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ZIMBABWE

ACT

To make further provision for the revenues and public funds of Zimbabwe and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and Parliament of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Finance (No. 3) Act, 2009.

PART II

INCOME TAX

Amendments to Chapter I of Finance Act [Chapter 23:04]

2 New section substituted for section 10 of Cap. 23:04

Section 10 of the Finance Act [Chapter 23:04] is repealed and the following is substituted—

“10 Taxpayers over 55 years of age

A credit of the specified amount shall be deducted from the income tax with which a taxpayer is chargeable, where he or she had attained the age of fifty-five years prior to the commencement of the year of assessment:

Provided that if the period of assessment is less than twelve months, the amount referred to in this section shall be reduced proportionately.”.

3 New section substituted for section 14 of Cap. 23:94

Section 14 of the Finance Act [*Chapter 23:04*] is repealed and the following is substituted—

“14 Income tax for periods of assessment after 1.1.10

(1) In this section—

“approved BOOT or BOT arrangement” means a contract or other arrangement approved by the Commissioner, under which a person undertakes to construct an item of infrastructure for the State or a statutory corporation in consideration for the right to operate or control it for a specified period, after which period he or she will transfer or restore ownership or control of the item to the State or the statutory corporation concerned;

“approved tourist development zone” means a tourist development zone declared under regulations made in terms of section 57(2)(k) of the Tourism Act [*Chapter 14:20*] and approved by the Commissioner;

“Authority” means the Zimbabwe Tourism Authority established in terms of the Tourism Act [*Chapter 14:20*];

“contractor”, in relation to an approved BOOT or BOT arrangement, means the person who enters into the arrangement with the State or the statutory corporation concerned;

“manufacturing operations” means any process of production which substantially changes the original form of, or substantially adds value to, the thing or things constituting the product;

“operator” and “tourist facility” have meanings given to those terms in section 2 of the Tourism Act [*Chapter 14:20*];

“taxable income from employment” means any part of the taxable income of a person, other than a company, a trust or a pension fund, which consists of remuneration as defined in the Thirteenth Schedule to the Taxes Act;

“taxable income from trade or investment” means any part of the taxable income of a person, other than a company or a trust, which is received by or accrues to him or her from any trade, investment or other activity, but does not include taxable income from employment;

“trust” does not include a deceased or insolvent estate or the estate of an individual under a legal disability.

(2) Subject to this section and section 50 of the Taxes Act, the income tax with which a person is chargeable in the year of assessment beginning on the 1st January 2010, or any subsequent year of assessment, shall be calculated—

(a) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment—

(i) so much as does not exceed one thousand nine hundred and twenty United States dollars;

- (ii) so much as exceeds one thousand nine hundred and twenty United States dollars but does not exceed six thousand United States dollars;
 - (iii) so much as exceeds six thousand United States dollars but does not exceed twelve thousand United States dollars;
 - (iv) so much as exceeds twelve thousand United States dollars but does not exceed eighteen thousand United States dollars;
 - (v) so much as exceeds eighteen thousand United States dollars;
- (b) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each United States dollar of his or her taxable income from trade or investment earned in foreign currency, other than income referred to in paragraph (e), (f), (h), (i) or (j);
 - (c) in the case of a company or a trust, other than a pension fund, at the specified percentage of each United States dollar of its taxable income earned in foreign currency, other than income referred to in paragraph (e), (f), (g), (h) or (i);
 - (d) in the case of a pension fund, at the specified percentage of each United States dollar of its taxable income earned in foreign currency from trade or investment:

Provided that this paragraph shall not apply in respect of any period before the date specified in terms of paragraph 2(i) of the Third Schedule to the Taxes Act;

- (e) in respect of that part of the taxable income earned in foreign currency of a licensed investor which is attributable to the operations to which his or her investment licence relates, at the specified percentage of each United States dollar of that taxable income in the year of assessment in which he or she commences such operations and in each of the four years of assessment next following that year of assessment, and thereafter at the higher specified percentage;
- (f) in respect of that part of the taxable income earned in foreign currency of the holder of a special mining lease which is attributable to special mining lease operations as defined in the Taxes Act, determined in accordance with the Twenty-Second Schedule to that Act, at the specified percentage of each United States dollar of that income;
- (g) in respect of that part of the taxable income of a company or a trust derived from mining operations, at the specified percentage of each United States dollar of such part of its taxable income;
- (h) in respect of that part of the taxable income of a contractor under an approved BOOT or BOT arrangement which is attributable to his or her operations under the arrangement—
 - (i) for the first five years after the commencement of the arrangement, at the percentage of each United States dollar of that income specified in Part II of the Schedule in respect of those years;

- (ii) for the second five-year period after the commencement of the arrangement, at the percentage of each United States dollar of that income specified in Part II of the Schedule in respect of that period;
- (iii) thereafter, at the specified percentage applicable to persons referred to in paragraph (b) or (c), as the case may be;
- (i) in respect of that part of the income earned in foreign currency of an industrial park developer which is attributable to the operations of his or her industrial park, at the specified percentage of each United States dollar of that income in the year of assessment in which he or she commences such operations and in each of the four years of assessment next following that year of assessment, and thereafter at the higher specified percentage;
- (j) in respect of that part of the taxable income of the operator of a tourist facility in an approved tourist development zone which is attributable to his or her operation of that facility, at the specified percentage of each United States dollar of that income in the year of assessment in which he or she commences such operation and in each of the four years of assessment next following that year of assessment, and thereafter at the higher specified percentage;

(3) Where a company conducts manufacturing operations and, in any year of assessment, fifty *per centum* of its total manufacturing output is exported from Zimbabwe, the income tax with which the company is chargeable, in respect of so much of its taxable income as, in the opinion of the Commissioner, is derived from manufacturing operations conducted in Zimbabwe during that year of assessment, shall be at the specified percentage of each United States dollar of the taxable income derived from such manufacturing.

(4) For the purposes of subsection (3) percentages of a company's manufacturing output shall be calculated by quantity or volume rather than according to value.

(5) Subject to subsection (6) and to section 50 of the Taxes Act, if in the year of assessment beginning on the 1st April, 1988, or any subsequent year of assessment, the taxable income of a person, other than a company or a trust, includes—

- (a) any amount referred to in proviso (iv) to paragraph (b) of the definition of "gross income" in section 8(1) of the Taxes Act; or
- (b) any amount included by virtue of paragraph (c) of the definition of "gross income" in section 8(1) of the Taxes Act; or
- (c) any amount referred to in paragraph 5 of the Seventh Schedule to the Taxes Act;

the income tax with which that person is chargeable in respect of that year of assessment shall be calculated—

- (d) in respect of so much of the taxable income as would remain had the amount specified in paragraph (a), (b) or (c), as the case may be, not been included (hereinafter called "the first amount"), at the appropriate rates referred to in subsection (2)(a); and

- (e) in respect of each dollar of so much of the taxable income as would remain were the first amount deducted, at the highest rate at which any part of the first amount is chargeable:

Provided that, if the first amount consists of taxable income from employment and does not exceed the amount referred to in subparagraph (i) of subsection (2)(a), then so much of the person's taxable income as exceeds that second-mentioned amount shall be chargeable at the rate applicable to the amounts referred to in subparagraph (ii) of subsection (2)(a).

(6) If in the year of assessment beginning on the 1st January, 2010, or any subsequent year of assessment, the taxable income of a person includes any amount by way of dividends from a company incorporated outside Zimbabwe, that amount—

- (a) shall be charged to tax at the specified percentage; and
(b) shall be deducted from the person's taxable income prior to the application of subsections (2), (3), (4) and (8) to that income.

(7) In respect of the year of assessment beginning on the 1st January, 2010, and any subsequent year of assessment, there shall be charged, in the case of a person other than a company or trust, an AIDS levy equal to three *per centum* of the amount of income tax with which he or she is chargeable in terms of subsection (2) (a) or (b) in respect of that year of assessment, after the deduction of any credits that are to be deducted under Part II of this Chapter, and the levy shall be payable in addition to the income tax with which the person is chargeable under this section.

(8) In respect of the year of assessment beginning on the 1st January, 2010, and any subsequent year of assessment, there shall be charged, in the case of a company or trust, an AIDS levy equal to three *per centum* of the amount of income tax with which the company or trust is chargeable in terms of subsection (2)(c) in respect of that year of assessment, and the levy shall be payable in addition to the income tax with which the company or trust is chargeable under this section.”.

4 Amendment of section 15 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 15 (“Non-resident shareholders’ tax”) of the Finance Act [*Chapter 23:04*] is amended—

- (a) in paragraph (a) by the deletion of “fifteen *per centum*” and the substitution of “ten *per centum*”;
(b) in paragraph (b) by the deletion of “twenty *per centum*” and the substitution of “fifteen *per centum*”.

5 Amendment of section 17 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 17 (“Resident shareholders’ tax”) of the Finance Act [*Chapter 23:04*] is amended—

- (a) in paragraph (a) by the deletion of “fifteen *per centum*” and the substitution of “ten *per centum*”;
(b) in paragraph (b) by the deletion of “twenty *per centum*” and the substitution of “fifteen *per centum*”.

6 Amendment of section 19 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 19 (“Non-residents’ tax on fees”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “twenty *per centum*” and the substitution of “fifteen *per centum*”.

7 Amendment of section 21 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 21 (“Non-residents’ tax on royalties”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “twenty *per centum*” and the substitution of “fifteen *per centum*”.

8 Amendment of section 22 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 22 (“Residents’ tax on interest”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “twenty *per centum*” and the substitution of “fifteen *per centum*”.

9 Amendment of section 22C of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 22C (“Presumptive tax”) of the Finance Act [*Chapter 23:04*] is amended—

- (a) in paragraph (e) by the deletion of “two hundred United States dollars” and the substitution of “one hundred and seventy-five United States dollars”;
- (b) in paragraph (f) by the deletion of “four hundred United States dollars” and the substitution of “three hundred United States dollars”;
- (c) in paragraph (g) by the deletion of “six hundred and fifty United States dollars” and the substitution of “four hundred and fifty United States dollars”;
- (d) by the insertion of the following paragraphs after paragraph (k)—
 - “(l) operators of restaurants or bottle-stores, three hundred United States dollars per quarter; or
 - (m) cottage industry operators, three hundred United States dollars per quarter.”.

10 Repeal of section 22F of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, section 22F of the Finance Act [*Chapter 23:04*] is repealed.

11 Amendment of Schedule to Chapter I of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2010, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [*Chapter 23:04*] is amended by the repeal of Parts II and III and the substitution of—

“PART II

RATES OF INCOME TAX ON TAXABLE INCOME

| <i>Section</i> | <i>Level of taxable income</i> | <i>Specified percentage</i> % |
|----------------|---|----------------------------------|
| 14(2)(a)(i) | Up to US \$1 920 | 0 |
| 14(2)(a)(ii) | US \$1 921 to US \$6 000 | 20 |
| 14(2)(a)(iii) | US \$6 001 to US \$12 000 | 25 |
| 14(2)(a)(iv) | US \$12 001 to US \$18 000 | 30 |
| 14(2)(a)(v) | US \$18 001 and more | 35 |
| 14(2)(b) | Taxable income of individual from trade or investment | 25 |
| 14(2)(c) | Taxable income of company or trust | 25 |
| 14(2)(d) | Taxable income of pension fund from trade or investment | 15 |

| <i>Section</i> | <i>Level of taxable income</i> | <i>Specified percentage %</i> |
|----------------|---|-------------------------------|
| 14(2)(e) | Taxable income of licensed investor (before the end of the fifth year of his or her operations as such) | 0 |
| | Taxable income of licensed investor (after the fifth year of his or her operations as such) | 25 |
| 14(2)(f) | Taxable income of holder of special mining lease | 15 |
| 14(2)(g) | Taxable income of company or trust derived from mining operations | 25 |
| 14(2)(h) | Taxable income of person engaged in approved BOOT or BOT arrangement: First five years of the arrangement | 0 |
| | Second five years of the arrangement | 15 |
| 14(2)(i) | Taxable income of industrial park developer (before the fifth year of his or her operations as such) | 0 |
| | Taxable income of industrial park developer (after the fifth year of his or her operations as such) | 25 |
| 14(2)(j) | Taxable income of operator of a tourist facility in approved tourist development zone (before the fifth year of his or her operation as such) | 0 |
| | Taxable income of operator of a tourist facility in approved tourist development zone (after the fifth year of his or her operation as such) | 25 |
| 14(3) | Taxable income from manufacturing of a company which exports 50% or more of its output | 20%. |

Amendments to Income Tax Act [Chapter 23:06]

12 Amendment of section 8 of Cap. 23:06

Section 8 (“Interpretation of terms relating to income tax”)(1) of the Income Tax Act [Chapter 23:06] is amended in the definition of “gross income” with effect from the year of assessment beginning on the 1st January, 2010, and any subsequent year of assessment, in paragraph (f) II—

- (a) in provisos (x) by the deletion from the definition of item B of the formula of “employer” and the substitution of “employee”;
- (b) by the repeal of provisos (xi), (xii), (xiii) and (xiv) and the substitution of—
 - “(xi) in the case of a motor vehicle, in respect of the year of assessment beginning on the 1st January, 2010, and any subsequent year of assessment, the cost to the employer shall be deemed to be the following—
 - (a) one thousand eight hundred United States dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;

- (b) two thousand four hundred United States dollars, in the case of a motor vehicle whose capacity exceeds one thousand five hundred cubic centimetres but does not exceed two thousand cubic centimetres;
- (c) three thousand six hundred United States dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
- (d) four thousand eight hundred United States dollars, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres;

and such deemed cost shall be reduced proportionally where the period of use of the motor vehicle is less than the year of assessment.”.

13 Repeal of section 9 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, section 9 of the Income Tax Act [*Chapter 23:06*] is repealed:

Provided that where a person made an election under the foregoing provision before the 1st January, 2010, whose period of operation would have continued beyond that date, such election shall not be affected by the repeal of the foregoing provision.

14 Amendment of section 15 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, section 15 (“Deductions allowed in determination of taxable income”)(2) of the Income Tax Act [*Chapter 23:06*] is amended—

- (a) by the repeal of paragraph (g) and the substitution of—
 - “(g) the amount of any debts due to the taxpayer to the extent to which they are proved to the satisfaction of the Commissioner to be bad, if such amount is included in the current year of assessment or was included in any previous year of assessment in the taxpayer’s income either in terms of this Act or a previous law;”;
- (b) in paragraph (o) by the deletion of “an amount equal to double the sum” and the substitution of “an amount equal to the sum”.

15 Repeal of section 36F of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, section 36F of the Income Tax Act [*Chapter 23:06*] is repealed.

16 Amendment of section 80 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, section 80 (“Withholding of amounts payable under contracts with State or statutory corporations”) (2) of the Income Tax Act [*Chapter 23:06*] is amended by the deletion of “the last day” and the substitution of “the tenth day”.

17 Amendment of Third Schedule to Cap. 23:06

The Third Schedule (“Exemptions from Income Tax”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 4—

- (a) with effect from the 1st January, 2010, by the repeal of subparagraph (h) and the substitution of—
 - “(h) a gratuity given in conjunction with the award of—
 - (i) the Fire Brigades Long Service Medal; or

- (ii) the Medal for Long Service and Good Conduct (Military);
- (b) with effect from the 1st November, 2009, by the repeal of subparagraph (o) and the substitution of—
 - “(o) a bonus or performance-related award accruing to an employee or agent in respect of his or her employment or agency, to the extent that the bonus does not exceed or, where the employee or agent receives more than one bonus in the year of assessment concerned, to the extent that the aggregate of the bonuses does not exceed four hundred United States dollars;”;
- (c) with effect from the 1st January, 2010, in subparagraph (p)—
 - “(p) the first five thousand United States dollars or one-third, whichever is the greater, of the amount of any severance pay, gratuity or similar benefit, other than a pension or cash in lieu of leave, which is paid to an employee on the cessation of his or her employment, where his or her employment has ceased due to retrenchment under a scheme approved by the Minister responsible for labour or the Public Service:

Provided that the exemption provided in this subparagraph shall apply only in respect of the first forty-five thousand United States dollars of any such pay, gratuity or benefit payable to him or her in any one year of assessment.”.

18 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, the Fourth Schedule (“Deductions to be Allowed in Respect of Buildings, Improvements, Machinery and Equipment Used for Commercial, Industrial and Farming Purposes, and Other Provisions Relating Thereto”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 9 (“Rates of special initial allowance”) by the insertion after paragraph (g) of the following paragraph—

- “(h) on the 1st January, 2010, or on any subsequent year of assessment, ending on the 31st December, 2013, be a sum equal to twenty-five *per centum*.”.

19 Amendment of Sixth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, the Sixth Schedule (“Deductions in Respect of Contributions to Benefit and Pension Funds and the Consolidated Revenue Fund”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 10 by the repeal of subparagraph (b) and the substitution of—
 - “(b) five thousand four hundred United States dollars;”;
- (b) in paragraph 14—
 - (i) in subparagraph (a) by the deletion of “three thousand six hundred United States dollars” and the substitution of “five thousand four hundred United States dollars”;
 - (ii) in subparagraph (b) by the deletion of “three thousand six hundred United States dollars” wherever it occurs and the substitution of “five thousand four hundred United States dollars”;
- (c) in paragraph 15 by the repeal of subparagraph (b) and the substitution of—
 - “(b) five thousand four hundred United States dollars;”;
- (d) in paragraph 16 by the repeal of subparagraph (b) and the substitution of—
 - “(b) five thousand four hundred United States dollars;”;
- (e) in paragraph 17(2)—
 - (i) in subparagraph (a) by the deletion of “three thousand six hundred

- United States dollars” and the substitution of “five thousand four hundred United States dollars”;
- (ii) in subparagraph (b)—
 - A. by the deletion of “three thousand six hundred United States dollars” and the substitution of “five thousand four hundred United States dollars”;
 - B. in subparagraph (ii)A by the deletion of “one thousand eight hundred United States dollars” and the substitution of “two thousand seven hundred United States dollars”;
 - C. in the proviso by the repeal of paragraph (b) and the substitution of—
 - “(b) five thousand four hundred United States dollars;”;
 - (f) in paragraph 18(2)—
 - (i) by the deletion of “three thousand six hundred United States dollars” and the substitution of “five thousand four hundred United States dollars”;
 - (ii) in the proviso by the repeal of paragraph (b) and the substitution of—
 - “(b) two thousand seven hundred United States dollars;”.

20 Amendment of Twenty-Sixth Schedule to Cap. 23:06

With effect from the 1st January, 2010, the Twenty-Sixth Schedule (“Presumptive Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 1 (“Interpretation”)—
 - (i) by the repeal of the definition of “cross-border trader” and the substitution of—
 - ““cross-border trader” means a person who imports commercial goods into Zimbabwe with the intention of carrying on any trade in those goods, but does not, subject to paragraph 13C, include any person registered as an operator in terms of the Value Added Tax Act [*Chapter 23:12*];”;
 - (ii) in the definition of “operator” by the insertion of the following paragraphs—
 - “(d) the operation of a restaurant or bottle store, means the person who owns or is in charge of the restaurant or bottle store, whether or not the restaurant or bottle store is licensed as such in terms of the Shop Licences Act [*Chapter 14:17*] or under the by-laws of the local authority in which the restaurant or bottle store is located, but does not include any such person in possession of—
 - (i) a tax clearance certificate to the effect that he or she has furnished a return under section 37 for the last year of assessment for which such a return is due; or
 - (ii) proof that he or she is a registered operator in terms of the Value Added Tax Act [*Chapter 23:13*];
 - (e) the operation of a cottage industry, means the person who owns or is in charge of the cottage industry, whether or not the cottage industry is licensed as such in terms of the Shop Licences Act [*Chapter 14:17*] or under the by-laws of the local authority in which the cottage industry is located, but does not include any such person in possession of—

- (i) a tax clearance certificate to the effect that he or she has furnished a return under section 37 for the last year of assessment for which such a return is due; or
 - (ii) proof that he or she is a registered operator in terms of the Value Added Tax Act [*Chapter 23:13*];
- (iii) by the insertion of the following definitions—
- ““cottage industry” means any of the following trades or industries whether or not they are based in or conducted from the residential premises of the operators thereof, and whether or not the operators use their own tools or equipment—
 - (a) furniture-making or upholstery;
 - (b) metal fabrication;
 - (c) any other cottage industry that the Minister may, by notice in a statutory instrument, prescribe; - “furniture-making or upholstery” means the manufacture for profit of furniture or the fitting of furniture with padding, springs, webbing or covering for profit;
 - “metal fabrication” means the fabrication of articles from metal for profit or any beneficiation of metal whatsoever for profit;
 - “restaurant or bottle store” includes any bar or beerhall and any other place where food or drink is served to members of the public for payment, whether consumed on or off the premises of the restaurant or bottle store;”;
- (b) in paragraph 8 (“Withholding or presumptive tax from amounts payable to small scale miners”)(1) by the deletion of “the twentieth day” and the substitution “the tenth day”;
- (c) in Part IVB (“Informal Cross-Border Traders’ Tax”), by the insertion of the following proviso to paragraph 13C (“Payment of Presumptive Tax By Informal Cross Border Traders”)(1):
- “Provided that, where a person produces a tax clearance certificate or proof of registration as a taxpayer referred to in paragraph (a) or (b), but he or she is in arrears of any tax or duty payable under this Act, the Value Added Tax Act [*Chapter 23:12*] or the Customs and Excise Act [*Chapter 23:02*], this Part shall apply to such person as if he or she was an informal cross-border trader.”;
- (d) by the insertion after Part IVC of the following Parts—

“PART IVD

RESTAURANT OR BOTTLE-STORE OPERATORS’ PRESUMPTIVE TAX

Payment of presumptive tax by restaurant or bottle store operators

13D. (1) Subject to this paragraph, no later than ten days after the end of each quarter, every operator of a restaurant or bottle store shall pay the amount of presumptive tax that is fixed from time to time in the Charging Act:

Provided that the Commissioner may, for good cause shown, allow the tax to be paid over at a later date.

(2) The amount of presumptive tax payable in terms of subparagraph (1) shall be payable at any branch, division or department of the Zimbabwe Revenue Authority responsible for assessing, collecting and enforcing the payment of taxes under this Act or through any agent of the Zimbabwe Revenue Authority notified by the Commissioner.

(3) Where an operator of a restaurant or bottle store has paid the amount of presumptive tax due in terms of subparagraph (1), the Commissioner shall furnish the operator with the appropriate tax clearance certificate.

Interest on overdue restaurant or bottle store operators' presumptive tax

13E. If presumptive tax is not paid timeously in terms of paragraph 13D, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the tax as remains unpaid during the period beginning on the day next following the last day provided for its payment and ending on the date the tax is paid in full:

Provided that in special circumstances the Commissioner may extend the time for payment of the tax without charging interest.

PART IVE

COTTAGE INDUSTRY OPERATORS' PRESUMPTIVE TAX

Payment of presumptive tax by cottage industry operators

13E. (1) Subject to this paragraph, no later than ten days after the end of each quarter, every operator of a cottage industry shall pay the amount of presumptive tax that is fixed from time to time in the Charging Act:

Provided that the Commissioner may, for good cause shown, allow the tax to be paid over at a later date.

(2) The amount of presumptive tax payable in terms of subparagraph (1) shall be payable at any branch, division or department of the Zimbabwe Revenue Authority responsible for assessing, collecting and enforcing the payment of taxes under this Act or through any agent of the Zimbabwe Revenue Authority notified by the Commissioner.

(3) Where an operator of a cottage industry has paid the amount of presumptive tax due in terms of subparagraph (1), the Commissioner shall furnish the operator with the appropriate tax clearance certificate.

Interest on overdue cottage industry operators' presumptive tax

13F. If presumptive tax is not paid timeously in terms of paragraph 13E, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the tax as remains unpaid during the period beginning on the day next following the last day provided for its payment and ending on the date the tax is paid in full:

Provided that in special circumstances the Commissioner may extend the time for payment of the tax without charging interest.”.

21 Repeal of Twenty-Ninth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, the Twenty-Ninth Schedule of the Income Tax Act [*Chapter 23:06*] is repealed.

22 Amendments of specified periods in Cap. 23:06

The provisions of the Income Tax Act [*Chapter 23:06*] specified in the first column of the Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

PART III

VALUE ADDED TAX

23 Amendment of section 6 of Cap. 23:12

With effect from the 1st January, 2010, the Value Added Tax Act [*Chapter 23:12*] is amended in section 6 (“Value Added Tax”)(1)(d) by the insertion of the following proviso thereto—

“Provided that this paragraph shall not apply to the supply of second-hand motor vehicles that are subject to special excise duty on sales or disposals of second-hand motor vehicles referred to in section 172B of the Customs and Excise Act [*Chapter 23:02*].”.

24 Amendment of section 12 of Cap. 23:12

With effect from the 1st January, 2010, the Value Added Tax Act [*Chapter 23:12*] is amended in section 12 (“Collection of tax on importation of goods, determination of value thereof and exemptions from tax”) by the repeal of subsection (2) and the substitution of—

“(2) For the purposes of this Act the value to be placed on the importation of goods into Zimbabwe which are entered for home consumption in terms of the Customs Act shall be deemed to be the value thereof for customs duty purposes, plus any duty, excluding surtax, levied in terms of the said Act in respect of the importation of such goods.”.

25 New section inserted in Cap. 23:12

With effect from the 1st January, 2010, the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion of the following section after section 12A—

“12B Collection of tax on exportation of unbeneficiated chrome, determination of value thereof

(1) Notwithstanding section 10(1), tax at the rate of fifteen *per centum* on the value of unbeneficiated chrome shall be levied on a supplier of such chrome for export from Zimbabwe.

In this section, “unbeneficiated chrome” means chrome ore and fines.

(2) For the purposes of this Act unbeneficiated chrome shall be deemed to be exported from Zimbabwe on the date on which the unbeneficiated chrome is, in terms of section 60 of the Customs Act, deemed to be exported.

(3) For the purposes of this Act the value to be placed on the exportation of unbeneficiated chrome from Zimbabwe shall be deemed to be—

- (a) the market value thereof on the date of exportation as determined by reference to a reputable metals exchange; or
- (b) the value as reflected on the bill of entry or other document required in terms of section 54 of the Customs Act to be delivered to an officer under that Act;

whichever is the higher value.

(4) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.”.

26 Amendment of section 28 of Cap. 23:12

With effect from the 1st January, 2010, section 28 (“Returns and payments of tax”)(1) of the Value Added Tax Act [*Chapter 23:12*] is amended by the deletion of “the fifth day” and the substitution of “the tenth day”.

27 Amendment of section 39 of Cap. 23:12

With effect from the 1st January, 2010, section 39 (“Penalty and interest for failure to pay tax when due”)(6) of the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion after “fails to comply with” of “section 13,”.

28 Repeal of section 51 of Cap. 23:12

With effect from the year of assessment beginning on the 1st January, 2010, section 51 of Value Added Tax Act [*Chapter 23:12*] is repealed.

PART IV

CUSTOMS AND EXCISE

29 Amendment of section 24 of Cap. 23:02

Section 24 (“Stationmaster to supply documents to proper officer”) of the Customs and Excise Act [*Chapter 23:02*] is amended—

- (a) in the title thereto by the deletion of “Stationmaster to supply documents to proper officer” and the substitution of “Submission of train manifests, etc. to proper officer”;
- (b) by the repeal of subsection (1) and the substitution of the following subsections—

“(1) In this section—

“responsible person” means, in relation to a train carrying uncustomed goods, the stationmaster or other person in charge of the railway station or other person in charge of the train, the representative of the shipping line that entrained the goods, or whoever it appears to the proper officer is the most appropriate person to comply with this section;

“shipping line” means a service for the shipment of goods or passengers by land, sea or air.

(1a) Upon the arrival at any port of any train carrying uncustomed goods, the responsible person shall submit to the proper officer—

- (a) a train manifest detailing the goods in each container entering Zimbabwe on the train; and
- (b) copies of all invoices, waybills or other documents relating to the goods conveyed by train and consigned to that station or required to be entered at that port.”;

- (c) in subsection (3) and the deletion of “The stationmaster or other person in charge of the railway station” and substitution of “The responsible person”;
- (d) in subsection (4) and the deletion of “the stationmaster or other person in charge of the railway station at a port” and substitution of “The responsible person at a port”;
- (e) in subsection (5) and the deletion of “stationmaster or other person in charge of the railway station at a port” and substitution of “responsible person at a port”;
- (f) in subsection (6) and the deletion of “stationmaster or other person in charge of the railway station” and substitution of “responsible person”.

30 Amendment of section 39 of Cap. 23:02

Section 39 (“Entry of goods to be made”) (2) of the Customs and Excise Act [*Chapter 23:02*] is amended by the deletion of “three months” and the substitution of “sixty days”.

31 Amendment of section 172BB of Cap. 23:02

Section 172BB (“Liability for and date of payment of excise duty on sales of second-hand motor vehicles, keeping of records and making of returns in respect thereof and refunds of overpayments”) (2) of the Customs and Excise Act [*Chapter 23:02*] is amended by the deletion of “the twentieth day” and the substitution of “the tenth day”.

PART V

REVENUE AUTHORITY

32 New section inserted in Cap. 23:11

The Revenue Authority Act [*Chapter 23:11*] is amended by the insertion of the following section after section 34D—

“34E Offence by officers of Authority

Any officer of the Authority who, being a person appointed for the due administration of, or in connection with the assessment and collection of any revenues levied under, this Act or any of the Acts specified in the First Schedule—

- (a) demands from any person an amount in excess of the authorised assessment of the revenue in question; or
- (b) withholds for his or her own use or otherwise any portion of the amount of revenue collected; or
- (c) renders a false return whether verbally or in writing of the amounts of revenue collected or received by him or her; or
- (d) defrauds any person, embezzles any money or otherwise uses his or her position so as to deal wrongfully either with the Authority, the Commissioner or any other individual; or
- (e) not being authorised under this Act or any of the Acts specified in the First Schedule to do so, collects or attempts to collect tax under any such Act; or
- (f) delays without justifiable cause to discharge his or her duties to assess or collect any revenues owed by

any member of the public, or to discharge any service he or she is required to render to any member of the public under this Act or any of the Acts specified in the First Schedule;

commits an offence and shall be liable on conviction to a fine not exceeding level ten or to imprisonment not exceeding two years, or both.”.

PART VI

MINES AND MINERALS

Substitution of Chapter VII of Finance Act [Chapter 23:04]

33 Substitution of Chapter VII of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2010, Chapter VII of the of the Finance Act [*Chapter 23:04*] is repealed and the following is substituted—

“CHAPTER VII

MINING ROYALTIES, DUTY AND FEES

36 Interpretation in Chapter VII

(1) In this Chapter—

- (a) “principal Act” means the Mines and Minerals Act [*Chapter 21:05*];
- (b) every expression has the same meaning it would have when used in the principal Act;
- (c) “financial institution” means—
 - (i) any banking institution registered or required to be registered in terms of the Banking Act [*Cap. 24:20*]; or
 - (ii) the Reserve Bank of Zimbabwe and any of its agents or subsidiaries, such as Fidelity Printers and Refiners (Private) Limited.

(2) The expression “this Act” when used in the principal Act shall be construed as including a reference to this Chapter.

37 Rates of mining royalties, duty and fees

For the purposes of the provisions of the principal Act specified in the Schedule the rates of royalties, duty and fees shall be as therein shown.

37A Collection of mining royalties

(1) With effect from the 1st January, 2010, and every subsequent year of assessment, the following persons shall, as agents for and on behalf of Commissioner-General of the Zimbabwe Revenue Authority, deduct royalty on the following minerals at source, based on the face value of the invoice therefor—

- (a) in respect of precious stones, precious metals (other than gold), base metals, industrial metals, coalbed methane and coal, the Minerals Marketing Corporation established in terms of the Minerals Marketing Corporation Act [*Chapter 21:04*], or any person authorised by the Minerals Marketing Corporation to export such minerals in its own right;
- (b) in respect of gold, the Minerals Marketing Corporation established in terms of the Minerals Marketing Corporation

Act [Chapter 21:04], any person authorised by the Minerals Marketing Corporation to export gold in its own right and every financial institution.

(2) Royalties deducted in terms of subsection (1) shall be remitted by the person deducting them to the Zimbabwe Revenue Authority no later than the tenth day of the month following the month in which the proceeds from which the royalties were deducted are received.

(3) If royalties are not remitted timeously in terms of subsection (2), interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the royalties as remain unpaid during the period beginning on the day next following the last day provided for its remittance and ending on the date the royalties are remitted in full:

Provided that in special circumstances the Commissioner-General of the Zimbabwe Revenue Authority may extend the time for the remittance of royalties without charging interest.

SCHEDULE TO CHAPTER VII (Section 37)

RATES OF MINING ROYALTIES, DUTY AND FEES

Provision of principal Act

| | |
|-------------------------------------|--|
| 1. Section 245 (<i>Royalties</i>) | <i>Percentage of gross fair market value of mineral produced</i> |
| (a) Precious stones | 10 |
| (b) Precious metals | 3,5 |
| (c) Base metals | 2 |
| (d) Industrial metals | 2 |
| (e) Coalbed methane | 2 |
| (f) Coal | 1 |

Provision of principal Act

| | | |
|--|--|------|
| 2. Section 275 (<i>Transfer duty</i>) | <i>Rate of duty or fee</i> | |
| | \$US 1 for each \$100 or part thereof of the consideration | |
| 3. Section 276 (<i>Fee for the registration of hypothecation of mining locations</i>): | | |
| (1) Hypothecations passed before Secretary— | | |
| <i>Amount secured</i> | | |
| <i>Exceeding</i> | <i>but not exceeding</i> | |
| US \$ | US \$ | |
| 0 | 20 | 0 20 |
| 20 | 40 | 0 30 |
| 40 | 60 | 0 50 |
| 60 | 100 | 0 75 |
| 100 | 200 | 1 00 |
| 200 | 300 | 1 50 |
| 300 | 400 | 2 00 |
| 400 | 600 | 2 50 |

| <i>Amount secured</i> | | |
|-----------------------|--|---------|
| <i>Exceeding</i> | <i>but not exceeding</i> | |
| US \$ | US \$ | |
| 600 | 800 | 3 00 |
| 800 | 1 000 | 4 00 |
| 1 000 | 1 200 | 5 00 |
| 1 200 | 1 400 | 6 00 |
| 1 400 | 1 600 | 7 00 |
| 1 600 | 1 800 | 8 00 |
| 1 800 | 2 000 | 9 00 |
| | and for every additional US \$200 or part thereof . . . | 0 50 |
| (2) | For the registration of every deed of hypothecation | 2 00 |
| 4. | Section 278 (<i>Fee for the registration of options on mining locations</i>) | |
| | A primary fee of | 2 00 |
| | and | |
| (a) | where consideration is given, for every \$100 or part thereof of the consideration | 1 00 |
| (b) | where no consideration is given | 2 00 |
| 5. | Section 280 (<i>Fee for the registration of tribute agreements</i>) . . | 2 00.”. |

Amendments to Mines and Minerals Act [Chapter 21:05]

34 Amendment of section 87 of Cap. 21:05

With effect from the 1st January, 2010, the Mines and Minerals Act [Chapter 21:05] is amended in section 87 (“Application for order”)(2)(a) by the deletion of “two cents per month” and the substitution of “one hundred United States dollars per month”.

35 Amendment of section 93 of Cap. 21:05

With effect from the 1st January, 2010, the Mines and Minerals Act [Chapter 21:05] is amended in section 93 (“Limitation of area of reservation”)(2)(c) by the deletion of “sixty-five thousand hectares” and the substitution of “twenty thousand hectares”.

36 Amendment of section 99 of Cap. 21:05

With effect from the 1st January, 2010, the Mines and Minerals Act [Chapter 21:05] is amended in section 99 (“Failure to submit programme”)(3) by the deletion of “eight cents per hectare” and the substitution of “one hundred United States dollars per hectare”.

37 Amendment of section 100 of Cap. 21:05

With effect from the 1st January, 2010, the Mines and Minerals Act [Chapter 21:05] is amended in section 100 (“Report by concession holder on work carried out”)(3) by the deletion of “two cents per hectare” and the substitution of “one hundred United States dollars per hectare”.

38 Amendment of section 113 of Cap. 21:05

With effect from the 1st January, 2010, the Mines and Minerals Act [Chapter 21:05] is amended in section 113 (“Disposal of deposits”)(c) and (d) by the deletion of “two cents for each hectare” and the substitution of “one hundred United States dollars for each hectare”.

39 Amendment section 244 of Cap. 21:05

With effect from the 1st January, 2010, section 244 (“Royalty”) of the Mines and Minerals Act [Chapter 21:05] is amended—

- (a) in subsection (3)—
 - (i) in paragraph (a) by the repeal of “two hundred dollars” and the substitution of “two hundred United States dollars”;
 - (ii) in paragraph (b) by the repeal of “two hundred dollars” and “three hundred dollars” and the substitution of “two hundred United States dollars” and “three hundred United States dollars” respectively;

40 Amendment section 245 of Cap. 21:05

With effect from the 1st January, 2010, section 245 (“Fixing of royalty”) of the Mines and Minerals Act [*Chapter 21:05*] is amended—

- (a) by the repeal of subsection (1) and the substitution of—
 - “(1) The rate of royalty payable in terms of section 244 shall be fixed by the House of Assembly in the Schedule to Chapter VII of the Finance Act [*Chapter 23:04*].”;
- (b) by the repeal of subsection (5) and the substitution of—
 - “(5) In fixing the rate of royalty payable in terms of subsection (1) the House of Assembly may fix different rates of royalty in respect of different minerals and mineral-bearing products.”.

41 Amendment section 251 of Cap. 21:05

With effect from the 1st January, 2010, section 251 (“Monthly returns and payment of royalty”) of the Mines and Minerals Act [*Chapter 21:05*] is amended—

- (a) in subsection (1)—
 - (i) by the deletion of “mining commissioner” where it occurs for the first time and the substitution of “Commissioner-General of the Zimbabwe Revenue Authority, or an officer of the Authority appointed for the purpose by the Commissioner-General”;
 - (ii) by the deletion of “mining commissioner” where it occurs for the second time and the substitution of “Commissioner-General or officer”;
- (b) in subsection (2)—
 - (i) by the deletion of “mining commissioner” where it occurs for the first time and the substitution of “Commissioner-General of the Zimbabwe Revenue Authority, or an officer of the Authority appointed for the purpose by the Commissioner-General”;
 - (ii) by the deletion of “mining commissioner” where it occurs for the second time and the substitution of “Commissioner-General or officer”;

42 Amendment section 252 of Cap. 21:05

With effect from the 1st January, 2010, section 252 (“Inspection of books and records, etc.”) of the Mines and Minerals Act [*Chapter 21:05*] is amended by the deletion of “mining commissioner” and the substitution of “Commissioner-General of the Zimbabwe Revenue Authority”.

43 Amendment section 253 of Cap. 21:05

With effect from the 1st January, 2010, section 253 (“Prohibition of disposal of minerals when royalty or returns, etc., have not been lodged”) of the Mines and Minerals Act [*Chapter 21:05*] is amended—

- (a) in subsection (1)—
 - (i) by the deletion of “mining commissioner” where it occurs for the first

- time and the substitution of “Commissioner-General of the Zimbabwe Revenue Authority, or an officer of the Authority appointed for the purpose by the Commissioner-General”;
- (ii) by the deletion of “mining commissioner” where it occurs for the second time and the substitution of “Commissioner-General or officer”;
- (b) in subsection (2)—
- (i) by the deletion of “mining commissioner” where it occurs for the first time and the substitution of “Commissioner-General of the Zimbabwe Revenue Authority, or an officer of the Authority appointed for the purpose by the Commissioner-General”;
- (ii) by the deletion of “mining commissioner” where it occurs for the second time and the substitution of “Commissioner-General or officer”.

44 Repeal of General Notices 381 of 2003 and 16 of 2004

For the avoidance of doubt it is declared that, with effect from the 1st January, 2010, General Notices 381 of 2003 (“Fixing of the Rate of Royalty”, published in the *Gazette Extraordinary* dated the 29th August, 2003) and 16 of 2004 (“Collection of Royalty on Minerals”, published in the *Gazette Extraordinary* dated the 9th January, 2004), are repealed.

PART VII

VALIDATION

45 Validation of SI 135C of 2008

Notwithstanding any enactment or ruling to the contrary, the Exchange Control (Exchange Rate) (Amendment) Direction, 2008 (No. 5), published in Statutory Instrument 135C of 2008, is hereby validated, and is deemed to have come into force on the 1st May, 2008.

SCHEDULE (Section 22)

AMENDMENTS OF SPECIFIED PERIODS IN CAP. 23:06

| <i>Provision</i> | <i>Extent of amendment</i> |
|--|---|
| Paragraphs 2(1) (b), 3(1)(a) and 4 of the Fifteenth Schedule | By the deletion of “fifteen days” and the substitution of “ten days”. |
| Paragraphs 2(1), 3(1) and 4 of the Seventeenth Schedule | By the deletion of “fifteen days” and the substitution of “ten days”. |
| Paragraph 2 of the Eighteenth Schedule | By the deletion of “fifteen days” and the substitution of “ten days”. |
| Paragraphs 2(1), 3(1) and 4 of the Nineteenth Schedule | By the deletion of “fifteen days” and the substitution of “ten days”. |
| Paragraphs 2(1), 3(1) and 4 of the Twenty-First Schedule | By the deletion of “the fifteenth day” and the substitution of “the tenth day”. |
| Paragraphs 3 of the Twenty-Fifth Schedule | By the deletion of “the fifteenth day” and the substitution of “the tenth day”. |
| Paragraphs 3 of the Thirtieth Schedule | By the deletion of “the fifteenth day” and the substitution of “the tenth day”. |
| Paragraphs 2(1) and 3 of the Thirty-Second Schedule | By the deletion of “the last day” and the substitution of “the tenth day”. |
| Paragraphs 2(1) and 3(1) of the Thirty-Third Schedule | By the deletion of “fifteen days” and the substitution of “ten days”. |