

Overview

Zimbabwe generally levies income tax on companies and individuals under the Income Tax Act [*Chapter 23:06*] in respect of income earned from sources within or deemed to be within Zimbabwe. A Capital Gains tax is also levied on gains made on sales or disposals of specified assets from a source within Zimbabwe.

The Income Tax Act also imposes withholding taxes on resident shareholders' dividends, non-resident shareholders' dividends, non-residents' fees, non-residents' remittances, non-residents' royalties, non-residents' interest, automated financial transactions, intermediated money transfers, and non-executive directors' fees. Presumptive taxes are also levied under the Income Tax Act in respect of income earned by small to medium enterprises. All taxes levied under the Income Tax Act are, however, subject to the provisions of applicable double taxation agreements.

There are no provincial taxes payable in Zimbabwe.

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Legal system

The Zimbabwean operative legal system is the Roman Dutch common law with strains of English law, particularly in the field of commercial law. Taxes are, however, exclusively charged in terms of the relevant statutes. Zimbabwe's main tax statutes are the Income Tax Act [*Chapter 23:06*], the Capital Gains Tax Act [*Chapter 23:01*], the Value Added Tax Act [*Chapter 23:12*], the Customs and Excise Act [*Chapter 23:02*] and the Stamp Duties Act [*Chapter 23:09*]. The charging statute is the Finance Act [*Chapter 23:04*], which stipulates the rates at which taxes are levied.

Taxation authorities

The Zimbabwean tax system is administered by the Zimbabwe Revenue Authority. The authority was established

pursuant to the Revenue Authority Act [*Chapter 23:11*] with the mandate of acting as the agent of the State in assessing, collecting and enforcing payment of all tax revenue.

Business vehicles

Residents or non-residents may establish their businesses in Zimbabwe or maintain a business presence through a foreign entity. Businesses can be carried out in Zimbabwe through a sole proprietorship, a partnership, a private limited company, a public limited company, a private business corporation, a foreign company and a company limited by guarantee. It is also possible to use the common law device of a trust to carry out business.

Partnerships

A partnership is a contractual arrangement by individuals or entities to carry out a business venture. It is generally not considered to have a separate legal persona for tax purposes as the Income Tax Act specifically excludes partnerships from the definition of a person. However, the Value Added Tax Act makes an exception as it does not exclude a partnership from the definition of a person.

The legal personalities comprising the partnership, that is, the partners, are subject to taxation under the Income Tax Act. Partners are liable for taxation in respect of their proportionate shares in the income of the partnership. Joint ventures, if not incorporated as separate companies are regarded as partnerships and thus the joint venture participants are liable for taxation in respect of their shares. While partners are required to submit a joint return in respect of income or losses generated by the partnership, they still bear individual liability for income tax. Thus, partnerships in Zimbabwe are fiscal transparent with no separate legal persona of their own, either generally or in income tax law.

Only partnership income from a source within Zimbabwe is taxable. For income to be regarded as originating from a source within Zimbabwe, partners have to render their services within the country. Non-resident partners' income is also deemed to be from a source within the country where the partners do not render services outside Zimbabwe. The geographical location from which payment originates is irrelevant for the purposes of establishing the source of income. However, where income is earned from services rendered outside of Zimbabwe but used in carrying out a trade within Zimbabwe, the income is deemed to be from a source within Zimbabwe.

Companies

Incorporating companies in Zimbabwe normally takes a maximum of seven (7) days provided that the company's documents are in order. Companies may either be limited by shares or by guarantee. In either case, the company is a separate legal entity liable for its own taxation in respect of its income. However, companies are required to withhold tax on dividends due to shareholders. Thus, for shareholders, tax is effectively charged twice – first on the company's income and secondly on the declared dividend. Despite bearing this double tax burden, shareholders cannot transfer a Company's losses to reduce their own taxes.

Zimbabwean law does not impose capital requirements for the formation of companies but large indigenous Commercial Banks and all foreign banks are required to have met the Reserve Bank of Zimbabwe minimum threshold of US\$30 million by December 31, 2020. Small commercial banks, Merchant Banks, Building Societies, Development Banks, Finance and Discount Houses should have met the minimum threshold of US\$20 million by the same date. Further, public limited companies are required to have a minimum subscribed capital of ZWL\$10 million.

Private Business Corporation

Zimbabwe also allows the registration of a special business vehicle referred to as a Private Business Corporation (PBC) in the Companies Registry. Registration takes a minimum of seven (7) days. A PBC should have at least one member but no more than twenty. Membership is limited to individuals (natural persons). Private Business Corporations are limited by interests, which are held by members. They are, therefore, separate legal personalities which incur their own tax liability in terms of the Income Tax Act [*Chapter 23:04*] in much the same way as companies do. Non-Zimbabweans can be members of Private Business Corporations on the condition that one Zimbabwean is a member. A single member can run a PBC but he/she should be a Zimbabwean.

Micro-enterprises, Small enterprises or Medium enterprises (MSMEs)

MSMEs are not a separate form of business vehicle but refer to the collective of enterprises run by one person or

more in certain sectors (Agriculture, Arts, Entertainment Culture, Education, Sport, Mining and Quarrying, Manufacturing, Construction, Energy, Financial Services, Transport, Retail, Tourism and Hospitality and Services). These businesses may be small companies, PBCs or sole traders. In addition, the Small and Medium Enterprises Act [Chapter 24:12] provides certain revenue thresholds and formulae for businesses to be considered MSMEs. Zimbabwean law does not provide for any specific tax provisions for these businesses except a presumptive tax payable where the businesses do not keep proper books of accounting. Where they keep such books, they are regarded as tax compliant and should pay income tax. Transport operators, hair-salon operators, small scale miners among other small businesses are expected to pay tax.

Co-operatives

It is also possible to carry out business under co-operatives, which are registered in terms of the Co-operative Societies Act [Chapter 24:05]. Members should either be Zimbabwean citizens or foreigners who are ordinarily resident in Zimbabwe. This makes the co-operative form largely of no use for foreign investment. Co-operatives are registered with the Zimbabwean Revenue Authority and also pay taxes in the same manner as companies.

Trusts

In Zimbabwe, trusts are established in terms of the common law. A trust is a legal arrangement by which one person administers property for another or for some impersonal object. It is formed through a Trust Deed which may be (but does not have to be) registered with the Deeds Registry office. Trust Deeds are, however, generally registered as a matter of practice. Trusts are taxed at the same rate as companies before distribution of the income among the beneficiaries.

Foreign Corporations

Foreign corporations with a permanent establishment are liable for income tax in Zimbabwe pursuant to the Income Tax Act. However, where there is an applicable double taxation agreement, its provisions supersede those of the Zimbabwean statutes. Zimbabwean tax treaties generally permit source country taxation of a foreign corporation that has a permanent establishment in the country. Such establishment can be an office, place of management, construction site etc. Where a foreign corporation has a permanent establishment in Zimbabwe, the establishment is treated as a taxable entity and should be registered for tax purposes with the Zimbabwe Revenue Authority.

Under Zimbabwe's tax treaties, the Contracting States may charge withholding tax on dividends, fees, royalties and remittances in accordance with the rates specified in the relevant treaty. Where there is no treaty, withholding tax is payable at 10% for dividends from listed securities, while 15% is the operative rate for any other dividend. The Zimbabwean Finance Act [Chapter 23:04] also imposes a 15% withholding tax on non-residents' fees, royalties, and remittances.

Foreign companies' branches in Zimbabwe are not liable for withholding tax on dividends paid to its foreign head office unless a provision for such deduction is made in a tax treaty. Where the branch's fees, royalties or remittances are paid to its foreign head office, no withholding tax arises. However, branches are considered as resident taxpayers and will be liable for income tax in the country. Further, a 15% withholding tax is imposed on payments made in respect of head office charges.

Financing a company subsidiary

Equity financing

Contributions for shares

Equity financing in Zimbabwe entails allotment of shares for which subscribers pay in cash or cash equivalents. The allotment effectively increases the balance in the company's "issued share capital" account.

Share Premiums

Where companies issue shares at a price above their par value, the excess appears in the share premium account rather than the issued share capital account. Share premium may be applied in paying up unissued shares for allotment to members, directors or employees, or to the trustees of such person, as fully paid bonus shares. A

company may also apply its share premium account in writing off preliminary expenses of the company or expenses of, or commission paid or discount allowed on any issue of shares or debentures of the company.

Capital Gains Tax is chargeable for any sales of shares above their par value and the Revenue Authority is empowered to determine the fair market price for purposes of tax assessment.

Bonus Issues

A Zimbabwean corporation (other than a public corporation) can make distributions of its paid-up capital to non-resident shareholders without incurring income tax. These bonus shares are only issued out of undistributed profits. Where shares are issued in a scrip dividend arrangement, they are subject to taxation under the Income Tax Act. Bonus issues from undistributed profits are not taxed.

Debt financing

Withholding tax implications

In Zimbabwe, companies are not liable for any tax in respect of borrowing and repaying the principal amounts borrowed. However, a withholding tax of 15% is levied on interest where such interest is paid by a financial institution to a resident taxpayer. No tax is payable on interest on inbound loans provided by non-residents.

Thin capitalization

The Income Tax Act provides for thin capitalization rules that apply to debt financing. These rules restrict the deductibility of interest paid or payable by a corporation resident in Zimbabwe to non-resident shareholders where the ratio of interest-bearing debt to equity exceeds 3 to 1. To the extent that debt exceeds this ratio, there will be a proportionate denial of the interest deduction and any payment of interest that is subject to restriction under these rules is deemed to be a payment of a dividend for the purpose of withholding tax obligations.

Stamp tax

No stamp duty is payable in respect of either debt or equity financing.

Corporate income tax

Income tax rate

With effect from January 1, 2020, the income tax rate for companies or trusts is 24%.

No income tax is charged on the income of a person engaged in an approved build, own, operate and transfer (BOOT) or a build, operate, and transfer (BOT) arrangement in the first five years of the arrangement. In the next five years, the tax is charged at a rate of 15% of income. The same applies to industrial park developers – income tax is 0% in the first five years but rises to 24% after the fifth year of operations. The concessionary rate of 20% is applicable to manufacturing companies, which export more than 30% but less than 41% of their output. An even lower rate of 17.5% is charged on the income of manufacturers, which export more than 41% but less than 51% of their income. Manufacturers exporting more than 51% of their output are liable for income tax at the rate of 15% of taxable income. Taxpayers holding special mining leases are taxed at the rate of 15%.

Capital gains

Zimbabwe has a special Capital Gains Tax levied pursuant to the Capital Gains Tax Act [*Chapter 23:01*]. This is a tax charged on gains from a source within Zimbabwe upon the sale or deemed disposition of a specified asset. Specified assets are defined as rights to property registered in terms of certain specified statutes, immovable property situated in Zimbabwe or any marketable security. Marketable securities are bonds capable of being sold in a share market exchange, shares, debentures, stock or any right possessed due to a person's participation in any unit trust.

Non-residents are taxed on gains arising from disposition of specified assets from a source within Zimbabwe. Gains on immovable property are determined based on the location of the property, while gains on other specified assets are determined based on the residency of the person that is disposing of the property. Non-residents may, however, be exempted under double taxation agreements.

Branch tax

The Income Tax Act does not provide for branch profit tax.

Computation of taxable income

Taxable base

A taxpayer is subject to tax on taxable income from carrying out its business. Taxable income is determined by subtracting amounts not subject to taxation and allowable deductions from total receipts and accruals.

Deductions

A taxpayer is generally permitted to deduct its current expenses in computing business income. Generally, capital expenses are not deductible. Any expenditure not incurred for purposes of trade is a disallowable expenditure. However, the Income Tax Act provides for capital allowances for scrapping, special initial allowance and wear and tear. Capital allowances are the tax law equivalent of depreciation. Interest incurred for the purpose of earning income from a business or property (subject to the thin capitalization) is also deductible.

Income tax reporting

Zimbabwean resident corporations and non-resident corporations that carry on business in the country are required to file an annual income tax return. The Commissioner of the Revenue Authority should give notice to the persons required to furnish returns for assessment and these persons shall submit within thirty (30) days after the date of the notice. The Revenue Authority imposes a civil fine for late filing of returns.

Partnerships should file a joint tax return showing the joint return of income of partners and supported by accounts necessary to show the financial position of the partnership. Partners with income from other sources should submit a return of that income, in addition to the joint return.

Late payments of taxes attract interest at the rate of 10% per annum on the unpaid tax after it becomes due and a penalty of up to 100% of tax payable.

Cross-border payments

Transfer pricing

Zimbabwe's transfer pricing regime generally conforms to the arm's length principle of the Organisation for Economic Co-operation and Development (OECD) despite not being a member country. The country introduced transfer pricing legislation in 2016 to augment the old rules, which governed transfer-pricing issues in transactions involving residents. Under the legislation, all controlled transactions must be in accordance with the arm's length principle. The legislation references both OECD and United Nations (UN) transfer pricing legislation. The Commissioner of the Revenue Authority is empowered by various provisions in the Income Tax Act to adjust the taxable income of a taxpayer where transactions flout transfer pricing rules. The Commissioner may also re-characterize the source of income and the nature of payments as revenue or capital.

The arm's length remuneration of a controlled transaction is determined by applying the most appropriate transfer pricing method in the circumstances of the case. The five approved transfer pricing methods in the Income Tax Act are the Comparable Uncontrolled Price Method; the Resale Price Method; the Cost Plus Method; The Transactional Net Margin Method and the Transactional Profit Split Method.

Transfer pricing adjustments may have an impact on other taxes such as VAT, excise duty, stamp duty and customs duty.

Withholding tax on passive income

Payments made by a resident of Zimbabwe to a non-resident in respect of remittances, royalties, dividends, management or administration fees are subject to tax at the rate of 15%. This rate may, however, be reduced under relevant double taxation agreements.

Withholding tax on services fees

Where any person makes a payment to a non-resident of Zimbabwe in respect of services performed in Zimbabwe, the payer must deduct and withhold 15% of the gross payment on account of income tax. The withholding tax must be remitted to the Zimbabwe Revenue Authority within 10 days of payment of fees or any further period approved by the Commissioner. Failure to withhold and remit attracts a 100% penalty and interest of 10% on the tax due.

Payroll taxes

Pay As You Earn (PAYE)

Employers are mandated to withhold PAYE from employees whose income is above the zero rate tax bracket. This must be remitted to the Revenue Authority by the 10th day of the month following the month of deduction. Failure to remit will attract a penalty of 100% and interest on the tax due of 10% per annum. Employers are also expected to maintain records of all remuneration paid or payable and employees' tax withheld. Tax is calculated on a sliding scale provided in the Finance Act [*Chapter 23:04*]. An additional AIDS Levy of 3% of total PAYE due should also be withheld.

National Social Security Authority (NSSA) Contributions

NSSA contributions are social security payments made in terms of the National Social Security Act [*Chapter 17:04*]. Employers are required to register with NSSA within 30 days of commencing business. Contributions are remitted to NSSA by the 10th day of the month following the deduction with a surcharge imposed on late payments. Contributions to be deducted by the employer are 3.5% of the employee's insurable earnings. The employer also contributes a further 3.5% of pensionable earnings to make a total of 7%. If 3.5% of pensionable earnings exceeds ZW\$700, then the maximum amount deductible is ZW\$700.

Membership to the NSSA scheme is compulsory. Workers who are exempt from membership are Non Zimbabwean citizens who are not ordinarily resident in Zimbabwe, Diplomatic Staff who are non-Zimbabwean and persons employed as domestic workers.

The contributions for NSSA are deductible from the employees' taxable income for purposes of determining PAYE, and from the employer's income for purposes of ascertaining corporate tax.

Private Pension Schemes

Private Pension Schemes are contractual in nature and, therefore, not a statutory obligation. However, some schemes are in collective bargaining agreements, which are binding on employers in a particular industry or sector. Where the obligation to contribute to pension schemes is contained in collective bargaining agreements, the contributions are mandatory.

Employers are allowed to deduct, from their taxable income, contributions up to a maximum of ZWL\$5,400 in the year of assessment.

Indirect taxes

Value Added Tax

Value Added Tax is a consumption based tax imposed on the supply of taxable goods or services. VAT is levied on transactions rather than directly on income or profit. The tax is levied pursuant to the Value Added Tax Act [*Chapter 23:12*]. The VAT standard rate is currently 14.5% but certain goods are zero-rated, which means a VAT rate of 0% is charged and other goods are specifically exempted from VAT. Zero rated goods include exports of goods from Zimbabwe to an address in an export country and certain basic foodstuffs such as sugar. Supplies like financial services, provision of electricity for domestic use, provision of piped water for domestic use and rates charged by local authorities are exempt from VAT payment.

Traders with taxable supplies exceeding or that are likely to exceed ZWL\$1,000,000 in a period of 12 months are required to be registered as Registered Operators. Registered Operators are required to issue tax invoices within thirty days of supplies and remit the VAT on or before the 25th day of the month immediately after the month in which

VAT was collected. Tax liability to the Revenue Authority is the difference between Output tax (VAT charged by the operator on its sales) and Input tax (VAT charged on the operator on purchases).

Stamp Duties

Stamp duties are payable in respect of brokers' notes executed after sales of marketable securities, sales of off-market share instruments, registration of acquisition of immovable property and registration of bonds.

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