing the various issues in the case, the conduct of the parties and any other circumstance which may have a bearing upon the question of costs and then make such order as to costs as would be fair and just between the parties. • That in terms of s 65 (12) of the ITA, an adverse order of costs will be made against the commissioner if the court finds that his claim was unreasonable. • That section states as follows: That he High Court or the Special Court to which an appeal is made under this section shall not make any order as to costs except when the claim of the Commissioner is held to be unreasonable. • That in determining whether the ZIMRA's claim was unreasonable, one must out of necessity consider all the circumstances of the case leading to the concessions made by the ZIMRA on the points of law. • That the objection process as set out in s 62 of the ITA is intended to afford a taxpayer an opportunity to make further representations that may persuade the commissioner to reconsider his earlier decision.

<p>Whether or not award costs to a successful litigant, and the level at which such costs must be awarded.</p>	<ul style="list-style-type: none"> • That s62(4) of the ITA provides that: On receipt of a notice of objection to an assessment, a decision or the determination of a reduction of tax the Commissioner—may reduce or alter the assessment, alter the decision or, as the case may be, increase or alter the reduction or may disallow the objection. • That the law accords a party a second bite at the cherry so to speak. • That the commissioner makes a decision or issues an assessment based on the information supplied by or obtained from a tax paper. Yet the same taxpayer is then allowed to object to an assessment or decision made based on information that the taxpayer itself would have supplied. • That it must have occurred to the drafters of the law that the taxation regime is highly complex and technical such that the parties must be permitted the highest latitude to place all information on the table to allow for an extensive ventilation of the issues before the dispute is escalated to courts of law. • That FMC's supplementary heads of argument raised new legal issues that were never placed before the respondent at the objection or appeals stage. • That ZIMRA was never given an opportunity to consider these fundamental and far-reaching legal points at an earlier stage. • That the administration of the law is not easy. • That this why in spite of the existence of volumes of legal precedent parties still bombard the courts with the same legal problems that would have long been pronounced upon in earlier judgments. • That when the legal issues were brought to the attention of ZIMRA, although rather late, ZIMRA promptly conceded leaving the parties with no option but to ask that the matter be struck off the roll. • That while it is the position of the law that a point of law can be raised at any stage of the proceedings, courts must be wary of litigants who seek to ambush their adversaries by springing
<p>Whether there is good cause to allow the appellant to rely on other grounds other than those stated in the notice of objection,</p>	<ul style="list-style-type: none"> • That in determining whether there is good cause to allow the appellant to rely on other grounds other than those stated in the notice of objection, the court must endeavour to strike a balance between the interests of justice and the likely prejudice that may be occasioned to either party by the granting of leave or denial of such leave. • That while the court was persuaded to grant the appellant leave to rely on the additional grounds set out in the supplementary heads of argument, it was not persuaded to make an adverse finding on the question of costs. • That ZIMRA's claim was not unreasonable to warrant such a finding. • That it is befitting to order that each party bears its own costs of suit.
<p>Decision</p>	<ul style="list-style-type: none"> • That the appeal be and it is hereby struck of the roll • That each party shall bear its own costs of suit.

Decision Impact

Taxpayers and the ZIMRA must clearly articulate the provisions of the law to avoid losing court cases on technicalities. Had this case been decided, was going to clarify the status of the public service commission which by law is not registered for taxes and for this does not a tax clearance.



4. Technical interpretation

4.1 Income tax issues of foreign exchange differences

Introduction

The return of the multicurrency through reforms made in 2019 has presented increasing uncertainty in currency markets in recent times. From tax perspective it creates complications in accounting for foreign exchange differences in the computation of income tax.

The law and interpretation

Overview of the taxation of foreign exchange

The general rule is that foreign exchange (FX) movements of a revenue nature, namely those arising on working capital (short term loans, accounts payable and receivables) are part of taxable income when realised. As defined in s 8 (2) of the Income Tax Act, foreign exchange differences are brought into gross income when received. Where the receipt and the accrual occur in different years of assessment, effect shall be given to the increase or reduction in the gross income in the year of assessment in which the amount was received. On the other hand, section 15 (1) provides for deduction of foreign exchange losses actually paid in Zimbabwean currency and where the incurring of the liability and the payment therefor occur in different years of assessment, effect shall be given to the increase or reduction in the amount in the year of assessment in which the amount was paid. Thus, the two sections recognise for tax purposes foreign exchange differences of a revenue that are realised, whilst disregarding unrealised and capital nature foreign exchange differences.

Realisation of exchange differences

This occurs when the foreign currencies are physically converted into or exchanged for the functional currencies of the businesses, or vice versa. This therefore excludes notional or paper exchange differences as a consequence of accounting balance conversion. There must be a payment made or received for there to be a realisation. Technically, exchange differences arising on cash and cash equivalent held, non-circulating capital do not cause a taxable or deductible event because no transaction took place. Therefore, where no transaction took place in the accounting period but the balances are adjusted in this period, any exchange difference thereof is unrealised

Capital nature exchange differences

Capital nature exchange differences do not form part of taxable income. Whether a transaction is capital or revenue in nature is dependent on the facts and circumstances of each case and this distinction is covered under case law. Capital nature exchange difference involve assets of enduring value, i.e., fixed assets, investments, speculations outside the normal income-earning activities. Innes CJ in *CIR vs George Forest Timber Co Ltd 1924 AD516, 1 SATC 20 at 23* stated that: "Capital, it should be remembered, might be either fixed or floating." Floating capital is consumed and disappeared in the very process of production, while fixed capital does not; though it produces fresh wealth it remained intact. The elements of floating capital are receivables, inventory, prepayments, cash and cash equivalency, accounts payable and short-term loans The case further provided that "Income is what capital produces, or is something in the nature of interest or fruit as opposed to principal or tree." in short floating capital is revenue in nature, whilst fixed is capital in nature.

Decision Impact

Taxpayers should ensure they have eliminated from taxable income capital nature and unrealised exchange differences. Where unrealised exchange differences are eliminated by accounting for the movement between the years, care must still be taken to ensure realised exchange differences that are taxable have excluded capital nature differences.

4.2 Indirect Taxes and Transfer Pricing (TP): Year-end Adjustments

Introduction

At year-end, it is an opportune time for many companies to consider implementing self-initiated year-end transfer pricing adjustments to their intercompany transactions. This is necessary to bring their transfer prices within an arm's length range in accordance with their transfer pricing analyses. Although TP adjustments are generally intended to demonstrate compliance and mitigate risk from an income tax perspective, they can have unintended effect of creating risk from an indirect tax perspective.

The law and interpretation

What is a TP adjustment?

As projections in most cases deviate from reality, a transfer pricing adjustment is needed to align the actual operating result with the arm's length principle. Primary Adjustment to a transfer price means the determination of transfer price in accordance with the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessed. Taxpayers might have their transfer pricing document and transfer pricing policies which guides them on the arm's length prices and arm's length range. However, during the course of the year, the taxpayers might deviate from the arm's length price. The prices might be below or above the arm's length prices which might results in a need for a transfer pricing adjustment. Such adjustment will trigger income tax issues and result in cumbersome income tax correction obligations. The transfer pricing adjustment are supposed to be documented in the transfer pricing return and reported in the transfer pricing return ITF 12 C 2.

Zimbabwean Environment

The Zimbabwean posses' challenges in pricing emanating from inflation and the country risk. And this may cause the prices of goods or services in the stable currency being adjusted from time to time as well. Hence forth TP adjustment are likely to occur. It therefore means companies need to check if the reality and TP document are in agreement at year end. If there are any differences TP adjustment must be effected in the tax computation. Zimbabwean law does not include any specific provision or indication with regard to the implications for the Customs and VAT side of TP adjustments. As a result, considerable uncertainty arises among multinational groups, due to the potential situation that in case of audit, companies might face negative consequences with possible criminal ramifications. However, Zimbabwe transfer pricing legislation also covers domestic transactions and sales declared under VAT 7 returns should be equal to those declared under income tax ITF 12 returns, therefore the need to adjust VAT for transfer pricing purposes.

Decision Impact

As companies prepare for 2021 tax returns it is necessary to prepare a worksheet for TP adjustments in the tax pack and if the revenues have increased or decreased owing to TP adjustment it may also be necessary to adjust the VAT returns. The adjustment of VAT returns may create possible penalties and interest, so taxpayers must come forward for voluntary disclosure and apply for waiver of possible penalties and interest.

4.3 Capital Gains Tax Relief of Related Companies.

The law and interpretation

Taxpayers who sale or transfer specified assets to their sister companies have the opportunity to effect the sale or transfer without being charged capital gains tax. They can roll forward the capital gain tax until the property is sold or disposed of outside the group. Capital gains tax will only become payable when the specified asset is sold to a third party. Companies are said to be under the same control if the control of both companies lies with another same company and there are major shareholders. The transfer should be made between companies under the same control in the course of or furtherance of a scheme of reconstruction of a group of companies or a merger or other business operation which, in the opinion of the Commissioner, is of a similar nature. An election is required to qualify for the relief and this should be made at the time of submitting return for assessment of capital gains tax. The specified asset will be deemed transferred at base cost. Base cost means the cost of an asset against which any proceeds (the price) upon disposal (sale) are compared in order to determine whether a capital gain (a profit) or loss has been realised. The base cost will then become the price to be used by the transferor capital gains tax and the cost of the specified asset to the transferee.

Decision Impact

Taxpayers must take advantages of these relief as provided by the law so as to minimise tax liability and manage cash flows. However, taxpayers must correctly interpret application of the roll relief on capital gains tax disposals that subject to 5% CGT on proceeds. Since these do not have cost base in determination of CGT there is no deemed transfer at cost base.

4.4 Taxation of Fringe benefits post covid-19.

Introduction

Fringe benefits plans are vital in building an appealing company culture that attracts the right workforce. Employees who feel comfortable and influential in their work environment are more motivated to achieve. Moreover, the ability of organizations to respond to changing expectations and adapt significantly impacts success in employee retention and recruitment efforts while preventing high turnover costs.

The law and interpretation

Historically, fringe benefits covered a wide range of perks for employees. Some of the common examples of fringe benefits paid or granted by employers to employees are company motor vehicle, house boats, security, cell phone allowance, airtime, meals, and canteen meals, parking fees, DSTV subscriptions, golf subscriptions, fuel, accommodation, educational assistance, school fees and holidays. While many of these benefits are still relevant for today's workers, in-office perks may not be effective in attracting a remote workforce. Employers must refresh fringe benefits to match employees' new priorities. Common example of fringe benefits post Covid - 19 as a result of working from home includes fuel, home office, generators, internet, laptops, portable printers and other electronic devices. These benefits can be taxable or not taxable depending with how the payroll policy of the organisation is structured. There is need to analyses if the employee is directly benefiting from the working from home benefits before including the amount in the gross employment income of the employee. If there is significant private use, then a benefit in kind will arise and so employers may wish to ensure that their employment policies make clear that significant private use is not permitted. When or if the employee returns to the workplace and ceases to use the asset at home, some consideration will need to be given to what happens to the employer's property. If the property is returned to the employer, there will be no tax consequences. But if the employee keeps the asset and ownership of the asset is transferred from the employer to the employee then a benefit in kind could arise based on the market value of the asset at the time.

Decision Impact

Building a comprehensive benefits package, including attractive fringe benefits, positions your company to recruit and retain your optimal workforce. However, this should be done in a tax efficient manner to avoid high employment tax cost on the part of the employees.



5. Announcement and Interpretations

5.1 Business partner master data update

Background

The ZIMRA published public notice 36 of 2022 to inform and remind the public of the need to update the Business partner master data. ZIMRA faces challenges in locating and communicating with taxpayers as some businesses have outdated Master Data Information. An updated Master Data allows quick response to queries, automatic issuance of ITF 263, tax updates, invitation to attend workshops, timely processing of VAT refunds and any other communication deemed necessary.

All taxpayers have an obligation to timeously notify ZIMRA of any changes to previously submitted Master Data information. ZIMRA is therefore working tirelessly to ensure enhanced database integrity which will facilitate effective and efficient service delivery. In view of the above, ZIMRA hereby reminds taxpayers to ensure that the following information is updated: e- mail address, telephone numbers/ cell phones, physical address, bank account, Industry, Public Officer's information and Individual Taxpayers Identity Number. In order to update the Master Data, taxpayers are encouraged to complete a REV 2 form. The request for Master Data update is in terms of section 61 of the Income Tax Act and Section 25 of the Value Added Tax Act.

Decision Impact

Taxpayers should continuously update their master data in order to avoid a situation where taxpayer will not be able to obtain their tax clearance when they expire or timely receive their tax refunds.

5.2 Payment of Tax in the Currency of Transaction

Background

The ZIMRA published public notice 32 of 2022 to inform and remind the public of the Payment of tax in the currency of transaction. For the purposes of conversion of foreign currency to Zimbabwean dollar, where applicable, the rate of exchange established through the Willing-Buyer Willing-Seller exchange rate system as provided by the Reserve Bank of Zimbabwe should be used with immediate effect.

Decision Impact

The public notice clarifies the issue of the exchange rate taxpayers should use to pay taxes which is the willing buyer willing payer rate in payment of taxes. It further reinforces the requirement to pay taxes in foreign currency when trading has taken place in foreign currency.

5.3 Excise return submission and payment

Background

The ZIMRA published public notice 35 of 2022 to inform and remind the public of the excise return submission and payment. The taxpayers being reminded are all Airtime Operators, Spirit Rebate Users and Excise Manufacturers, the following are the returns and payment of duty dates:

Airtime Operators	Spirit Rebate Users	Excise Manufacturers
10th day of the month following the month to which the return relates.	14th day of the month following the month of removal from licensed premises.	20th day of the month following the month of removal from licensed premises.

It further advises clients to scan and email the completed return using the applicable/relevant email address selected from the list below. Please note payment should be done through submission of a bill of entry (Form 21).

	Station	Email address
1	Bulawayo	Excisereturnsbulawayo@zimra.co.zw
2	Chiredzi	Excisereturnschiredzi@zimra.co.zw
3	Harare	Excisereturnsharare@zimra.co.zw
4	Mutare	Excisereturnsmutare@zimra.co.zw
5	Victoria Falls	Excisereturnsvictoriafalls@zimra.co.zw

Decision Impact

Taxpayers should pay their taxes and submit returns on time to avoid penalties and interest as these could have huge negative on their cashflows.

5.4 E-mail address for immigrants' clearance applications at Beit bridge border post

Background

Zimbabwe Revenue Authority publishes Public Notice 38 of 2022 to advise all clients that with effect from the 01 June 2022, the following e-mail address shall be in use for applications for immigrants' rebate & suspension of duty on immigrants' vehicles imported through Beitbridge Border Post: beitbridgeimmigrantsrebate@zimra.co.zw. The email address beitbridgeprivateimports@zimra.co.zw shall remain in use for all other private import clearances which are not immigrants' clearances.

Decision Impact

In order to facilitate the importation of goods through a rebate of duty tax payers should use the correct email address so as to avoid delays at the border post.

5.5 Submission of income tax returns (ITF 12C) for tax year ended 31st December 2021

Background

Zimbabwe Revenue Authority publishes Public Notice 39 of 2022 to inform the public about Submission of income tax returns (ITF 12c) for tax year ended 31st of December 2021.

Taxpayers with approved Accounting Years

Taxpayers with approved accounting years other than 31 December should ensure that returns are submitted on dates set by the Commissioner General in respect of their accounting periods.

Completion of Income Tax Returns

Income Tax Returns are to be completed in Local Currency (Zimbabwe Dollars) but the Commissioner General can accept returns completed in Foreign Currency upon conditions detailed below:

a) The taxpayer must submit an application in writing to the Commissioner detailing their position and attach the Income Tax Returns where:

- Taxpayers' gross income is in both local and foreign currency and 70% of the income is in foreign currency; or
- Taxpayers' gross income is completely in Foreign Currency; or
- Taxpayers' gross income is in foreign currency and allowable deductions are in both local and foreign currency.

b) In preparing the income tax returns, where income tax is payable in both foreign currency and local currency the tax should be apportioned based on the contribution of the respective currencies to total turnover method or any other method as the Commissioner may approve on request

Decision Impact

Allowing taxpayers to submit returns in foreign currency will reduce the administration work on the part of taxpayers, especially those that fully transact in foreign currency. However, the challenge is whether the ZIMRA can be able to accommodate the foreign currency returns without causing distortions.

5.6 Introduction of Gold Coins

Background

The Reserve Bank of Zimbabwe (“the Bank”) is advising the public of the salient features and characteristics of the gold coin. The gold coin shall be called the Mosi-Oa-Tunya Gold Coin with the following characteristics:

Weight	One troy ounce.
Purity	22 carats.
Identification	Each coin will have a serial number.
Ownership	Upon purchase, the buyer shall take physical possession of the coin and be issued with a Bearer Ownership Certificate. The buyer or holder of the coin may opt to place it in the custody of bankers of own choice in which case a safe custody certificate/receipt
Liquidity and Tradability	The coin will have liquid asset status, that is, it will be capable of being easily converted to cash, and will be tradable locally and internationally. The coin may also be used for transactional purposes
Prescribed Asset Status	The coin will have prescribed asset status and institutional investors can use it to meet regulatory requirements for prescribed asset investments.
Collateral	The coin can be used as security for loans and credit facilities.
Buy Back Arrangement	At the instance of the holder, the Bank will buy back the coin.

The gold coins will be available for sale to the public from 25 July 2022 in both local currency (ZWS) and United States Dollars (US\$) (and other foreign currencies) at a price based on the prevailing international price of gold and the cost of production. The coins will be sold through the Bank and its subsidiaries, Fidelity Gold Refinery (Private) Limited and Aurex (Private) Limited, local banks and selected international banking partners. Entities selling the coins shall be required to apply Know Your Customer (KYC) principles

Decision Impact

The coins are expected to act as a 'store of value and to reduce the demand for US dollars– something that has been blamed for the weakening value of the local currency. It however remains to be seen as to why people want to store their value in gold coins instead of the actual United States dollar. The use of gold coins also hinges on trust issues.



6. Contact us

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

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