



# MONTHLY TAX UPDATE

MARCH 2022

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## Contents

March 2022 MTU2

1. Matrix Group News!.....	3
Matrix Tax School brings you the 2022 Annual Tax Conference.....	3
2. New Legislative Provisions.....	4
Mining fees updated.....	4
Insurance fees updated.....	5
Insurance and pension commission levy.....	7
3. Court Case.....	9
Land mark ruling on canteen meals.....	9
4. Technical interpretation.....	14
Do not forget to rebase capital allowances.....	14
Reasonable grounds to claim input tax beyond 12 months.....	14
Capital gains tax for miners is nil.....	15
Interpretation of the transaction date for royalties.....	16
5. Announcement and Interpretations.....	17
Opening of the ZIMRA offices.....	17
6. Contact us.....	19
7. Disclaimer Clauses.....	19



We are honoured to present our March 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:

- SIs on the changes of levies and fees.
- Land mark ruling on canteen meals
- Do not forget to rebase capital allowances
- Capital Gains Tax for miners is nil
- Reasonable grounds to claim input tax beyond 12 months
- Interpretation of the transaction date for royalties

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 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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**REGISTER NOW**



## 2. New Legislative Provisions

### Mining fees updated

#### The law and Interpretation

SI 40 of 2022 has, with effect from the 11 March 2022, updated various fees payable by miners. The fees have been pegged in the US\$ currency from the previous ZWL\$ currency which was stipulated in SI 185 of 2021. Below is a summary of the fees updated:

Details	SI 185 / 2022 ZWL\$	SI 040/ 2022 US\$
Application for a mining lease (Non-refundable)	127 500,00	1 500,00
Application for a special mining lease	318 750,00	3 750,00
Special prospecting licence	47 855,00	563,00
Ordinary prospecting licence	6 375,00	75,00
Registration as an approved prospector valid for 5 years	255 000,00	3 000,00
Application for registration of Precious Metal Block	12 750,00	150,00
Registration fee for a site	3 230,00	38,00
Certificate of Registration after transfer per mining block	31 875,00	375,00
Transfer of donated block of mining claims	63 750,00	750,00
<b>EXPORT PERMIT FEES</b>		
Platinum Group Metals Concentrate (3 Months)	796 875,00	9 375,00
White Matte	637 500,00	7 500,00
Base Metal Concentrate	637 500,00	7 500,00
Ferro Alloy	6 375,00/3 months	75,00/3 months
Refined Base Metals	239 105,00	2 813,00

Processed Industrial Minerals including Processed Dimension Stone)	31 875,00	375,00
Unprocessed Industrial Minerals (Excluding Dimension Stone)	63 750,00	750,00
Dimension Stone Blocks	478 125,00	5 625,00
Steel Products	127 500,00	1 500,00
Steel Products (Small Consignment up to 30 tonnes)	23 885,00	281,00
Cut and Polished diamond (per shipment)	3 230,00	38,00
Rough/Uncut Diamonds (per shipment)	637 500,00	7 500,00
Rough/ Uncut Emeralds (per shipment)	15 980,00	188,00
Cut and Polished Emeralds (per shipment)	3 230,00	38,00
Semi-precious stones (per shipment)	3 230,00	38,00
Foundry/Industrial Scrap	127 500,00	1 500,00
Samples for test work	6 375,00	75,00
Samples above 100kg	6 375,00	75,00
Samples below 100kg	3 230,00	38,00
Gold Jewellery Permit	31 875,00	5 000,00

### Decision Impact

The use of the USD values instead of the ZWL enables less amendments in these fees and allow better dependency on the fees which are pegged in a more stable currency.

### Insurance fees updated

#### The law and Interpretation

SI 45 of 2022 has, with effect from the 18 March 2022, updated fees payable by insurers inclusive of application fees for registration as an insurer and application fees for issue or renewal of licences. The fees have been increased from the ones published in SI 085 of 2021 by an average rate of 50% as follows:

Details	SI 045/2022	SI 085/2022
Registration as an insurer carrying on reinsurance business—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee	600 000,00	300 000
Registration as an insurer carrying on life insurance business—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee	600 000,00	300 000
Registration of an insurer carrying on business other than life insurance business—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee	600 000,00	300 000
Registration as an insurer carrying on life and other insurance business—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee . . . . .	600 000,00	300 000
Registration as an insurer carrying on business solely for the purpose of issuing funeral policies—		
(i) Application fee . . . . .	60 000,00	30 000
(ii) Registration fee . . . . .	600 000,00	300 000
Registration of mutual society		
(i) Application fee	60 000,00	30 000
(ii) Registration fee . . . . .	600 000,00	300 000
Registration of insurance broker—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee . . . . .	600 000,00	300 000

Registration of Micro insurance companies—		
(i) Application fee	60 000,00	30 000
(ii) Registration fee	600 000,00	300 000
Insurance agents (general) licence fee	15 000	7000
Insurance agents (life) licence fee	15 000	7000
Insurance agents (temporary) licence fee	15 000	7000
Intermediary licence fee	15 000	7000
Insurance agent (corporate)	35 000	7000
Multiple agent (general) licence	35 000	35000
Registration fee .	75 000	75000

## Decision Impact

The increases in these levies are a reflection of the inflation levels in the economy. The increase by 50% is most likely to raise the cost of doing business for insurers.

## Insurance and pension commission levy

### The law and Interpretation

SI 46 of 2022 amends the insurance and pension commission levy regulations by updating the formulas to be used in calculating the levy. The formula has been provided for difference insurers as follows:

#### Short term insurers — $a + bx$ , where—

$a$  = a fixed levy of ZWL\$ 112 000 per company per quarter

$b$  = rate of 0.01

$x$  = estimated net written premium for the quarter;

#### Short term Reinsurers— $a + bx$ , where—

$a$  = a fixed levy of ZWL\$ 112 000 per company per quarter

$b$  = rate of 0.01

$x$  = estimated gross written premium for the quarter;

#### Funeral assurers— $a + bx$ , where—

$a$  = fixed levy of ZWL\$ 112 000 per company per quarter

$b$  = rate of 0.01

$x$  = estimated net written premium for the quarter.



## Life insurance companies

$a + bx$ , where—

a = a fixed levy of ZWL\$ 112 000 per company per quarter

b = rate of 0.01

x = estimated net premium written for the quarter;

### Decision Impact

The main changes in the formulas are the fixed levy amounts which have been revised upwards. This is again another implication of the economic changes.



## 3. Court Case

### Land mark ruling on canteen meals

Case name	I A B vs ZIMRA HH 32-22 ITC 17/17
Summary Facts	<ul style="list-style-type: none"> <li>• IAB is in the business of making and selling bread.</li> <li>• The ZIMRA carried out an audit on IAB and concluded on a number of items for which it raised assessments.</li> <li>• The issues in question whereas follow:             <ol style="list-style-type: none"> <li>i. the taxation of meals benefits for factory workers,</li> <li>ii. the deductibility of canteen meals expense against income in the hands of IAB</li> <li>iii. the deductibility of the management fees paid to the parent company, IAL for services rendered and</li> <li>iv. the claiming of capital allowances for a feeder which the ZIMRA had assumed was a property of ZETDC not IAB.</li> </ol> </li> <li>• IAB objected to some of the assessments.</li> <li>• The Commissioner disallowed the other objection grounds and allowed in full one.</li> <li>• This led IAB to lodge the appeal under this case.</li> </ul>
Jurisdiction	<ul style="list-style-type: none"> <li>• The High Court of Zimbabwe</li> </ul>
Issues	<ul style="list-style-type: none"> <li>• Whether the CG was entitled to adjust assessments that had prescribed</li> <li>• Whether IAB received management services from IAL</li> <li>• Whether IAB management fees to IAL are deductible</li> <li>• Whether canteen meals constituted gross income and deductible expenditure</li> <li>• Whether in the circumstances, the 30% penalty levied by the CG was appropriate</li> </ul>
Decision date	<ul style="list-style-type: none"> <li>• 20 January 2020, 20 April 2021 &amp; 19 January 2022</li> </ul>
Decision	<ul style="list-style-type: none"> <li>• The appeal was allowed in part</li> <li>• Regarding management fees, the appeal was dismissed and assessments issued by CG are hereby confirmed.</li> <li>• On the issue of canteen meals for factory workers the appeal was allowed and the resultant assessment issued by the ZIMRA was set aside.</li> <li>• The penalty was reduced to 20%.</li> </ul>

#### The Facts

IAB is in the business of making and selling bread and is a wholly owned subsidiary of IAL. IAL is a diversified conglomerate operating a management and investment holding company for its subsidiaries and associate companies. IAL is incorporated in Zimbabwe and listed on the Zimbabwe Stock Exchange. IAL comprises of a team of functional experts with experience and technical expertise, working to support the operations of the group companies and divisions, including IAB, through the provision of management support services in terms of the Service Level Assessment ("SLA").

Through its shared service center, IAL acts as center of excellence constituting of a team of people that provide collaboration and use of best practice around specific focus areas to drive business results, as reflected in IAB’s overall increased production and financial indicators. The ZIMRA carried out an audit on IAB and concluded on a number of items for which it raised assessments. IAB objected against some of the assessments where in relation to: (1) the taxation of meals benefit for factory workers, (2) the deductibility of canteen meals expense against income in the hands of IAB (3) the deductibility of the management fees paid to the parent company, IAL for services rendered and (4) the claiming of capital allowances for a feeder which the ZIMRA had assumed was a property of ZETDC not IAB. The Commissioner disallowed the other objection grounds and allowed in full one ground relating to the feeder after it was proved that the feeder belonged to IAB. This led IAB to lodge the appeal under this case.

## Competing arguments

Issue	Court reasoning and decision
<p>Whether canteen meals constituted gross income and deductible expenditure?</p>	<ul style="list-style-type: none"> <li>• That the factory workers based at IAB's factory were supplied with meals.</li> <li>• That such meals were not supplied in the factory and at the post of duty.</li> <li>• That the workers exited the factory floor and had a break from work for about fifteen (15) minutes and consumed the meal in a canteen outside the factory.</li> <li>• That IAB's employees do not continue with their duties while having the meal.</li> <li>• That they exit the factory to the canteen and are relieved of their duties and re-enter it to resume their duties after they have had their meal.</li> <li>• That the ZIMRA relies on the decision of ITC 1394 (1984) SATC 119 (Z).</li> <li>• That in ITC 1394 the court ruled that the provision of meals to employees constitutes entertainment where the employees are not required to continue with their duties during the meal.</li> <li>• That it only constitutes an allowable deduction in the production of the income of the tax payer – if the employees are required to continue with their duties.</li> <li>• That as a general rule the provision of a meal to an employee may well constitute “entertainment” as envisaged in s16(1)(m) of the Act.</li> <li>• That the scenario in ITC 1394 (1984) 47 SATC is an exception to the said general rule i.e. lunch for bank tellers that were required to work through lunch to continue with their duties during the meal.</li> <li>• That the meals are more beneficial to the employer as they are designed primarily to meet the business objectives of the employers rather than to benefit the employee.</li> <li>• That there is a clear link to the business objectives than to a supposed benefit in the hands of the employees.</li> <li>• That accordingly, the meals are provided to factory employees in the interest of IAB's business and are not a benefit to the employees.</li> <li>• That the canteen meals for the factory workers only are not taxable in the hands of the employees.</li> <li>• That the canteen meals provided to employees cannot be classified as entertainment.</li> <li>• That the issue of canteen meals for factory workers the appeal should be allowed.</li> </ul>

Whether the Commissioner was entitled to adjust the assessments after the prescription period had expired?

- That IAB contended that the ZIMRA was not entitled to adjust the 2010 tax year assessment on account of the provisions of s47 of the Act.
- That IAB's position is that 2010 tax year prescribed in terms of s47 (1) (3) of the Act,
- That in order for the Commissioner to raise additional assessments in terms of s47 (1) (ii) of the Act, there are two elements that the Commissioner must be satisfied.
- That firstly, he must be satisfied that there was a fraud, misrepresentation or willful non-disclosure of material facts.
- That secondly, he must also be satisfied that the full amount of tax chargeable which was not assessed, was as a result of such fraud, misrepresentation or non-disclosure.
- That IAB argued that by 6 years having gone by in the year 2017, the ZIMRA no longer had the power to adjust the assessment on account of extinctive prescription.
- That although the ZIMRA agreed that the 6 years had gone by, the ZIMRA relied on s47 (1) (ii) which permits him to re-open and assess after the prescriptive period.
- That IAB was obliged to make self-assessments and did so in terms of s37A of the Income Tax Act.
- That these self-assessments, however, did not disclose the true position in relation to the canteen meals and management fees and hence they contained a misrepresentation.
- That it is beyond dispute that IAB provided meals to both factory workers and administrative employees based at its bread manufacturing factory in Harare.
- That IAB chose to persist with objecting in relation to the meals for factory workers and it abandoned the objection in relation to the administrative staff.
- That once it is admitted that meals provided to administrative staff were not properly deducted then the Commissioner was entitled to re-open the assessments.
- The tax returns and the financial statements contained the concealment of the treatment of management fees and canteen meals.
- That these claimants did not disclose that IAB was deducting canteen meals where it had no right to do so i.e. in relation to administrative staff.
- That on this admitted misrepresentation alone, the ZIMRA was entitled to re-open the 2010 assessment.
- That the judge found favour of the ZIMRA that the Commissioner correctly re-opened the assessment for the year 2010.

Whether IAB received management services from IAL?

- That the Commissioner contended that IAB failed to substantiate and prove that the services involved were rendered to IAB by its holding company.
- That the management fees were disallowed by the ZIMRA in terms of s15 (2) (a).
- That the framing of the issue in this fashion takes into account the wording of s15 (2) (a) which reads: "15 (2) *The deductions allowed shall be –a) Expenditure and losses to the extent to which they are incurred for the purpose of trade or in the production of income ...*" (emphasis added)"
- That section requires a taxpayer to establish "the extent" to which any expenditure have been incurred for the purposes of its trade or the production of income.
- That it is not sufficient for the taxpayer to prove that services were rendered but to go further to prove that the services were rendered to the full extent for the purposes of its trade or the production of income.
- That during the period under review IAL housed group functions such as Internal Audit, Tax, Legal and Secretarial, Strategy, Operations and Communication.
- That IAB provided the ZIMRA with management services contracts in place between IAB and its holding company, IAL, which detail the services provided.
- That it also availed to the ZIMRA invoices relating the management fees including detailed explanations of the nature of the services that are rendered.
- That IAB relied on the oral evidence (supported by documents) from the Group Director of IAL, GG, the Company Secretary and other representatives.

- That the shared service center arrangement, as adopted by the Group is common among multinational companies in today's business environment
- That it would be expensive from a Group perspective, to duplicate the common functions at each operational subsidiary level.
- That this approach allows the Group entities to access professional support at reasonable expense.
- That IAB is provided services by IAL and these include the strategic support services, supplier negotiations, treasury function, project management support, finance and revenue services, legal and regulatory affairs services and tax services.
- That in effect IAB received services.

Whether IAB management fees to IAL are deductible?

- That the CG disallowed the management fees primarily on three grounds:
- Firstly, there was insufficient evidence of actual services rendered.
- Secondly, IAB did not provide a cost build-up of the pre-determined fees.
- Thirdly there was no proof of unique expertise that was available at IAL which was not available at IAB, which warranted the supply of such services by IAL to IAB.
- That a parent company can arrange for a wide scope of services to be available to its subsidiaries, in particular, technical, financial and commercial services.
- That in an integrated group, the directors and senior management of the parent company make all important decisions concerning the affairs of its subsidiaries.
- That further, the revenue authority cannot place itself in the armchair of a businessman or in the position of the Directors and assume the role of deciding what is reasonable expenditure having regard to the circumstances of the case.
- That it is beyond material dispute that the management fees charged by IAL to IAB were pre-determined at the beginning of each year.
- That invoices were issued in respect of each month in the year whether or not service was actually supplied.
- That the position of the ZIMRA is corroborated by the evidence of IAB.
- That the Group Finance Director likened the charges for management fees levied by the IAL to subscriptions for DSTV which were pre-determined.
- That when the ZIMRA requested the cost build up or the evidence of the services that were rendered by IAL to IAB, no such evidence or cost build up was produced.
- That the only documents produced were the contracts between IAL and IAB and these did not prove that in fact services had been rendered to IAB by IAL.
- That the best they showed was that IAL was available to render the services as and when they were required by IAB.
- That the signing of the service level contract is not sufficient for IAB to incur obligation to pay management fees.
- That the execution of a service level agreement between IAB and IAL does not amount to incurring any legal obligation in respect of management fees.
- That like any other contract, the incurrance of a legal obligation depends on the performance by the parties of their obligations in terms of the contract.
- That there being no evidence that IAB received specified services from IAL during the tax period under consideration no legal obligation was incurred by IAB in respect of management fees.
- That in other words, IAB succeeded in establishing the existence of contractual relationship between it and its holding company but did not lead evidence to establish that services were rendered to it by IAL pursuant to the service level contract and the extent of such service.
- That based on this it is clear that IAB's case on the issue of management fees failed.

<p>Whether in the circumstances, the 30% penalty levied by the ZIMRA was appropriate?</p>	<ul style="list-style-type: none"> <li>• That the penalty was only applicable to the issue of the management fees.</li> <li>• That the appeal was unsuccessful in its entirety.</li> <li>• That in the case of Income tax case No. 1725, 64 SATC 223, the court held that the penalizing section enjoins the Commissioner or the court to conduct an inquiry on the intention of the taxpayer.</li> <li>• That the ZIMRA is enjoined to inquire whether in defaulting the taxpayer had the intention of evading tax.</li> <li>• That where no such intention exists there is no justification for a penalty.</li> <li>• That in this case IAB believed in its interpretation of the law.</li> <li>• That however with the expertise at its disposal, IAB should have used proper invoices for its management fees which meet the minimum requirements of the law.</li> <li>• That while a case has been made for the reduction of the penalty, the court is not persuaded that it should be reduced in its entirety.</li> <li>• That the penalty is accordingly reduce it to 20%.</li> </ul>
<p>Decision</p>	<ul style="list-style-type: none"> <li>• The appeal was allowed in part</li> <li>• Regarding management fees, the appeal was dismissed and assessments issued by CG are hereby confirmed.</li> <li>• On the issue of canteen meals for factory workers the appeal was allowed and the resultant assessment issued by the ZIMRA was set aside.</li> <li>• The penalty was reduced to 20%.</li> </ul>

### Decision Impact

Canteen meals constitute taxable income in the hands of the benefiting employees except where conclusive evidence can be given to show that the meals are given in the production of income or for the purposes of trade. IAB won the case for its factory employees as they were given meals to support the going on of the business and not for their benefit. Management fees are deductible if there can be proven that there are services being provided, with the support of documentation like invoices.



## 4. Technical interpretation

### Do not forget to rebase capital allowances

#### The law and interpretation

Finance Act (No.2) of 2020 provided for rebasing of capital allowances for assets purchased or acquired in prior years in foreign currency and whose invoice value had not been fully exhausted with regards to capital allowances. The assets are to be rebased to the ZWL\$ equivalent at the exchange rate on 1 January 2021. The unredeemed balance will be rebased to the ZWL\$ equivalent. This implies that all assets acquired in USD that had outstanding income tax values as at 31 December 2020 will be inflated by the prevailing rate to ensure that the values of capital allowances reflect the true value of the wear and tear being incurred by the company utilizing the asset to make taxable income. This applies only to income tax returns for the year of assessment 2021.

#### Decision Impact

With the due date for the 2021 year of assessment ITF 12 C return coming closer, many entities are preparing the tax computations and would be interested in legal tax reduction schemes. This rebasing of capital allowances will come in handy in the circumstance. Hence it is essential that tax payers utilised this incentives it is only available for the 2021 tax return.

### Reasonable grounds to claim input tax beyond 12 months

#### The law and interpretation

Section 15(2) (a) requires that input tax should be claimed within the period a registered operator is required to furnish a return to the ZIMRA or 12 months whichever is the longer period. Finance Act 1 of 2019 amended section 15 (2) (a) by adding a provision which states as follows: "Provided that if the registered operator can show good cause to the Commissioner for extending the time for claiming a deduction of amount of input tax, the Commissioner may allow such a claim from the time a registered operator was required to make a return.". This amendment meant that the Commissioner could permit a registered operator to claim input tax on invoices which are more than 12 months old. This is with effect from 20 February 2019, which was the enactment date of the Finance Act number 1 of 2019. It is important to note that the provision places great reliance on the Commissioner's discretion to allow input tax to be claim on a tax invoice which is older than 12 months. This can imply the need for a registered operator to defend his or her position for making a late claim of the input tax. If the Commissioner is convinced that the reasons behind the delay are valid according to his or her own discretion, then the operator can be permitted to claim the input tax even after the 12 months have lapsed. The question now is what reasonable grounds does one require to be allowed to claim beyond the 12 months?

In our view, valid grounds may constitute reasons for not claiming input tax which are beyond an operator's control or reasons that do not constitute intention to evade tax or negligence. Other reasons why a claim for input tax might not be made in the period during which the supply is received could be because of mere oversight or because the tax invoice was received late. It suffice to say that there must be good grounds to succeed on the claim possibility something that has arisen owing to an act of God. For instance soon after filing the return the fiscal tax invoices upon which the claim is made are destroyed by fire.

## Decision Impact

It is very important that taxpayers claim their input taxes on time to avoid missing the opportunity to do so. Furthermore, the fact that the legislation gives the Commissioner power to use his/her own discretion means operators are less likely to have any valid grounds which discharges the discretion of the CG.

## Capital gains tax for miners is nil

### The law and Interpretation

Capital gains tax (CGT) is chargeable in terms of s 6 of the CGTA. Capital gains are the proceeds from the disposal of assets less the cost of acquisition and other associated cost of the specified assets being disposed. The summary framework in calculating a capital gain is as follows:

Details	Amount
Gross capital amount	XXX
Less Recoupment	(XXX)
Less Exemption	(XXX)
Capital amount	XXX
Less Deductions	(XXX)
Capital gain/loss	XXX

The capital gain for miners is the same as for other businesses, however there are some implications on the capital amount. The affected variable there is recoupment. Recoupment of a miner is in terms of s 8 (1) (i) of the ITA which provides for inclusion in gross income "(I) any recoupments from capital expenditure which—(i) exceed the balance of capital expenditure ranking for redemption in terms of paragraphs 2, 3, 4 and 5 of the Fifth Schedule or the corresponding provisions of any previous law..." Therefore if a miner claimed full capital redemption allowance ("CRA") on the cost of an asset, recoupment becomes the selling price of the asset. Given this, calculation of CGT for a miner with recoupment equal to the selling price will result in no overall capital gain. Recoupment is eliminated under CGTA by reason of s 8(1) of CGTA which excludes as gross capital amount amounts included in gross income in terms of s 8(1) of the ITA.



## Decision Impact

Miners are to take note of this in order to avoid errors in computation of the CGT which will result in them overpaying taxes to the ZIMRA.

## Interpretation of the transaction date for royalties

### The law and interpretation

Section 37 B requires miners to deduct royalties for minerals based on the face value of the invoice for the minerals. Face value is not defined in the Finance Act or Mines and Minerals Act. In determining the face value of the invoice, there are key expenses that are deductible to arrive at the final value that is written on the invoice. Those deductions appear on the invoice in arriving at the face value of the invoice. The determination of the face value of the invoice begins by taking into account the London Metal Exchange (LME) rate as a reference price in the determination of the face value of the invoice. It is from this price that deductions are made on transport and the price of refining to arrive at the Net Smelter Return which is the face value of the invoice. All these computations appear on the invoice to arrive at the face value of the invoice, which is the final figure appearing or imprinted on the invoice on which the royalties should be based as contemplated in the Act. The ZIMRA has however argued that royalties should be calculated on the value of the mineral-bearing product plus the cost of transport, the cost of refining and treatment. The ZIMRA's argument has been difficult for miners to accept considering that transport and refining expenses are not costs incurred in extracting the minerals, and therefore these cannot constitute the face value of the invoice. From section 37B of the Finance Act it is clear that there is no way the legislature would have intended for royalties to be collected on the price of the final metal when expenses have not yet been deducted.

Nonetheless, as a way of resolving the arguments of the meaning to the face value between the ZIMRA and the miners, the Finance Minister amended the Finance Act 7 of 2021 in section 37B (a) as follows: "*(a) in the case of platinum group metals— (i) concentrate - 85% of the international price of the refined mineral contained therein by reference to the price on the London Metal Exchange on the date of the transaction on which royalties will be paid; and (ii) matte - 90% of the international price of the refined mineral contained therein by reference to the price on the London Metal Exchange on the date of the transaction on which royalties will be paid;*"

From the above provision, it can be noted that the calculation of the royalties is now largely dependent on the London Metal Exchange (LME) price of the minerals exclusive of the deduction of transport costs or refining costs. The rate to be used is the rate existing on the date of the transaction on which the royalties are to be paid.

The transaction date in this case however remains unclear since the legislation did not define this. The transaction date is a vague pointer of the date of accrual of royalties since this date could mean the date of agreement of sale of the concentrate which varies from one miner to another, depending on the terms and conditions of agreements. For some miners, the agreement date is the date of the signing of the sale agreement, or the date of the presentation of the assay report, or the date of invoicing or payment.

## Decision Impact

The finance act has made it clear that the rates to be used when calculating royalties for platinum group metals is 85% and 90% of the LME rates on the dates of the transaction of the sale of the concentrate. Although the Minister addressed the issue of the face value, another issue still remains that needs to be resolved, that of the definition of the date of the transaction.



## 5. Announcement and Interpretations

### Opening of the ZIMRA offices

#### Background

The ZIMRA through public notice 19 of 2022 is advising taxpayers that all Domestic Taxes offices in all regions and stations have been opened to the public. This follows the temporary closing of the offices due to Covid-19. ZIMRA officers will be attending to all walk-in clients who require any ZIMRA services including attendance of CGT Interviews on appointment/invitation, attendance of Audits Interviews on appointment/invitation, submission of Audits documentation on appointment/invitation, submission of returns and proof of payments and general inquiries and taxpayers' education. Large Clients Office taxpayers are advised to liaise with their Managers and Liaison officers to schedule appointments. Further taxpayers are advised that the following measures to decongest offices are still in place as a way of promoting social distancing and reducing the spread of COVID-19 virus:

1. New Registration for Business Partners and additional Tax Heads - Clients are encouraged to utilise the ZIMRA e-service platform through [efiling@zimra.co.zw](mailto:efiling@zimra.co.zw). Where the e-services platform fails, new registrants may complete a registration form (REV1) obtained on ZIMRA website, scan and email the copy to [zimrahelp@zimra.co.zw](mailto:zimrahelp@zimra.co.zw) for assistance;
2. Tax Clearances – are being issued automatically and emailed directly to valid email addresses registered with ZIMRA by taxpayers and provided that the taxpayer is up to date with all tax obligations including fiscalisation & Interfacing with the ZIMRA server;
3. Queries and correspondences – Clients are encouraged to use emails addresses published below;
4. Return Submissions – Clients are encouraged to use the ZIMRA Online Platforms. In the event of failure to submit on e-services, clients are encouraged to use the emails shown below to attach returns;
5. Payment plan arrangements and negotiations - to be done through emails to respective Regional/Station Managers
6. General enquiries and additional information – Use of ZIMRA website, social media platforms (Twitter/Facebook), telephones and emails published below.

Region	Tax Clearance Queries (ITF263)	Manual / Scanned Tax Returns Submissions
Harare Medium Clients Office (MCOs):	<a href="mailto:itf263queriesdeskmco@zimra.co.zw">itf263queriesdeskmco@zimra.co.zw</a>	VAT: <a href="mailto:vatmcoreturn@zimra.co.zw">vatmcoreturn@zimra.co.zw</a> PAYE: <a href="mailto:payemcoreturn@zimra.co.zw">payemcoreturn@zimra.co.zw</a> WHT: <a href="mailto:whtmcoreturn@zimra.co.zw">whtmcoreturn@zimra.co.zw</a> Income Tax: <a href="mailto:incometaxmcoreturn@zimra.co.zw">incometaxmcoreturn@zimra.co.zw</a>
Harare Large Clients Office (LCO):	<a href="mailto:itf263queriesdesklco@zimra.co.zw">itf263queriesdesklco@zimra.co.zw</a>	VAT: <a href="mailto:vatlcoreturn@zimra.co.zw">vatlcoreturn@zimra.co.zw</a> PAYE: <a href="mailto:payelcoreturn@zimra.co.zw">payelcoreturn@zimra.co.zw</a> WHT: <a href="mailto:whtlcoreturn@zimra.co.zw">whtlcoreturn@zimra.co.zw</a> Income Tax: <a href="mailto:incometaxlcoreturn@zimra.co.zw">incometaxlcoreturn@zimra.co.zw</a>

Region	Tax Clearance Queries (ITF263)	Manual / Scanned Tax Returns Submissions
Small Clients Office (SCO) Region: Kurima House	<a href="mailto:itf263queriesdesksco@zimra.co.zw">itf263queriesdesksco@zimra.co.zw</a>	VAT : <a href="mailto:mvatscoreturn@zimra.co.zw">mvatscoreturn@zimra.co.zw</a> PAYE: <a href="mailto:payescoreturn@zimra.co.zw">payescoreturn@zimra.co.zw</a> WHT: <a href="mailto:whtscoreturn@zimra.co.zw">whtscoreturn@zimra.co.zw</a> Income Tax: <a href="mailto:incometaxscoreturn@zimra.co.zw">incometaxscoreturn@zimra.co.zw</a>
Satellite Offices: • Bindura, • Chinhoyi • Kariba	<a href="mailto:itf263queriesdesksco@zimra.co.zw">itf263queriesdesksco@zimra.co.zw</a>	Bindura: <a href="mailto:bindurareturn@zimra.co.zw">bindurareturn@zimra.co.zw</a> Chinhoyi: <a href="mailto:chinhoyireturn@zimra.co.zw">chinhoyireturn@zimra.co.zw</a> Kariba Returns: <a href="mailto:karibareturn@zimra.co.zw">karibareturn@zimra.co.zw</a> Marondera: <a href="mailto:maronderareturn@zimra.co.zw">maronderareturn@zimra.co.zw</a>
Region 2:	<a href="mailto:itf263queriesdeskregion2@zimra.co.zw">itf263queriesdeskregion2@zimra.co.zw</a>	Beitbridge: <a href="mailto:beitbridgereturn@zimra.co.zw">beitbridgereturn@zimra.co.zw</a> Bulawayo: <a href="mailto:mhlahlandlelareturn@zimra.co.zw">mhlahlandlelareturn@zimra.co.zw</a> Gwanda: <a href="mailto:gwandareturn@zimra.co.zw">gwandareturn@zimra.co.zw</a> Hwange: <a href="mailto:hwangereturn@zimra.co.zw">hwangereturn@zimra.co.zw</a> Victoria Falls: <a href="mailto:vicfallsreturn@zimra.co.zw">vicfallsreturn@zimra.co.zw</a>
Region 3:	<a href="mailto:itf263queriesdeskregion3@zimra.co.zw">itf263queriesdeskregion3@zimra.co.zw</a>	Chipinge: <a href="mailto:chipingereturn@zimra.co.zw">chipingereturn@zimra.co.zw</a> Chiredzi: <a href="mailto:chiredzireturn@zimra.co.zw">chiredzireturn@zimra.co.zw</a> Gweru: <a href="mailto:gwerureturn@zimra.co.zw">gwerureturn@zimra.co.zw</a> Kwekwe & Kadoma: <a href="mailto:kwekwereturn@zimra.co.zw">kwekwereturn@zimra.co.zw</a> Masvingo: <a href="mailto:masvingoreturn@zimra.co.zw">masvingoreturn@zimra.co.zw</a> Mutare: <a href="mailto:mutarereturn@zimra.co.zw">mutarereturn@zimra.co.zw</a> Rusape: <a href="mailto:rusapereturn@zimra.co.zw">rusapereturn@zimra.co.zw</a> Zvishavane: <a href="mailto:zvishavanereturn@zimra.co.zw">zvishavanereturn@zimra.co.zw</a>

## Decision Impact

It is important to note that most functions are still being done virtually except for specific activities on appointment/invitation. This means taxpayers still greatly rely on the effectiveness of the eservices portal and the prompt capturing of returns sent on email.



## Our Contact Details

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## 7. Disclaimer Clauses

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