



Monthly Tax Update

October 2024



October 2024 MTU

- Keeping businesses and individuals well-informed on current tax issues and adding value for all.
- Each month, we analyse the most recent changes in tax rules—including new legislation, pivotal case law and critical announcements or interpretations from Revenue Authorities—to ensure relevance in today's business climate.

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2.1 Finance Act no 2 of 2024

The Finance Bill 2024 was gazetted into law, namely Finance Act no 2 of 2024 on the 25th of October 2024. The following are some of its key provisions:

Payment of taxes in foreign currency: With effect from 1 July 2024, taxpayers with more than 50% of total income from trade and investment in foreign currency to pay income tax 50:50 in local and foreign currency using the official exchange rate on the date of payment. Those with more than 50% in local currency to pay income tax in proportion to the currency of trade. The Finance Act also confirms the Ministerial Directive for payment of second QPDs for 2023 and 2024 assessment years in respect of the portion of income tax in foreign currency 50:50 in local and foreign currency.

PAYE year of assessment: Two tax periods within 2024 are introduced for income from employment, namely 1 January 2024 to 4 April 2024 and 5 April 2024 to 31 December 2024 to align with the introduction of ZWG.

PAYE tax tables: Employment tax rates are enacted for the tax periods, 1 January 2024 to 4 April 2024 and 5 April 2024 to 31 December 2024 for ZWL and ZWG, respectively. The tax-free threshold is ZWG12,204 for the 9 months and a top rate of 40% applies to amounts above ZWG366,129.

Automated financial transaction tax (AFTT): The Finance Act has prescribed the local currency value above which an AFTT rate of USD0.05 would apply to the local currency equivalent of USD100.

Presumptive Tax: The Finance Act introduces the following in respect of presumptive taxes with effect from 1 January 2024: Payment of tax in local currency at the official rate on the date of payment: architects, engineers, technicians, legal practitioners, health practitioners and real estate agents who had opted to pay for self-employed Professionals Presumptive tax are removed from list of persons liable for presumptive tax and are to submit self-assessment income tax return but will remain liable to self-employed professional presumptive tax until 1 January 2025: Reduction of presumptive tax rates for certain trades, services and entities.

Tax clearance for professionals: Architects, engineers, technicians, land surveyors, legal practitioners, auditors, accountants and other professionals regulated by PAAB, health practitioners, veterinary surgeons, real estate agents and quantity surveyors license renewal, certification or registration to be supported by a tax clearance certificate with validity period of at least 30 days at the time of such renewal, licensing or certification.

Tax clearance for passenger transporters: Certified, registered or licensed operators of omnibus or taxi cab business license renewal, certification or registration by ZINARA or insurance to be supported by a tax clearance certificate with validity period of at least 30 days at the time of such renewal, licensing, certification or insurance.

Intermediate money transfer tax: Effective 3 May 2024, IMTT for local currency transfers, foreign currency, outbound transactions, and the Zimbabwe gold-backed digital token for all is 2% of the transaction value. Maximum IMTT for foreign and local currency transfers is 2% of USD10,150 and local equivalent, respectively.

Bonus tax-free threshold: The bonus tax-free threshold for 2024 year of assessment is increased from USD400 to USD700 or the equivalent in local currency (Zimbabwe Dollar or Zimbabwe Gold) at the time of remuneration.

Rates of capital gains withholding tax: The confirmation of SI 110 of 2024 whose contents are: Effective 28 June 2024 for a period of 6 months, a 2% final capital gains withholding tax applies on the sale of list marketable securities: A 40% withholding tax on listed marketable securities held for less than 180 days is repealed and 5% capital gains withholding tax on the sale of other marketable securities applies.

Deferment of VAT on importation of capital goods: Effective 1 January 2024, the deferment of tax will be available subject to the following requirements: Proof to the satisfaction of the Minister that goods of a capital nature have been imported for use in mining, aviation, agriculture, manufacturing, and medical equipment. Statement by the Commissioner that no default in payment of any taxes including deferred taxes in other periods: No future deferment will be given if the taxpayer fails to pay deferred tax by the due date: Minister can extend the maximum period for deferment beyond 180 days with effect from 1 January 2024: 3 years deferment on plant and machinery used exclusively for mining purposes and 2 years deferment on plant and equipment imported for manufacturing or industrial purposes including spare parts required for the purpose of maintaining or refurbishing plant, equipment or machinery.

Tax on exportation of un-beneficiated platinum: With effect from 1 January 2023 to 31 December 2024 the Finance Act suspends the tax on the export of un-beneficiated platinum on all types including PGM concentrate, white matte, PGM and Base Metal and precious metal refinery.

VAT route to market: The provisions in the VAT Act are repealed and to provide that the manufacturer should withhold 5% on each purchase of goods by a non-compliant manufacturer, wholesaler, retailer, or other person. Likewise, wholesalers are to withhold 5% of the value of purchase of goods by non-compliant retailers.

Surtax and a special tax on sugar and beverages: The confirmation of SI 16 of 2024 which reduces special surtax on the added sugar content of beverages effective 9 February 2024 from USD0,002 per gram to USD0,001 per gram. The tax is waived for the period 1 January 2024 to 8 February 2024 and entities that had paid their surtax for this period to set-off the paid taxes against future tax obligations.

Fuel in transit duty and levy: Duty and levies on transit fuel to be paid at the port of entry and reimbursed at the port of exit. This does not apply to fuel withdrawn from NOIC or any other fuel procurement entity or depot gazetted by the Minister of Finance for export. Meanwhile SI 91 of 2023 designated petroleum products as foreign currency dutiable goods retrospectively from 2 August 2019.

2.2 Cap on international travel allowances.

Effective 7 October 2024, SI 166 of 2024 reduces the legal limit of physical United States Dollar notes that travellers can carry out of the country to USD2,000 from USD10,000.

» Decision Impact

Legitimate travellers who need to carry large amounts of cash for business or personal reasons might find this limit restrictive. They will need to plan and use alternative methods to access funds abroad.

2.3 Vehicle import restrictions eased for immigrants.

SI 172 effective 29 March 2024 amends the decade-old vehicle import restrictions for immigrants. It borrows a new definition of "immigrant" in Zimbabwe as someone entering for work, residence, or education, including spouses, but excluding recent former residents. The SI also extends to antique, classic, vintage, and historic vehicles.

» Decision Impact

Immigrants can now import older vehicles, including antique, classic, vintage, and historic cars, which were previously restricted.

2.4 Import duty on commercial tyres suspended.

Effective 22 October 2024, the customs duty on imported pneumatic tyres by approved commercial importers has been adjusted from 15% + US\$5/kg to just 15% capped at 1,500,000 tyres. Items that pertain to new pneumatic tyres of rubber will be charged at 15%.

» Decision Impact

This will boost the transport and automotive industry through the increase of affordable tyres. Potential increase of VAT revenue due to increase in tyre sales. Competition for local tyre manufacturers.



3.1 OMNIA FERTILIZER ZIMBABWE (PVT) LTD V ZIMRA

Case: OMNIA FERTILIZER ZIMBABWE (Pvt) Ltd v ZIMRA and OTHERS (174 of 2024) [2024] ZWHHC 174	
Summary of facts	<ul style="list-style-type: none"> • Omnia Fertilizer manufactures and supplies chemicals and specialized services and solutions for agriculture and chemical application industries • Omnia paid its income tax for 2020, 2021, and 2022 using the Zimbabwean Dollar • ZIMRA issued assessments of USD14,442,763 being the principal amount and penalty and alleged that Omnia incorrectly computed its tax liability • After round table meetings the principal debt was reduced to USD3 895 734 • Omnia filed its objection to the assessments • ZIMRA proceeded to place a garnishee order on Omnia's bankers for collecting the assessed tax after there was no compliance from Omnia to settle the assessed tax • The garnishee order was placed before the determination of the objection • In response, Omnia filed an urgent chamber application in the High Court.
Jurisdiction	<ul style="list-style-type: none"> • High Court of Zimbabwe.
Issues	<ul style="list-style-type: none"> • Whether the pay now argue later principle was applicable • Whether the matter is urgent and whether there are internal remedies available
Decision Date	<ul style="list-style-type: none"> • 10 May 2024.
Decision	<ul style="list-style-type: none"> • Urgent application struck off the roll of urgent matters

Facts

Omnia Fertilizer Zimbabwe (Pvt) Ltd is a company duly registered in Zimbabwe. The company filed an urgent chamber application in the High Court following ZIMRA's appointment of its bankers as agents for the collection of the assessed tax. ZIMRA assessed Omnia Fertilizer for failing to pay taxes in foreign currency for revenue earned in foreign currency. ZIMRA had issued a tax assessment for the years 2020 to 2022, initially totaling US\$14,442,763. After reviewing Omnia's submissions, ZIMRA reduced this liability to US\$3,895,734. Omnia still disputed the assessment and penalties, filing an objection with ZIMRA and requesting a stay of collection, which ZIMRA denied. Omnia then sought judicial intervention through an urgent chamber application to block ZIMRA from enforcing the garnishee orders until the dispute was resolved.

Competing Arguments

Omnia Fertilizer's Argument	
Whether the pay now argue later principle was applicable	<ul style="list-style-type: none"> • That where there is a dispute between parties over a debt then the court must intervene to prevent parties from resorting to self-help • That it was accepted that the Income Tax Act gave ZIMRA powers to collect taxes pending the finalisation of any objection or application • That the ZIMRA powers to collect are suspended pending the determination of the urgent court application • That there are no valid assessments before the court as per the Nestle v ZIMRA case thus the pay now argue later principle does not apply • That an unlawful assessment does not create an obligation to pay • That a point of law can be raised at any point in the proceedings and the High Court has inherent jurisdiction to dispose of a matter on a point of law raised • That nothing stops Omnia from approaching the High Court and raising the point that the ZIMRA cannot continue with its collection measures where there is an extant application before the court • That the court cannot refuse to hear a matter properly before it
Whether the matter is urgent and whether there are internal remedies available	<ul style="list-style-type: none"> • That the matter was urgent, and the court should hear the urgent matter as Omnia did not negligently or deliberately create its urgency • That it took steps to protect its interest or resolve the matter amicably • That the failure to immediately determine the application is unlawful • That the garnishee on its accounts is unlawful and self-help by ZIMRA • That matters dealing with self-help are always treated urgently

ZIMRA's Argument	
Whether the pay now argue later principle was applicable	<ul style="list-style-type: none"> • That the pay now argue later principle is applicable • That Omnia's obligation to pay the tax is not suspended by the objection or appeal • That its argument on the validity of the assessments goes into the merits of the case • That by raising the anterior point Omnia was asking that the matter be heard on the merits • That the "pay now argue later" submissions went into the merits of the case and could not be heard before the preliminary points • That it is settled law that the court cannot determine the merits of a case until any preliminary points raised have been dealt with
Whether the matter is urgent and whether there are internal remedies available	<ul style="list-style-type: none"> • That the matter is not urgent • That urgency arising from a lawful garnishee does not constitute urgency • That the onus is on Omnia to show that the matter is urgent • That Omnia did not act when the need to act arose i.e. when it knew that ZIMRA was investigating its tax liability and when amended tax assessments were issued. • That urgency is self-created as Omnia failed to pay the tax due on time • That the Special Court for Income Tax Appeals and Fiscal Appeals Court has jurisdiction to determine the invalidity of assessments • That the application was incorrectly before the civil division of the High Court • That there are internal remedies available once the CG makes a determination • That the recovery of tax due was provided for in law and ZIMRA can institute collection measures even when an objection has been lodged • That Omnia could have offered a payment plan and awaited the objection decision.

Court Reasoning and Decision

The Court	
Whether the matter was urgent	<ul style="list-style-type: none"> • That Omnia took steps to protect its interests as an objection was filed together with an application for stay of collection measures • That Omnia acted timeously looking at the facts
Whether the garnishees are lawful	<ul style="list-style-type: none"> • That the court cannot be drawn into intervening and suspending collection measures • That the ZIMRA was enforcing the law as provided in the Act. • That the Court relied on Murova Diamonds (Pvt) Ltd v ZIMRA & Anor HH 125/20 and Mayor Logistics v ZIMRA CCZ 07/14 • That an objection did not suspend the payment of a tax liability. • That the court would be aiding taxpayers to circumvent the pay now and argue later principle if it upholds Omnia's argument .
Whether ZIMRA helped itself.	<ul style="list-style-type: none"> • That there was no valid basis to hold that the garnishees were unlawful or that the ZIMRA had resorted to self-help
Whether there are internal remedies available	<ul style="list-style-type: none"> • That it was improper for taxpayers to file applications for setting aside assessments in the High Court while pursuing the statutory route of an objection • That the ITA has internal remedies which include the Special Court for Income Tax • That the application to the Special Court for Income Tax filed before the present application showed that Omnia had other internal remedies available to it
Decision	<ul style="list-style-type: none"> • That the matter is not urgent and struck off the roll of urgent matters

» **Decision Impact**

Taxpayers should exercise due care when dealing with assessments, objections and appeals. They are encouraged to exhaust internal remedies provided for in the tax legislation before approaching the courts.

4.1 How bad debts are income tax treated.

Bad debts for non-insurance businesses are tax deductible when they arise from sales made by the business, when the debts are due and payable to the business, and the debts are proven to the satisfaction of the Commissioner to be irrecoverable. All these three conditions must be satisfied. An income tax claim for bad debts on debts sold or bought together with the business, related party sales, advances or loans to employees, or business loans (other than those made by moneylenders in their ordinary course of business) is denied. The rules are different for the insurance business. For short-term insurers, taxable income is computed on a cash basis, meaning insurance premiums are only recognized as gross income when received. The non-inclusion of insurance premiums not yet received in gross income inherently means that bad debts are not part of the tax base. This makes short-term insurers ineligible to deduct and include in gross income bad debts and bad debts recovered, respectively. For the life insurance business, the tax liability is not based on trading results but rather computed as the average rate of interest in excess of 3.5% on the average life actuarial liabilities plus profit on sale of investment less loss on sale of investment and allowance for investing in prescribed assets. Bad debts are therefore not part of the tax base.

Why This Matters

Insurers must never make an income tax claim for bad debts nor include bad debts recovered in their taxable income. Other businesses must justify the claim beyond reasonable doubt and the burden of proof that the debts are irrecoverable lies with them. This implores the undertaking of deliberate and diligent steps towards recovering the debts arising from the sale by the business

4.2 Staff Meals Treatment in Employee and Employer's Hands.

An employer should consider the income tax and PAYE issues of employees' meals and refreshments. In terms of the law, free or subsidized meals provided to employees are considered fringe benefits. These benefits should be valued at the actual cost to the employer, including both fixed and variable expenses, and must be reported as part of the employee's income. A benefit does not arise when the meals are provided by the employer during extended work hours or if the meals are proven to be for the employer's benefit. Our courts have been clear that advantages and benefits that are given to an employee are taxable unless they are consumed or used by the employee for the purpose of the business transactions of the employer. This was the position followed in *Zimplats v ZIMRA*. It was understood that the legislature had deliberately provided for the exemption as instances may occur where an employee gets a benefit because of the nature of the employer's business. Regarding the deductibility in employer's hands, although a canteen meal expense may fall within the ordinary meaning of 'entertainment', the inquiry into its deductibility should not end there. The next consideration is whether the expense qualifies for deduction under Section 15 or any other relevant provision of the Act that permits deductions. In the most recent case of *Nestle Zimbabwe (Pvt) Ltd v Zimbabwe Revenue Authority*, the court allowed the deduction of canteen meals for factory workers on the basis that the taxpayer had a risk of product contamination as any food item is a sensitive product requiring high hygiene standards. The canteen meals were also held to be deductible for income tax purposes in *IAB v ZIMRA* because it could be proven that canteen meals were for business purposes. The canteen meals were held not to be benefits taxable in the employees hands.

Why This Matters

Taxpayers should maintain documentation or other evidence showing meals or other benefits are for the business purpose of employer to justify employee exemption and deductibility of expenditure to employer.

4.3 Dividend Tax on Excess Management Fees.

According to s 16 (1) (r) of the ITA, management fees are deductible only up to 1% of the total allowable expenditure of the paying entity, with any excess treated as a dividend subject to withholding tax at a flat rate of 15%. This applies to the management fees payable between the parent company and its subsidiaries, the non-resident company and its branches or permanent establishment, or between fellow subsidiaries. The paying entity will therefore be obligated to deduct and remit withholding tax on excess expenditure to the ZIMRA at 15% of the deemed dividend within 10 days for management fees paid to residents and 30 days for non-residents following the date of submission of self-assessment return accompanied by the REV5 return. Before 21 October 2022, dividend tax only applied when the recipient was a non-resident person. Meanwhile, the dividend tax should be reduced in the case of management fees payable to a non-resident person if non-resident tax fees was being deducted and remitted to the ZIMRA.

Why This Matters

After adjusting for 1% management fees in an income tax return, one should promptly comply with the requirement to pay dividend tax on the excess fees (disallowed portion). If non-resident tax on fees on the management fees had already been deducted and remitted to the ZIMRA the dividend tax should be reduced by that non-resident tax on fees. Both the dividend tax and non-resident tax fees may be paid in local currency, which gives taxpayers opportunity to preserve their most valuable currency.

4.4 Income Tax and VAT Turnovers reconciliation

The revenue recognition under the Income Tax Act and VAT Act is based mainly on the same principles. Therefore, there is an expectation from the Revenue Authority that at the end of each year of assessment, the turnover on the VAT7 and ITF12C should be the same. In the event there is an unexplained variance between the two ZIMRA may assess additional tax liabilities. The ITF12C and VAT 7 should be the same in that all sections for supplies should be completed and credit notes should be reported. Reconciling items will nevertheless exist because of the different treatment of deferred or prepaid income and deposits under VAT compared to income tax. Under VAT these are taxed when received should they be linked to taxable supply and later under Income Tax when services or goods are rendered or delivered.

Why This Matters

Taxpayers should ensure all spaces for supplies on the VAT return namely space for goods or services taxed at 15%, zero goods or services and exempt goods or services are completed. All incomes fit in these spaces whether it's the business's normal revenue or other incomes such as dividend, bank interest, interest on debtors or staff advances or loans, foreign exchange gains etc. Any credit and debit notes must be adjusted under both tax heads. Monthly turnover reconciliations are recommended to reduce volume of work required at year end.



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5.1 Zimbabwe Electronic Single Window (ZeSW) Roll Out.

On 9 October 2024, ZIMRA's ZeSW successfully launched the Port Health and Radiation Protection modules. These modules will be available at the following entry points: Kazungula Border Post, Victoria Falls Border, Kariba Border Post, Chirundu Border Post, Nyamapanda Border Post, Plumtree Border Post, Beitbridge Border Post, as well as Bulawayo and Victoria Falls Airports. The Single Window concept is a modern automated system that streamlines import and export processes through a single electronic platform (**ZIMRA Public Notice 77/2024**).

5.2 Payment blitz.

The authority has expressed concern regarding outstanding tax obligations. In response, it has initiated a blitz to address these issues. The blitz is characterised by the ZIMRA initiating taxpayer visits, phone calls, and audits aimed at engaging taxpayers directly. Additionally, the authority encourages voluntary disclosure to rectify past mistakes. (**ZIMRA Public Notice 79/2024**).

5.3 Fiscal Tax Invoice Compliance.

ZIMRA is taking the initiative to educate and remind taxpayers about compliance issues, specifically regarding FDMS and invoices. It outlines all the requirements for a compliant invoice. (**ZIMRA Public Notice 80/2024**).

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