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Monthly Tax Update

February 2024

February 2024 MTU

- We are honoured to present our February 2024 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 consider the latest changes to the tax rules – legislation, case law, and the Revenue 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 field. They provide 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 representing new interpretations and 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 to:

- 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:

- New Legislative Provisions
- Revised fees for Deeds Registration
- Corrections to SI 248 of 2023 (VAT Reclassification)
- Revisions on the sugar levy
- Tailoring Rebates for Textile Titans
- Amending Workers' Compensation: A Look into SI 2024-022's Impact
- Customs case lost on technicality.
- ZWL employment tax table revised.
- New Special Capital Gains Tax
- Revising Mining Royaltie
- VAT Adjustments on Non-Taxable Supply Changes
- New PAYE
- Shaping Consumer Behaviour Through Fiscal Measures

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1.1 Payroll Tax Workshop

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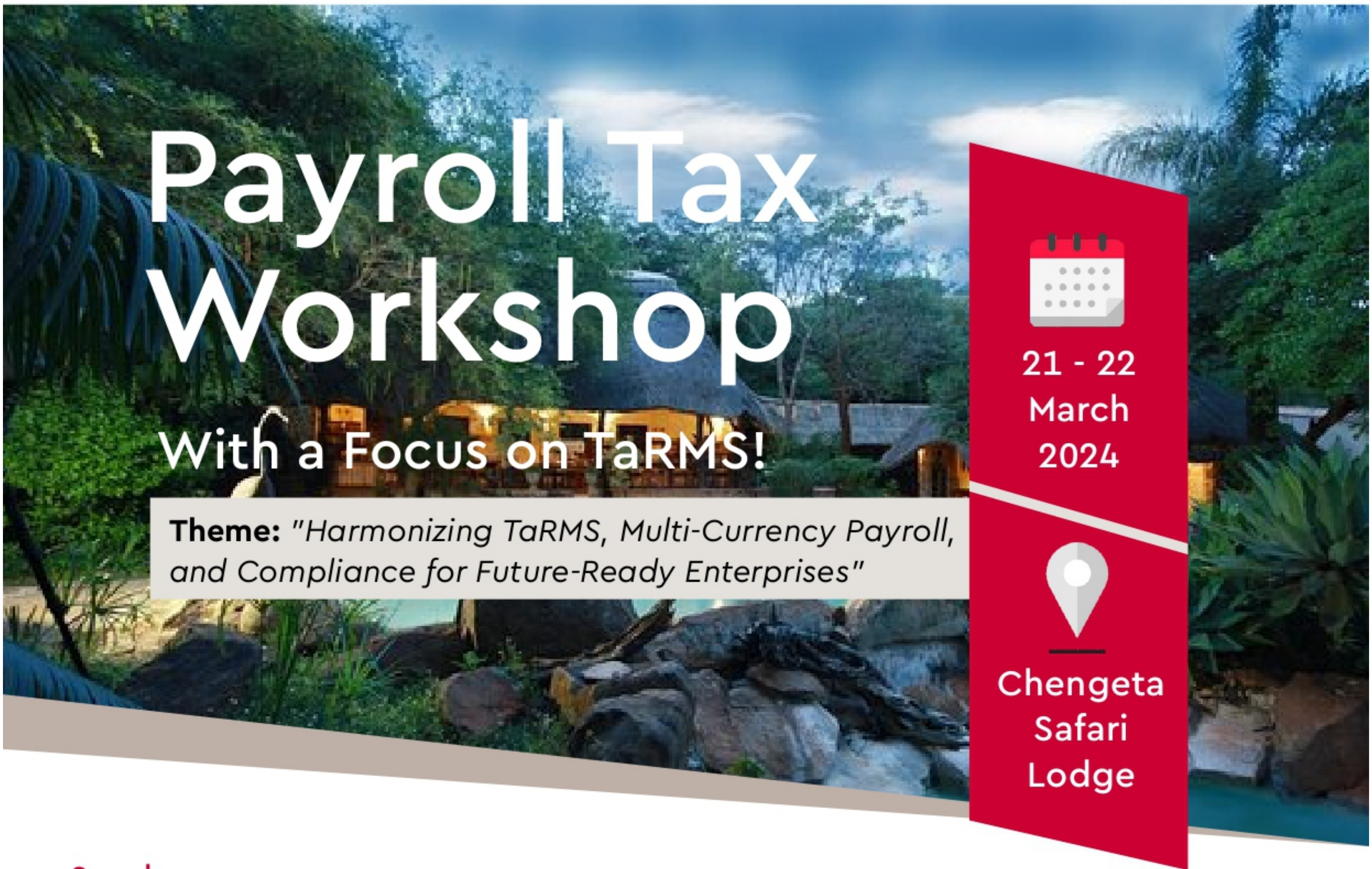

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Investment Per Delegate (USD):

Full Package	Workshop + Activities	Workshop Only
$490	$320	$290

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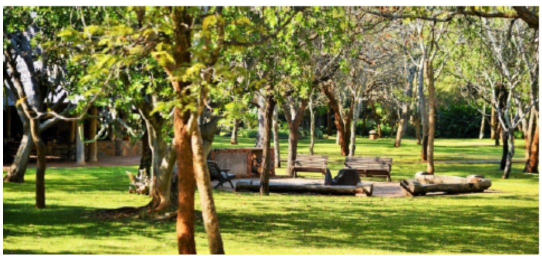

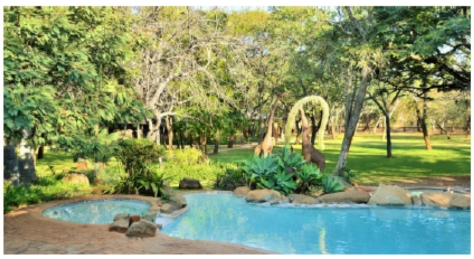

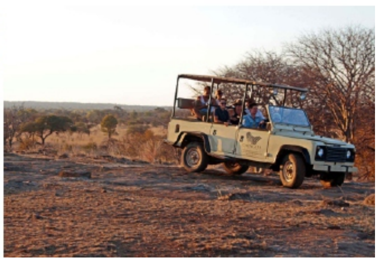

1.2 8th Annual Tax Conference

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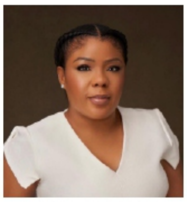

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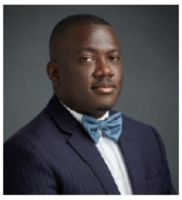

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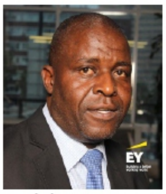

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Conference Fees Per Person (USD)

	Full Package	Own Transport	Conference Only	Deadline
Early Bird	1,980	1,700	1,260	31/03/24
Standard	2,210	1,900	1,400	30/04/24
Late	2,430	2,100	1,550	17/05/24

*Full Package includes conference fee, travel costs, accommodation, meals and activities

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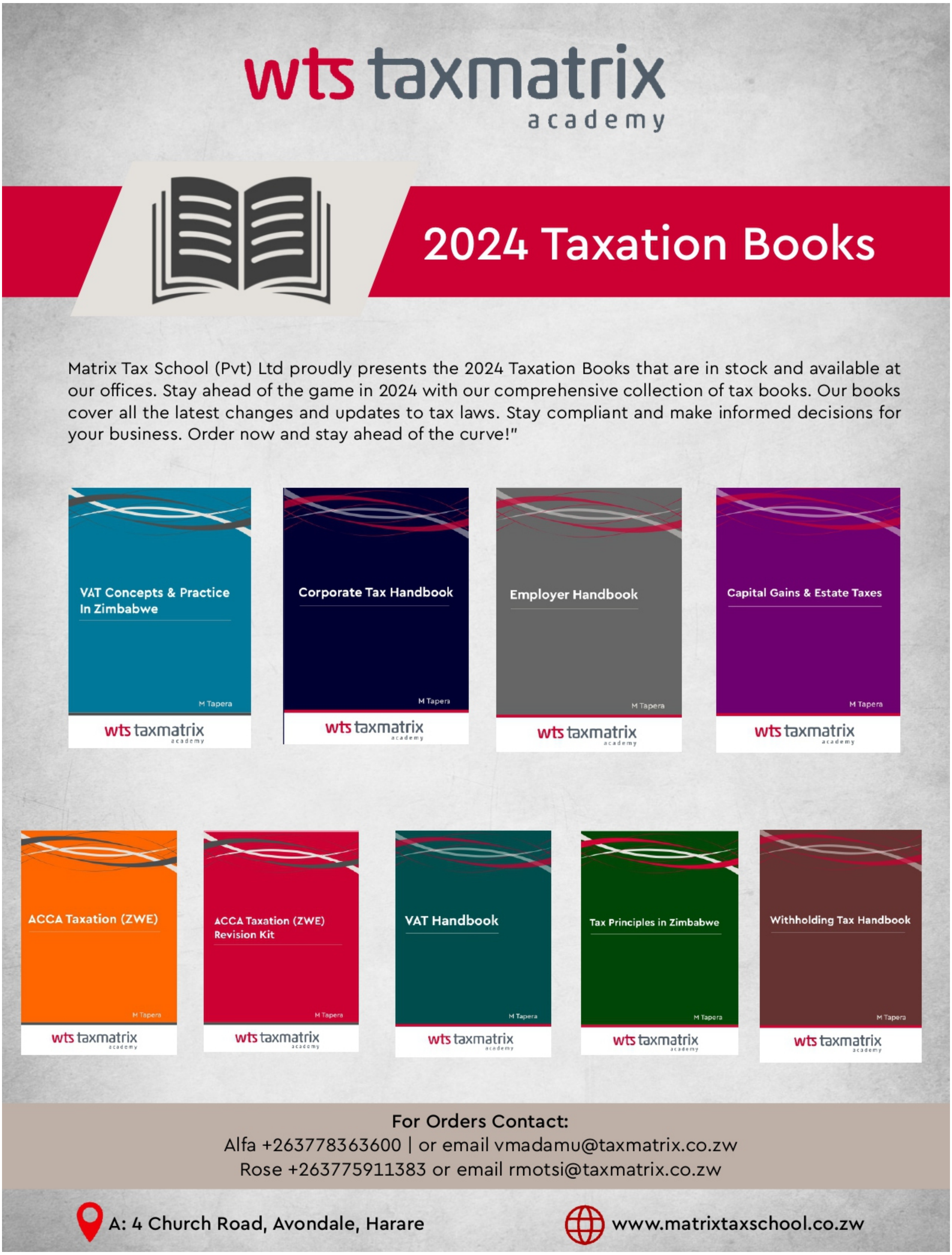
1.3 2024 Taxation Books



2.1 Revised fees for Deeds Registration

Background

Statutory Instrument 11 of 2024 revises upwards fees at the Deeds Registry among them deeds registration, including grants, donations, and trust updates fees. Other fees contained in the instrument include the noting or upliftment of a caveat, certification of documents and the preparation of any report by the Registrar of Deeds. The table below show the evolution of fees at the Deeds Registry.

Table 1: Evolution of fees

Description/Year	2018	2021	2024
	US$	ZWL$	US$
For rental of a lodging box per year or part thereof	120	12 000	120
Application for registration as a user	100	10 000	120
User renewal per year	100	10 000	100
For the registration of a document which is required to be attested or prepared by a Conveyancer or Notary Public:			
a) Where stamp duty is payable	20	2 000	50
b) Where stamp duty is not payable	50	5 000	50
For any act done by the Registrar which is not referred to elsewhere in this Schedule	20	2 000	30
For certification of any document	20	2 000	20
For every report prepared for the court by the Registrar	20	5 000	30
For noting or upliftment of a caveat	20	2 000	20
For a search conducted for any document (general search)	1	100	5
For computer search	-	50	-
For the copy of any document per page	1	100	1
For each entry extracted for any register for publication in newspaper or periodical	1	100	5
Amendment/Update of Deed of Donation Trust	-	-	20
Registration of a Deed of Donation Trust	-	-	80
Registration of a Deed of Grant	-	-	10

Source: Veritas Zimbabwe

Notes: From 02-02-2024 onwards, fees above may also be paid in the local currency (ZWL) using the Reserve Bank of Zimbabwe (RBZ) Interbank Market Mid-Rate prevailing at the date of payment. Provided that where stamp duty is payable in foreign currency,Notes: From 02-02-2024 onwards, fees above may also be paid in the local currency (ZWL) using the Reserve Bank of Zimbabwe (RBZ) Interbank Market Mid-Rate prevailing at the date of payment. Provided that where stamp duty is payable in foreign currency,

Decision Impact

This statutory instrument notably adjusts the fiscal landscape for property transactions, affecting taxpayers by cost structure for document registrations, thereby aligning costs with contemporary economic conditions.

2.2 Corrections to SI 248 of 2023 (VAT Reclassification)

Background

The Statutory Instrument 15 of 2024 has been introduced to amend the VAT classification and address gaps not covered by SI 248 of 2023. It aims to clarify exemptions, especially around agricultural products like soya, and reverse certain zero-ratings. This ensures that value-added tax exemptions are clearly outlined, supporting the agriculture sector and enhancing certainty for businesses and consumers for example by providing clarity on treatment of soya etc to ensure the value is exempted. The reversal of contemplated repeals for zero-rating on-going concerns and services offered to non-resident tourists by local facility operators is also addressed to support the tourism sector and simplify VAT administration.

Decision Impact

This amendment has a broad impact across various sectors. For consumers, it aims to mitigate potential price increases by clarifying exemptions, thereby reducing the tax burden on certain goods and services. Producers benefit from clearer guidelines on exemptions and standard ratings, potentially recovering input tax in more scenarios. The tax authorities gain from simplified tax administration and enforcement mechanisms, enhancing compliance and tax revenue collection from targeted sectors.

2.3 Revisions on the sugar levy

Background

Statutory Instrument 16 of 2024 introduces a final special surtax on beverages with added sugar, aiming to regulate sugar consumption. It varies from the minister's previous statement and other statutory instruments in that it clarifies the rate which is 1% per gram of added sugar. In terms of the instrument, sweeteners will not be taxed.

Decision Impact

This measure impacts taxpayers by imposing a surtax on sugary beverages, leading to price increases for consumers and affecting manufacturers' pricing strategies in the beverage industry. Also, manufacturers administratively now have one more tax to comply with. The reduction of the surtax to 1 % has no effect because the 2% rate was not made law at any point.

2.4 Tailoring Rebates for Textile Titans

Background

Statutory Instrument 19 of 2024 amends the Customs and Excise Regulations, extending specific rebates to include David Whitehead Textiles Zimbabwe. This potentially leads to reduced costs on imported materials for registered manufacturers.

Decision Impact

This regulatory update directly benefits textile manufacturers by lowering import costs for certain materials, potentially reducing production expenses, and influencing the competitiveness of local textile products in the market.

2.5 Amending Workers' Compensation:

Background

The SI 22 of 2024 introduces significant amendments to the National Social Security Authority (Accident d Workers' Compensation Scheme) Notice 1990. This amendment revolutionizes the approach to calculating a worker's earnings for premium calculations. Unlike the previous methodology, the revised formula now mandates the inclusion of allowances and benefits in the salary computation, but uniquely, only when these allowances and benefits surpass the basic salary. This adjustment aims to offer a more comprehensive reflection of an employee's total remuneration at the time of an accident.

Decision Impact

The amendment impacts taxpayers by altering the calculation of workers' compensation premiums. It now includes allowances and benefits in the salary computation, potentially increasing the premiums due for employers under this scheme.

3.1 Returning residents motor vehicle rebate.

Case Name: Kaseke v Zimbabwe Revenue Authority (59 of 2024) 2024 ZWHHC 37	
Summary of facts	• Tendai Kaseke is a Zimbabwean national who resided abroad and returned to Zimbabwe as a returning resident. • Kaseke sought a declaratory order affirming his entitlement to an immigrant's rebate for his vehicle which the ZIMRA had rejected based on the timing of motor vehicle importation
Jurisdiction	• High Court of Zimbabwe
Issues	• The primary issue revolves around the eligibility for an immigrant's rebate under Statutory Instrument 10 of 2022, particularly concerning the timing of the vehicle's purchase and the applicant's status as a returning resident
Decision Date	• 7 February 2024
Decision	• The court dismissed Kaseke's application, ruling in favor of ZIMRA and ordering Kaseke to pay the costs of the suit.

Facts

The case details Tendai Kaseke's return to Zimbabwe as a resident after over six years abroad, purchasing a vehicle shortly before statutory regulations changed. Denied an immigrant's rebate by ZIMRA, Kaseke challenged this on grounds of lawfulness, reasonableness, and fairness, arguing the retroactive application of the law unjustly affected his rights.

Competing Arguments

Taxpayer's Argument	
Whether Kaseke was eligible for duty rebate	· That the denial based on the lawfulness, reasonableness, and fairness of applying the amendment retroactively, claiming a legitimate expectation to the rebate. · That about lawfulness, the ZIMRA made a mistake of the law by applying the SI which came into effect on 17 January 2022 as this was amending instrument which could not affect rights and interests that were already vested. · That his right to equal protection and benefit of the law had been violated as the law was being applied in retrospective i.e. to vehicles purchased on 15 January. · That the regulations created a substantive legitimate expectation for permanent residents like himself to enjoy the benefits of a returning resident and for over 40 years the law has been existence and this reason adequate notification to the tax community such as him was necessary. · That about the aspect of reasonableness, administrative authorities were enjoined to apply the law in a manner that was fair, rational, non-arbitrary and reasonable and how the ZIMRA applied the law herein constituted an abuse of its administrative authority. · That would not have would not have known that the law would change two days after the purchase of the vehicle. · That about substantive fairness, administrative authorities like the ZIMRA were required to apply the law in a manner that resulted in substantive fairness and that was unfair that after the law had engendered a legitimate expectation in a returning resident to benefit from the immigrant's rebate, the ZIMRA applied the law in a manner that eroded that benefit.

Competing Arguments

ZIMRA's Arguments	
Whether Kaseke was eligible for duty rebate	• That the law applied as of Kaseke's time of arrival, with no entitlement to the rebate since the vehicle was not owned six months prior to arrival, as required by the amended regulations. • That its conduct passed the test of fairness because it had acted in terms of the law • That the taxpayer presented herself at the port of entry when the law had already changed so the law was not applied retrospectively on the taxpayer • That the taxpayer could not claim a legitimate expectation of the law, rather she had to challenge the validity of the new law. • That once a law is gazetted, it is presumed every person is aware of that law

Court Reasoning and Decision

Whether Kaseke was eligible for duty rebate	• That Kaseke did not meet the requirement of owning the vehicle six months prior to his arrival due to the timing of the amendment's enforcement. • That ZIMRA's application of the law was lawful, reasonable, and fair, highlighting that Kaseke's expectations, although legitimate before the law changed, could not override the specific provisions of the new regulation • That the general rule of interpretation of legal instruments is that words must be given their ordinary grammatical meaning where the language used is clear and unambiguous. • That ZIMRA's decision to deny Kaseke the immigrant's rebate must be understood within the rules of statutory interpretation. • That the fact that the consequences of that law are harsh on the taxpayer does not make that law unconstitutional unless the taxpayer had petitioned the court to interrogate the lawfulness of that law. • That while, the taxpayer satisfied the other requirements of the amendment regulations, she still fell short on the decisive requirement that the vehicle must have been in physical existence and fully paid for at least six months before the time of arrival. • That the taxpayer had a legitimate expectation that he would benefit from the rebate, but this expectation was overridden by specific provisions of the law, unless the provisions are declared unconstitutional. • That once the law was changed, the taxpayers expectation could no longer be termed legitimate as it was now subject to the law.

Decision Impact

This decision underscores the court's adherence to statutory interpretation principles, emphasizing that laws, once changed, apply from their date of enforcement without exception for previous expectations. It reinforces the importance of awareness of legal changes for individuals and clarifies the conditions under which immigrant r ebates are granted, setting a precedent for future cases involving similar circumstances. It is important for taxpayers to rearrange their affairs to comply with the law and to obtain sufficient tax advice prior to support any legitimate expectation.

4.1 ZWL employment tax table revised.

Background

Effective January 1, 2024, Zimbabwe has adjusted its employment tax framework, increasing the annual tax-free threshold to ZWL 9,000,000 and setting the top tax rate at 40% for incomes exceeding ZWL 270,000,001 annually. These changes aim to align the tax structure with economic conditions, providing relief to lower-income earners while ensuring equitable contribution from higher-income brackets.

Law and Interpretation

For local currency (ZWL), the monthly income bands now start from a tax-free base up to ZWL750,000, scaling up to a 40% tax rate for the highest earners. For USD earners, the structure remains unchanged, with the tax-free threshold at USD100 monthly. This adjustment of annual tax bands may reflect the inflation in the country and the need to ensure the collection of adequate revenues. Meanwhile the USD tax-free bonus threshold was reduced from USD700 to USD400. The retrenchment package exemption was also reduced from a minimum of USD10,000 to USD3,200 and maximum of USD12,500 to USD5,033. These downward reviews may dampen spirits, particularly for those earning in foreign currency.

Decision Impact

The recent amendments to Zimbabwe's tax thresholds and rates present a nuanced impact on its workforce, particularly under the dual currency system of Zimbabwean dollars (ZWL) and US dollars (USD). The increase in the tax-free threshold for ZWL earners marks a positive shift, potentially boosting the disposable income for lower and middle-income groups. This adjustment could offer a temporary respite from the harsh claws of inflation, allowing a broader segment of the population to navigate through economic hardships with slightly eased financial pressures. Conversely, the decision to lower the USD tax-free bonus threshold emerges as a less favourable change for those earning in foreign currency. This alteration might constrain the financial flexibility of individuals who primarily earn in USD, affecting their overall economic well-being. Furthermore, the modifications in pension contributions and retrenchment package exemptions necessitate a strategic revaluation of personal financial planning, signifying a move towards aligning with the current economic conditions. While these tax reforms attempt to accommodate the ongoing economic challenges, their effectiveness and impact on individual taxpayers will vary. The interplay between fixed tax rates, inflation, and currency conversions may inadvertently push taxpayers into higher tax brackets, especially for those with mixed income sources, underscoring the complexity of fiscal policies in a fluctuating economy.

4.2 New Special Capital Gains Tax

Background

Zimbabwe's introduction of a special capital gains tax on entities acquiring mining titles or interests therein aims to regulate the financial benefits from mining activities. This tax targets various entities, from foreign-domiciled companies to local partnerships, focusing on those with significant control or ownership stakes in mining operations within the country.

Law and Interpretation

Under this law, a special capital gains tax is levied on the transfer of mining titles and interests to entities, both local and international entities with an international element, that hold or have the capacity to hold such titles. The law applies retrospectively to those entities who received transfer of mining titles and interest ten years prior to 1 January 2024. The definitions of "beneficial owner" and "controller" are crucial, emphasizing control or significant influence over mining entities, irrespective of formal ownership. This tax is payable by the transferee (buyer) of the mining title or interest and in the event of their default, the transferor (seller) becomes liable without qualification.

Decision Impact

The special capital gains tax has stirred a mix of reactions among stakeholders in Zimbabwe's mining sector. On one hand, it ensures that profits from mineral resources contribute a significant portion to domestic resource mobilisation. . But on the other hand, the tax rate, payable in foreign currency, and the retrospective application of the law, poses a significant burden on mining entities While aimed at fostering transparency and accountability, it also raises concerns about discouraging foreign investment and complicating the business landscape for miners. In essence, while the tax raises revenue, it introduces financial obligations for mining entities and this can potentially impact Zimbabwe's attractiveness for investors in the mining sector.

4.3 Revising Mining Royalties

Background

The Finance Act in Zimbabwe underwent significant amendments effective January 1, 2024, specifically targeting the collection of mining royalties. The notable changes include the repeal and replacement of section 37A subsection (3) and the introduction of section 37C, enhancing the framework for the timely remittance and collection of mining royalties.

Law and Interpretation

The amendment of section 37A focuses on the remittance of mining royalties. If royalties are not timely paid as per subsections (2) and (2a), interest will accrue, with rates set by the Minister through statutory instruments. Uniquely, interest on royalties payable in kind (e.g., actual minerals) can also be required to be paid in the same kind. This provision includes a clause allowing the Commissioner-General of the Zimbabwe Revenue Authority to extend the remittance deadline without imposing interest under special circumstances, providing some flexibility in the collection process. Furthermore, the new section outlines the designation of \ collection agents for royalties payable in kind. These agents, including the Minerals Marketing Corporation of Zimbabwe, the Reserve Bank of Zimbabwe, and Fidelity Printers and Refiners (Private) Limited, among others designated by the Minister, are authorized to collect royalties on behalf of the Authority. They are also responsible for the safekeeping, valuation, and insurance of the mineral royalties under their custody. This approach aims to streamline and secure the collection process, ensuring that royalty payments are accurately assessed and protected.

Decision Impact

For taxpayers, particularly mining companies, this means a stricter regulatory environment with potential financial implications due to the interest on delayed payments. However, the flexibility offered by potential extensions and the structured collection process through appointed agents may mitigate some operational challenges, ensuring that companies can adapt to these changes with minimal disruption.

4.4 VAT Adjustments on Non-Taxable Supply Changes

Background

The law mandates a VAT adjustment when previously taxable goods or services, for which input tax was claimed, are later used for non-taxable purposes or diverted. This adjustment is based on a specific tax fraction (15/115) applied to the lower of the open market value or cost of these goods or services. Exceptions include goods or services previously denied input tax claims, cessation of registered operator status, transfers to independent branches outside Zimbabwe, or changes prompted by government policy.

Law and Interpretation

According to s17 (1) of the VAT Act, when goods or services initially intended for taxable supply uses are redirected for non-taxable uses, a VAT adjustment becomes necessary. This adjustment aims to reconcile the initial tax benefit received for taxable purposes with the subsequent non-taxable use, ensuring taxation accuracy. The calculation involves applying a tax fraction (15/115) to the lesser of the goods' or services' open market value or cost, providing a structured approach to tax adjustments. The adjustment does not apply inn cases where the change is caused by legislative amendments for instance the change in use trigger by SI 15 of 2024 which reclassified some zero rated and standard rated products into exempt category.

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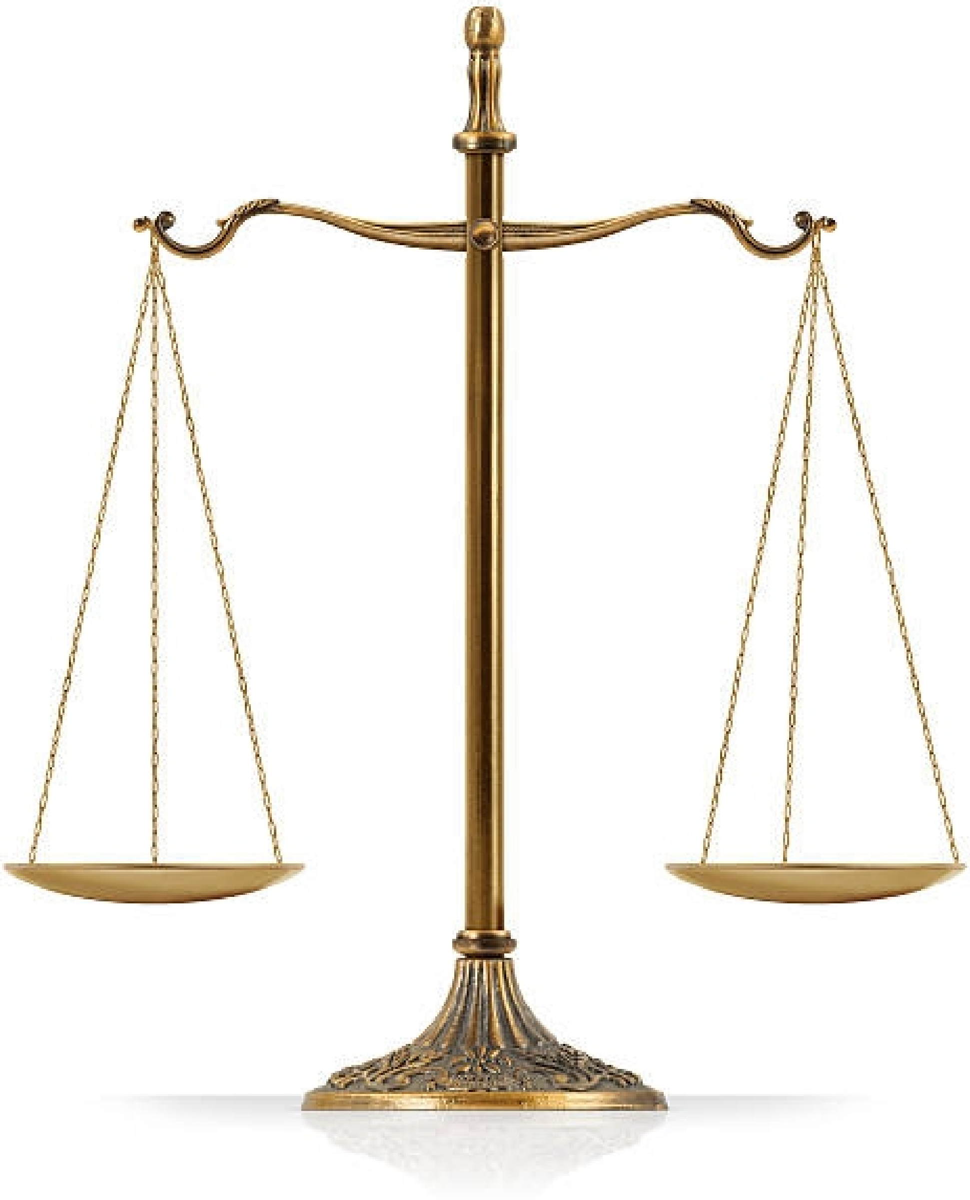
Decision Impact

The requirement for a VAT adjustment significantly impacts taxpayers, particularly businesses that frequently change the use of their goods or services from taxable to non-taxable purposes. This legislation emphasizes the need for diligent record-keeping and financial planning to account for potential adjustments. While ensuring tax compliance, it could impose an administrative burden on businesses, necessitating a careful review of financial strategies to mitigate unforeseen tax liabilities. This adjustment mechanism, though aimed at fairness in tax administration, introduces a layer of complexity that could challenge taxpayers not well-versed in VAT regulations sector.



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5.1 New PAYE Return

Background

In a significant move towards modernizing tax administration and enhancing compliance, the Zimbabwe Revenue Authority (ZIMRA) introduced a new Pay-As-You-Earn (PAYE) Return system through Public Notice 12 of 2024. This system was set to replace the Form P2, effective from January 1, 2024, signalling a shift towards a more streamlined and efficient tax filing process for both employers and employees in Zimbabwe. The new PAYE Return system was designed to accommodate declarations in both United States Dollars (US$) and Zimbabwean Dollars (ZWL$), aiming to simplify the tax reporting landscape in a dual-currency economy. However, in a subsequent announcement through Public Notice 16 of 2024, ZIMRA put a pause on the implementation of the new PAYE Return, initially scheduled for January 2024. Instead, it introduced a temporary measure requiring employers to submit a short PAYE form through the Tax and Revenue Management System (TaRMS). This decision to delay the rollout of the new system and revert to a simplified interim solution was a response to feedback and the need for further refinements to ensure a smooth transition for all stakeholders.

Decision Impact

The evolution of the PAYE Return system in Zimbabwe reflects ZIMRA's efforts to modernize tax administration and improve compliance. While the delay in implementing the new system may pose temporary challenges for taxpayers, it underscores the authority's commitment to ensuring a smooth transition for all parties involved. By accommodating dual-currency declarations and streamlining the tax reporting process, ZIMRA is paving the way for a more efficient and less burdensome tax environment. Taxpayers are encouraged to stay informed about further announcements from ZIMRA and to prepare for the eventual shift to the new PAYE Return system, which promises to significantly ease the process of tax compliance in Zimbabwe.

5.2 Shaping Consumer Behavior Through Fiscal Measures

Background

The Honourable Minister of Finance, Economic Development, and Investment Promotion has issued a statement clarifying the government's tax policy aimed at guiding consumer behaviour, particularly concerning consumption-based taxes. The statement outlines the government's strategy for developing and refining tax measures through a consultative process involving various stakeholders. This includes the introduction of targeted tax instruments, such as the Beverages Sugar Content Tax, designed to influence consumption patterns, especially to mitigate negative externalities on society. The government emphasizes transparency, accountability, and the distinction between stakeholder input and policy-making roles in shaping these policies. The government also warns against excessive price increases by some retailers and manufacturers addressing it as an incorrect interpretation of the law or profiteering.

Decision Impact

The Beverages Sugar Content Tax represents a focused effort by the government to encourage healthier consumer choices and address public health concerns. By targeting added sugars in beverages, this tax aims to reduce the consumption of sugar-laden drinks, thereby decreasing the risk of non-communicable diseases. Taxpayers, particularly consumers and producers, are encouraged to adapt to these changes, with the government ensuring that revenues will be earmarked for health-related expenditures, such as cancer diagnosis and treatment.

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