



# MONTHLY TAX UPDATE

April 2023

## CONTACT DETAILS

c. +263 78 280 2384

e. [info@matrixtaxschool.co.zw](mailto:info@matrixtaxschool.co.zw)

a. 4 Church Road, Avondale, Harare

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# Monthly Tax Update - April 2023

We are honoured to present our April 2023 Monthly Tax Update (“MTU”) which is designed to keep businesses and individuals informed of the latest tax issues and 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 with 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:

- Import ban on ozone depleting substances.
- Public officer lament double jeopardy in face of imprisonment.
- Hybrid payroll could be fueling inflation.
- Authenticating supplier tax clearance certificates (IFT263)
- Section 37AA and ZIMRA public notice dichotomy on two returns
- Reduced VAT Registration threshold
- Zimbabwe joins the Global Forum!
- IPEC Transfer Pricing Directive
- Minster Press statement: Measures to Stabilise Economy
- Directive to lift restrictions on importation on basic goods.



*Marvellous Tapera*  
Chief Executive officer  
Matrix Group  
+263 772 349 740  
[mtapera@taxmatrix.co.zw](mailto:mtapera@taxmatrix.co.zw)



*Rosewinter Manjowe CA(Z)*  
Head of Business Operations  
Matrix Tax School  
+263 771 544 243  
[rosewinter@matrixtaxschool.co.zw](mailto:rosewinter@matrixtaxschool.co.zw)



*Tafadzwa Mhonde*  
Head of Business Operations  
Tax Matrix  
+263 774 454 016  
[tafadzwa@matrixtaxschool.co.zw](mailto:tafadzwa@matrixtaxschool.co.zw)



*Lorean C Magaramombe*  
Tax Research Assistant  
Matrix Tax School  
+263 772 651 417  
[lolean@matixtaxschool.co.zw](mailto:lolean@matixtaxschool.co.zw)





## 1. Matrix Group News!

1.1 7<sup>th</sup> Annual Tax Conference is just about here!

### PROGRAMME

#### Wednesday, 24 May

Time	Topic
14.00	Opening remarks from MTS Marvellous Tapera - CEO, Matrix Tax School
14.20	Green taxes and ESG reporting: Why should this be prioritised? Rodney Ndamba - CEO, Institute for Sustainability Africa
14.45	The etiquettes and culture of cooperation and respect in paying taxes Susan Chirikure - Group Tax Manager, Econet Wireless (Pvt) Limited
15.30	Refreshing
18.00 Till Late	Dinner

#### Thursday, 25 May

Time	Topic
08.30	2023 Fiscal Developments, Tax returns and Hitches - Panel Discussion Representative from Zimbabwe Revenue Authority Lucia Chipungu - Group Tax Manager, Old Mutual Marvellous Tapera - CEO, Matrix Tax School
09.40	Commercial Break
09.50	Tea Break
10.20	Commercial Break
10.30	VAT Risk management and compliance: The current and future issues Representative from Zimbabwe Revenue Authority Simon Gwenzi - Assistant Group Tax Manager, Inscor Africa Group
11.10	Employment Tax Tips and Traps, and Payroll Processing in Multi-currency Peter Dube - Tax Director, BDO Belina
11.50	Human capital, brain drain and service delivery matrix - Untying the Gordian Knot: Memory Nguwi - Managing Consultant, Industrial Psychology Consultants (Pvt) Ltd
12.20	The Tax contribution of SMEs and Informal sector - Widening the Tax Base Farai Mutambanengwe - Chief Executive Officer, SME Association of Zimbabwe
13.00	Lunch Break
14.00	Tax litigations - Are we choosing our battles correctly or symptoms of an imperfect system? Johannes Muchada - Founding Partner, Maguchu & Muchada Business Attorneys
14.40	Why Tax is crucial in the supply chain of the future? Kayn Woolmer - Director, Antony Norman & Associates
15.30	Tea Break & Refreshing
18.00 Till Late	Dinner

# Monthly Tax Update - April 2023

## Friday, 26 May

Time	Topic
08.00	Withholding Taxes, OECD Pillar I and Pillar II and the future of MNEs <b>Keith Engel - Chief Executive Officer, South African Institute of Tax Professionals.</b>
08.50	The Tax Landscape for Extractive Industries in Africa. through a South African lens. <b>Jane Visagie - Senior Tax Manager, WTS Global</b>
09.40	Commercial Break
09.50	Tea Break & Networking
10.20	Transfer Pricing Conundrum: The rules of fair play - Panel Discussion <b>Faith Mberi - Managing Consultant, Novelsol Consulting</b> <b>Jane Visagie - Senior Tax Manager, WTS Global</b>
11.00	Key note address from the Minister of Finance and Economic Development <b>Honourable Professor Mthuli Ncube</b>
11.30	Commissioner's Address <b>Misheck Govha - Commissioner: Domestic Taxes, Zimbabwe Revenue Authority</b>
12.00	Commercial Break
12.10	SME's & Informal Sector Contribution to Fiscus: A lesson From Other Countries <b>Crispen Mawadza - Finance and Private Sector Development Specialist, World Bank</b>
12.50	Closing comments from MTS and end of Conference <b>Rosewinter Manjowe - Head of Business Operations, Matrix Tax School</b>
13.00	Lunch break and Refreshing
18.00	Refreshing
19.00 Till Late	Boma

## Saturday, 27 May

Time	Topic
10.00	Optional Activity Guided Tour of Chobe Botswana (Optional Boat Cruise in Victoria Falls)
18.00	Refreshing
19.00 Till Late	Closing Ceremony

## Sunday, 28 May

10.00	Checkout
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## Speakers



**Misheck Govha**  
Commissioner: Domestic Taxes  
Zimbabwe Revenue Authority



**Marvellous Tapera**  
Chief Executive Officer  
Matrix Tax School



**Johannes Muchada**  
Partner: Maguchu & Muchada  
Business Attorneys



**Susan Chirikure**  
Group Tax Manager  
Econet Wireless (Pvt) Limited



**Peter Dube**  
Tax Director  
BDO



**Keith Engel**  
Chief Executive Officer  
South African Institute  
of Tax Professionals.



**Farai Mutambanengwe**  
Chief Executive Officer  
SME Association of Zimbabwe



**Jane Visagie**  
Senior Tax Manager  
WTS Global



**Rodney Ndamba**  
Chief Executive Officer  
Institute for Sustainability  
Africa



**Lucia Chipungu**  
Group Tax Manager  
Old Mutual



**Kayn Woolmer**  
Director  
Antony Norman  
& Associates



**Memory Nguwi**  
Managing Consultant  
Industrial Psychology  
Consultants (Pvt) Ltd



**Faith Mberi**  
Managing Consultant  
Novelsol Consulting



**Simon Gwenzi**  
Assistant Group Tax Manager  
Innsco Africa Group



**Crispen Mawadza**  
Finance and Private Sector  
Development Specialist  
World Bank



**Rosewinter Manjowe**  
Head of Business Operations  
Matrix Tax School

1.2 April 2023 MTU & Pre-Annual Tax Conference Webinar

## April 2023 MTU & Pre-Annual Tax Conference Webinar

**FREE**



### Discussion Points

1. April 2023 MTU
2. Meet selected conference speakers
3. Annual Tax Conference preparedness & checklist
4. Question & Answer and delegates' expectations



**Thursday 18 May 2023**



**Online**



Mellisa Call: +263 782 802 384  
Email: [marketing@matrixtaxschool.co.zw](mailto:marketing@matrixtaxschool.co.zw)  
Rose Call: +263 775 911 538  
Email: [rmotsi@taxmatrix.co.zw](mailto:rmotsi@taxmatrix.co.zw)

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## 2. New Legislative Provisions

### 2.1 Import ban on ozone depleting substances.

#### Background

The Minister of Environment, Climate, Tourism and Hospitality Industry has, in terms of section 140(2)(b) of the Environmental Management Act made regulations through SI 49 of 2023 to prohibit and control ozone depleting substances, greenhouse gases, ozone depleting substance dependent equipment and greenhouse gases dependent equipment.

#### Law and interpretation

These regulations shall apply to private and public individuals, industrial and commercial importers, exporters, producers and consumers of ozone depleting substances and greenhouse gases listed.

**Prohibited substances and equipment** - No person shall import into Zimbabwe, any substances which uses or whose continuous function relies on ozone depleting substances as listed in the second schedule of SI 49 of 2023 whose continuous function relies on Dichlorofluoromethane.

**Import, export and transit goods licenses** - Any person who wishes to import or export ozone depleting substance shall respond to the Ozone Office's advertisement and apply through the established online system on the Government E-Services portal. Any application for a licence made in terms of subsections shall be accompanied by an application fee as specified in the Sixth Schedule, which is non-refundable.

**Returns to be furnished by licensed importers, exporters or consumers** - Every licensed importer or exporter shall in the form and manner and within the time required by the Ozone Office, furnish the Ozone Office with annual reports or other information in connection with quantities, sources and quarterly or half-yearly inventories indicating total capacity, consumed quantities and projected imports or exports and consumption for the following year.

**Authorised persons to repair, service, handle, install and decommission** - the person has to be trained and certified to do any such activity by the National Ozone Office, in accordance with the National Standard (SAZS 1012:2019) on certification of refrigeration and air conditioning practitioners.

#### Decision Impact

In a bid to mitigate the effects of ozone depleting substances and greenhouse effect, the government has made it a mandate for importers and exporters of such to possess a license. A level 14 fine is charged for either importing or exporting prohibited substances and equipment without a license.



## 3. Court Case

### 3.1 Public officer lament double jeopardy in face of imprisonment.

Case name	Motloun and Another v Commissioner for the South African Revenue Service and Others (5492/2021) [2022] ZAFSHC 327
Summary of facts	<ul style="list-style-type: none"> <li>• Reatilehise Development CC (RDCC) is a company duly registered in accordance with the laws of the Republic of South Africa.</li> <li>• The company submitted zero returns for value-added tax (VAT) to SARS for the period from March 2014 to July 2018.</li> <li>• RDCC submitted zero returns for corporate income tax (CIT) for the 2015, 2016 and 2017 years of assessment.</li> <li>• RDCC purported they did not generate income and incurred expenses for these periods.</li> <li>• SARS initiated a full scope audit on RDCC which revealed the company understated its tax liability.</li> <li>• SARS imposed a 150% understatement penalty for the shortfall.</li> <li>• RDCC did not dispute this levying of penalties.</li> <li>• The company admitted that SARS suffered prejudice in relation to VAT.</li> <li>• The company also admitted that SARS suffered in relation to CIT.</li> <li>• The intentional tax evasion resulted in criminal charges.</li> <li>• SARS charged these to Motloun as the owner of RDCC.</li> <li>• These charges were in terms of section 235 and 222 of Tax Administration Act (TAA).</li> <li>• Motloun disputed the criminal charges.</li> <li>• He argued that the provisions in the Tax Administration Act (TAA) 28 of 2011 violated their rights for fair trial.</li> <li>• RDCC argued that they were already found guilty of tax evasion by the commissioner</li> <li>• SARS had already imposed sanction in the form of understatement penalty.</li> <li>• It challenged ss222 and 235 of the TAA as being inconsistent with the Constitution of the Republic of South Africa (RSA), (Constitution).</li> <li>• They argued that both sections provide for multiple punishments for the same offence.</li> <li>• The penalty and criminal charges were two punishments for the same crime.</li> <li>• These two sections create a double jeopardy which was invalid and unconstitutional.</li> <li>• SARS rejected the submissions of the taxpayers hence the court case.</li> </ul>
Jurisdiction	<ul style="list-style-type: none"> <li>• Free State High Court</li> </ul>
Issues	<ul style="list-style-type: none"> <li>• Whether a taxpayer who commits tax evasion can be charged both an understatement penalty and held criminally liable in terms of the provisions of the TAA.</li> <li>• Whether sections 222 and 235 of the TAA are consistent with the Constitution.</li> </ul>
Decision date	<ul style="list-style-type: none"> <li>• 28 July 2022</li> </ul>



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Decision	<ul style="list-style-type: none"> <li>• Even if two penalties are closely related, they do not amount to double jeopardy.</li> <li>• Therefore, the sections are neither invalid nor unconstitutional.</li> </ul>
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## The Facts

Reatlhise Development CC is a company duly registered in accordance with the laws of the Republic of South Africa. Motloun is the CEO of RDCC. The company submitted zero returns for VAT to SARS for the period from March 2014 to July 2018 and submitted zero returns for CIT for the 2015, 2016 and 2017 years of assessment. By so doing, RDCC purported to have generated no income and incurred no expenses for these periods. SARS undertook an audit of RDCC which indicated that it had understated its tax liability. SARS levied understatement penalties for the relevant periods, which was not disputed by the RDCC. Motloun as the company CEO, was subsequently criminally charged for intentional tax evasion. Motloun argued that the statutory provisions in the TAA violated the rights for fair trial. The company, RDCC was already found guilty of tax evasion by the commissioner and a sanction was imposed in the form of understatement penalty. They therefore challenged the validity of sections 222 and 235 of the TAA as being inconsistent with the Constitution, as both sections provide for two different punishments for the same offence; intentional tax evasion. The company raised double jeopardy as a defense, arguing that the penalty and criminal charges were two punishments for the same crime thus unconstitutional. SARS denied this and hence the current court case.

## Competing arguments

Motloun and Another	
Whether a taxpayer should be charged twice for one offence	<ul style="list-style-type: none"> <li>• That s 222 and 235 of the TAA are inconsistent with the Constitution of the RSA.</li> <li>• That the sections are therefore invalid and unconstitutional.</li> <li>• That the sections provide for two different punishments for intentional tax evasion.</li> <li>• That nobody should be punished for the same offence twice.</li> <li>• That double jeopardy is prohibited in s35(3)(m) of the South African Constitution.</li> <li>• That the section states that every person has the right to a fair trial and further that one cannot be tried for a crime they were already found guilty or acquitted.</li> <li>• That the understatement penalty in terms of s222 of the TAA constituted a criminal punishment and this could only be imposed pursuant to an enquiry.</li> <li>• That the process followed in levying it is the same as the process in the criminal court.</li> </ul>
SARS	
Whether sections of the TAA are inconsistent with the Constitution of SA	<ul style="list-style-type: none"> <li>• That double jeopardy is prohibited in s35(3)(m) of the South African Constitution.</li> <li>• That it is correct that every person has the right to a fair trial.</li> <li>• That however the section relates to accused persons and their right to freedom.</li> <li>• That this is where the right to a fair trial could be threatened by repeated (criminal) charges for the same act.</li> <li>• That the sections of the TAA do not offend the accused right to a fair trial.</li> <li>• That even if two penalties are closely related, it does not amount to double jeopardy.</li> <li>• That, therefore, the sections are neither invalid nor unconstitutional.</li> </ul>

## Court reasoning and decision

Whether tax penalties and imprisonment applied in the instance	<ul style="list-style-type: none"> <li>• That the sections in question relates specifically to accused persons and the protection of their right to freedom.</li> <li>• That the sections deal with where the right to a fair trial could be threatened by repeated (criminal) charges for the same act.</li> <li>• That imposing these sections does not offend the accused right to a fair trial.</li> <li>• That even if two penalties are closely related, does not amount to double jeopardy.</li> <li>• That, therefore, the sections are neither invalid nor unconstitutional</li> </ul>
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### Decision Impact

The decision in this case is important to both South African and Zimbabwean jurisdiction for taxpayers as it impresses that intentional tax evasion can give rise to more than one consequence, and the double jeopardy defence will not be coming to a taxpayer's rescue. The double jeopardy principle is encapsulated in section 70 (1) (m) of the Zimbabwean Constitution which provides that no person should be tried for an offence in respect of an act or omission for which they have previously been pardoned or either acquitted or convicted on the merits. This is framed in the same way as SA and appears it applies to accused persons. Therefore, in ZIM and SA a taxpayer can be ordered to pay a fine for tax evasion and subsequently be criminally charged. This is because criminal and civil proceedings serve different purposes. In Zimbabwean context the Criminal Law (Codification and Reform) 9 of 2023 prescribes fines which can be imposed which ranges from level 1 to level 15 depending on the nature of the offence or alternatively imprisonment. Public officers are therefore at risk of being jailed if they are found to have been engaged in tax evasion or conducting themselves illegally. For instance, s56 of the ITA imposes personal liability on public officers who while the tax remains unpaid alienates, charges or disposes of the income in respect of which the tax is chargeable; or disposes of or parts with any fund or money which is in his possession or comes to him after the tax is payable when from or out of such fund or money the tax could lawfully have been paid.



## 4. Technical Issues

### 4.1 Hybrid payroll could be fueling inflation.

#### Background

The hybrid payroll triggered by the use of multicurrency and the need to comply with the tax law for the use of USD tax tables in computing PAYE where earnings are paid partly or wholly in foreign currency balloons the wage bill and could be one of the reasons for the surge in the inflation rate.

#### The Law and Interpretation

Paying employees blended income results in USD tax tables being used. This is done by converting the ZWL component of gross income and deductions to USD equivalent using the official interbank rate of exchange and adding these to the actual USD earnings for the employee. USD tax tables are then applied to the combined USD earnings for determination of PAYE. However, the resultant PAYE should be remitted to the ZIMRA in proportion to currency of earnings. Where earnings are 100% in local currency, ZWL tax tables are used. If an employee receives any other foreign currencies other than USD, the amount is converted at cross rate to USD on the date the remuneration accrues to him. The fact that the official rate of exchange always trails below the parallel market rate (normally at 50%) and the two rates keep moving has necessitated a need to adjust the ZWL\$ earnings to maintain purchasing power. Effectively, this conversion of the ZWL earnings to USD at the official rate results in higher USD earnings (artificial USD earnings) which pushes most employees in a higher USD tax bracket judging by the way the parallel market is currently surging and the need by employers to retain their staff. The cost of employment has become unbearable especially when the objective is to retain staff. A vicious cycle of chasing purchasing power by both employees and employers is one of the many factors also feeding the inflationary environment obtaining in our economy. While the foregoing suggests dollarizing, i.e., paying 100% earnings in USD, it is obviously a non-sustainable option for most employers as the economy has not much of the sought after USD in circulation. The alternative of paying 100% ZWL earnings does not help either since the ZWL\$ tax tables have remained stagnant from the time they were introduced (1 January 2023) till now. In terms of the current ZWL\$ tax tables the maximum of 40% applies on earnings of ZWL\$1,000,000 per month an equivalent to at most USD1,000 per month based on the official exchange rate (and half that amount if parallel rate is applied). Technically paying employees 100% ZWL\$ earnings pushes most of them into the maximum rate of 40% + 3% AIDS.

#### Decision Impact

Employees are being overtaxed when payroll is in multicurrency and most companies are battling to retain their staff. It may be worthwhile for employers, depending on their ability to generate foreign currency, to pay a greater proportion of employment costs in foreign currency to cushion both the companies and employees. The more the foreign currency the less artificial USD earnings resulting in lower PAYE, but employers must also be prepared to send a greater proportion of the tax to ZIMRA in foreign currency. Additionally, they should also consider maximizing nontaxable benefits to employees for example paying 100% medical aid cover, pay airtime and data for employees (70% of this is regarded for business use in line with Finance Act 7 of 2021 therefore nontaxable), pay 100% pension contribution among others on behalf of employees to cushion them and reduce employment costs. An appeal is made to the Minister of Finance to widen the USD tax tables setting the minimum tax threshold and highest rate of 40% at USD250 and USD5,000 per month, respectively instead of the current USD100 and USD3,000 per month respectively similar to the position obtaining prior to SI 33 of 2019. This may be one way of curbing inflation and stabilizing the economy. Advocating for the adjustment of the ZWL\$ tax tables is not a solution as more transactions are now being made in foreign currency as confirmed by the Minister of Finance in his recent public announcement "Measures To Stabilize The Exchange Rate and Macro Economy" where he stated that total foreign currency receipts are expected to top USD13 billion this year.



## 4.2 Authenticating supplier tax clearance certificates (IFT263)

### Background

A Tax Clearance Certificate (ITF263) is issued by the Commissioner General of the Zimbabwe Revenue Authority (ZIMRA) to a tax compliant taxpayer. Tax clearances are auto generated and sent to compliant taxpayers through their email addresses in ZIMRA database, but bogus tax clearance also exists.

### Law and Interpretation

Suppliers without a valid tax clearance get 30% withholding tax deducted on gross amount before receiving payment. However, payments to employees (salaries and wages), taxes to ZIMRA, settlement of a delictual claims against the State or a statutory corporation are exempt from withholding tax. The Authority has placed the responsibility for withholding and remitting WHT on the entity receiving the services. WHT is remitted in the currency of paying the supplier. The remittance should be accompanied by the REV 5 and is due also the same time. Failing to withhold and remit tax to ZIMRA results in 100% penalty plus 150% interest per annum. Due to the heavy rate of WHT, some traders are producing fake tax clearance certificates. This presents a risk to the entity receiving the goods or services for not withholding and remitting the tax to the ZIMRA. Taxpayers should therefore verify the authenticity of tax clearances provided by their suppliers before concluding a transaction. They should maintain a suppliers' list with tax clearance details. Validity and authenticity are done on the Zimra website ([- ZIMRA ESP Portal](#)) or scanning the barcode on the tax clearance certificate to verify authenticity.

### Decision Impact

Taxpayers are urged to exercise caution when dealing with third parties and should put in place systems to manage tax risk. Where the taxpayer did not withhold the tax thinking the tax clearance was genuine and yet it was not, he is not absolved of the 30% withholding tax and the interest. The Commissioner may however, if he or she is satisfied that a failure to withhold or to pay the tax was not due to intent to evade the tax, waive the payment of the whole or part of the penalty.

## 4.3 Section 37AA and ZIMRA public notice dichotomy on two returns

### Background

The Finance Act No.8 of 2022 requires the submission of a separate income tax return where any part of income from trade or investment is earned in foreign currency with effect from 1 January 2022. The ZIMRA has responded through public notices to buttress the point and further provides for submission of a nil return in a currency a taxpayer has not conducted trade in a year of assessment.

### Law and Interpretation

ZIMRA public notices number 75 of 2022 and 15 of 2023 demands submission of two income tax returns including submission of nil returns for currencies in which a taxpayer has not had trade in any period of assessment. Quoting section 37AA on the same matter it provides as follows: “*Separate returns to be rendered where any part of income from trade or investment earned in foreign currency (1) A taxpayer who earns— (a) his or her income from trade and investment exclusively in Zimbabwe dollars or exclusively in foreign currency shall render a single return in respect of that income; (b) any part of his or her income from trade and investment in the form of foreign currency, must render a separate return in respect of that income..*”: Underline own emphasis.. The dichotomy between section 37AA and ZIMRA public notices is an administrative headache for taxpayers and raises several questions concerning the legal status of ZIMRA public notices in terms of them being legally binding or enforceable. The question of whether a public notice is legally binding in Zimbabwe was answered in *Delta vs ZIMRA SC 3/22*. It held that public statements made by ZIMRA do not mean that it was the correct position of the law especially given the fact that the legislature has clarified the position of the law in the Act. Therefore, a publication or other written statement shall not be considered as a binding general ruling unless it is a binding general ruling.

### Decision Impact

While the guidance from ZIMRA may be at tangents with s 37AA, it may be necessary to consider the administrative functions of the E Services where taxpayers submit returns. Administratively, the E Services system requires all returns to be submitted for a taxpayer to automatically receive a tax clearance certificate. Submitting one return will not be a complete submission of tax returns, i.e., the E Services will

require even nil returns for a tax clearance certificate to be generated. The ZIMRA public notice therefore clearly postulate the need for submitting two returns one for ZWL and the other for foreign currency transactions which is done in USD for the convenience of tax administration which is also meant to serve taxpayers from the said inconveniences. The fact that the public notices as aforesaid do not create financial or fiscal prejudice to taxpayers and government respectively, other than additionally administration on the part of taxpayers because of this Zimra demand, the tangent between s37AA and public notices is of less legal consequences. Nevertheless, caution must always be taken when relying solely upon such announcements when engaging in contractual arrangements since failure to do so could lead one into potentially costly litigation scenarios down the line if the validity of the announcement is later challenged under applicable laws governing same.

#### 4.4 Reduced VAT Registration threshold

##### Background

The government through Finance Act 8 of 2022 has reduced turnover threshold for VAT registration from USD60,000 in a consecutive 12-month period to USD40,000 or its equivalent in Zimbabwe local currency.

##### Law and Interpretation

Any person who has become liable for VAT registration must apply not later than 30 days after becoming liable to register for the first time and furnish all particulars as required by the Commissioner. If a trader fails to apply for registration after meeting the registration threshold, they will be deemed registered from the date that they became liable to register for the first time, unless otherwise directed by the Commissioner. By reducing the registration threshold, more traders are now eligible for VAT registration and given the current inflationary environment, the set threshold of USD40,000 can be easily attained. Taxpayers ought to continuously pay attention to their levels of cumulative turnover against the threshold as deemed registration implies accumulation of VAT payable to ZIMRA which may be subject to interest and penalties. Deemed registration implies that sales are inclusive of VAT at 15% though one would not have charged VAT. Effectively, the taxpayer would be paying the VAT from a portion of their recorded profits.

##### Decision Impact

Reduced VAT threshold means that the government is now getting more tax revenues, however it also calls for the government to prepare for the resourcing needs to serve the increased pool of VAT registered operators. On the part of taxpayers, the new threshold has increased the cost of business, although the VAT levied will be passed on to consumers. However, this may lead to traders losing their competitive edge to their counterparts who are not yet eligible for VAT registration. It is important for traders deemed to be registered for VAT to be cautious of their pricing strategy given the law deems the revenue to be inclusive of VAT.



## 5. Announcements and Interpretations

### 5.1 Zimbabwe joins the Global Forum!

#### Background

Zimbabwe has joined the international fight against tax evasion by becoming the 167th member and 36th African member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). The forum is the world's leading multilateral body within which work in the area of transparency and exchange of information for tax purposes. Its mandate is to ensure a rapid and effective implementation of the standards on transparency and exchange of information for tax purposes. Its work focuses on two internationally recognised standards: Exchange Of Information on Request (EOIR) and Automatic Exchange Of Financial Account Information (AEOI). The Global Forum also works to assist members, especially those jurisdictions with lower capacity, to implement and benefit from the standards effectively.

#### Decision Impact

Zimbabwe has joined the international fight against tax evasion by becoming the 167th member and 36th African member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). The forum is the world's leading multilateral body within which work in the area of transparency and exchange of information for tax purposes. Its mandate is to ensure a rapid and effective implementation of the standards on transparency and exchange of information for tax purposes. Its work focuses on two internationally recognised standards: Exchange Of Information on Request (EOIR) and Automatic Exchange Of Financial Account Information (AEOI). The Global Forum also works to assist members, especially those jurisdictions with lower capacity, to implement and benefit from the standards effectively.

### 5.2 IPEC Transfer Pricing Directive

#### Background

As part of its mandate of protecting the rights, benefits and other interests of policyholders, the Insurance and Pension Commission (IPEC) has in terms of s6(c) of the Insurance Act as read with s3 (1) (d) of SI 69 of 2020 which empowers it to formulate standards for the conduct of insurance business with which registered assurers may be required to comply issued a directive on funeral products. The directive was issued in line with the Treating Customers Fairly Framework issued by Commission to ensure that underwriters treat customers fairly while adopting the proper practices and procedures in the distribution of funeral products. The directive seeks to provide minimum guiding principles to ensure that all the assurance players that offer funeral products have effective systems in the design and distribution of funeral products in Zimbabwe, guide the life and funeral assurance industry on the reforms to be applied to funeral policies and outline the minimum expectations and requirements for the design and distribution of funeral assurance products in Zimbabwe. The directive further states that in bid to address issues of conflict of interests between funeral underwriters and funeral undertakers owned by a common shareholder, the funeral underwriters shall submit a ZIMRA Approved Transfer Pricing Policy between the funeral assurer and the funeral service company to the Commission by 1 October 2023 and annually thereafter.

#### Decision Impact

The directive is in line with s 98B of the ITA as read with 35<sup>th</sup> Schedule of the same Act which requires associated persons (related parties) to report intercompany transactions in a Transfer Pricing Documentation and ensure these transactions are at equal footing in terms of pricing as independent parties' transactions. It therefore enhances and emphasize compliance by group companies with Transfer Pricing legislation. In practice the ZIMRA does not approve Transfer Pricing Policy or Documentation, but these should comply with SI 109 of 2019 and the 35<sup>th</sup> Schedule of the ITA. Meanwhile, associated persons are also required to complete Transfer Pricing Return (ITF12C2) which must be filed with ZIMRA together with Income Tax Return (ITF12C) for each year of assessment. Transfer Pricing Policy or Documentation must be updated annually and retained by the taxpayer and availed within 7 days to the ZIMRA upon demand. The IPEC directive it is expected should also have placed the same demand on life and short-term companies which are part of a group of companies.



## 5.3 Minister Press statement: Measures to Stabilise Economy

### Background

The Minister of Finance and Economic development issued a press statement under the theme: “Measures to Stabilise The Exchange Rate And Macroeconomy”. As part of the background to the press statement he alluded that the country is on growth path with all sectors registering positive growth, GDP for 2023 forecasted at 3.8% down from 4% obtained in 2022, country has food security following deliberate policy mix from the government and the successive two rainy season, industry capacity utilisation has surged with about 70% of goods on the shelves being produced locally, foreign receipts and use have increased 100% compared to a few years ago and are expected to top US\$13billion this year etc. Despite the positive results as aforesaid the country is experiencing macro-economic instability, with surge domestic inflation caused mainly by the preference of USD which has resulted in USD cash economy the Minister said. It is against this background he said is announcing the measures to stabilise the economy as follows:

**100% Retention of Domestic Foreign Currency Earnings:** Business to retain 100% banked domestic foreign currency sales with effect from 15 May 2023 to promote foreign currency banking. RBZ is no longer required to liquidate these proceeds for substitution with the ZWL\$. The surrender is currently fixed at 15% on the domestic nostro earnings.

**Adoption of All External Loans by Treasury:** All external government loans to be transferred from RBZ for assumption by the Treasury.

**Enhanced Foreign Exchange Auction System:** The system to be further fine tuned and will now auction a pre -announced envelope, on a pure Dutch auction basis.

**Lifting of all restriction on importation of Basic Goods:** Import license no longer mandatory on importation of basic goods and duty and taxes are also lifted to enhance supply of these to the general public.

**Support interest rate environment:** the RBZ Monetary Policy Committee to continue reviewing the domestic interest rate framework so that currency savings interest rates are above the perceived rate of expected devaluation of holding ZWL balances.

**Promotion of use of the domestic currency by the government:** As a measure to encourage use of domestic currency, levies and fees by government affiliated agencies and services providers are to be paid in ZWL\$.

**Gold Coins and Gold Backed Digital Tokens:** Minister stated the government is pleased with uptake of gold coins and recently issued Gold Backed Digital Tokens and as measures to assure public confidence in these instruments, they will both remain fully backed by physical gold reserves.

### Decision Impact

The measures by the Minister are applauded in the face of the current rising parallel exchange rate and inflation. There are positives and direct results to be gained from measures such lifting of 15% RBZ surrender and restrictions on importation of basic goods, but in our view other measures might produce mixed results. The lifting of 15% surrender will not only encourage banking but also pricing in foreign currency which could alienate further the use of local currency and once the foreign currency is within the banking system this could then be channeled to the productive sector at cheap interest rate. This may also limit USD cash economy and boost tax declarations. The exemption of basic goods on import duty and taxes is likely to affect the local manufacturing and retail industries negatively through reduction of prices of their goods and services in the face of this competition, but it is for the better of the economy through elimination profiteering and speculative pricing and thereby harnessing the run-away inflation. The Dutch auction system (a market system in which the price of foreign currency offered is established after all bids have been received to arrive at the maximum price at which the entire offering can be sold) may result in transparency, effective and efficiency in foreign currency allocation. The government remain steadfast in wanting to promote use of local currency as measure of sustaining its cost of goods and services as well as borrowings, but the circulation of ZWL\$ together with foreign currency has always been the source of arbitrage and speculative which have a negative impact on foreign exchange rate.

## 5.4 Directive to lift restrictions on importation on basic goods.

### Background

The Permanent Secretary in Ministry of Finance Mr G. T. Guvamatanga has operationalize the measure announced by the Finance Minister on lifting of restrictions on basic goods through a letter to the ZIMRA authorising it to suspend import duty and VAT for a period of 6 months on maize meal, rice, milk, flour, salt, cooking oil, sugar, petroleum jelly, toothpaste, bath and washing soap with effect from 12 May 2023.

He further instructed the ZIMRA to draft the necessary legal instrument in line with this and the Ministry of Industry and Commerce to complement the measure through inclusion of the said goods on the Open General Import Duty.

### Decision Impact

It is expected two SIs (or one) will be issued in due course to lift import duty and VAT and removing import license requirement on the said goods, until then the reliefs are a public announcement which cannot be acted upon. The reliefs, while good for the general populace, are a slap to the manufacturing and retail sectors. They are expected to realign their pricing to remain competitive, which can reduce speculative pricing and profiteering and consequently harness inflation. It could slow down growth in those sectors and could cause retrenchments and consequently reduced tax declarations. On another, the policy measure could fuel cash economy through growth of tuck shops and consequently less tax declarations. However, it is also necessary for the government to ensure stability leading to the general election later this year.

### 6. Disclaimer Clauses

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