The Minister of Finance announced the Zimbabwe 2022 National Budget on the 25th of November 2021 and proposed changes to Witholding Taxes. This article seeks to summarise the changes made and to discuss the implications of the changes.

What has changed?

a. *Repeal of the definition of "contract" and the substitution of the definition of contract to define the applicable thresholds in USD.*
   - The minimum threshold for this law to apply is now stated in both ZWD and USD.
   - The new thresholds are ZWL 130,000 and USD 1,000
   - The new definition does not seem to put a time period over which this threshold applies

b. *Increase in the percentage of taxes to be withheld from 10% to 30%*

Implications of the Changes?

- Foreign denominated thresholds –
  - Confidence in the Local Currency

    The denomination of the thresholds in both ZWL and in USD signals that the economy is significantly operating in USD or indexing its transactions in USD, to a point that laws are increasing capturing the specific USD implications rather than just stating the local currency implication and allowing conversion from the currency in which transaction will have occurred. Furthermore, this stating of amounts in both USD and ZWL signals or confirms inflation on the local currency, as the local currency amounts must be changed from time to time. In the process a disparity in the foreign currency exchange rate system and lack of confidence in the local currency is inadvertently signalled.

  - Legislating for temporary challenges

    The mono or dual or multi-currency system challenges faced by Zimbabwe, are protracted but may not be permanent. The changes to the Taxes Act and other Acts in reaction to legislative changes around currencies will result in "bubblegum" legislation that is likely self-contradictory and often unnecessarily complex to interpret. These are not attributes of a good tax system.

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- Increase in withholding rate threefold to 30% –

a. Compliance –

This change is likely intended to increase compliance by scaring the unregistered to register in order to avoid the punitive implications.

b. Rate Jump threefold –

The increase threefold signals that either the old 10% was always grossly unfair to the state or the new 30% is a by design meant to punish for compliance. The intention to punish is not a good way to improve compliance and it is a minus when it comes to attributes of a good tax system.

c. Tax Refunds –

The tax rate in Zimbabwe is effectively 24.72% and therefore the withheld taxes will be more than what will finally be taxed anyway. This means that ordinarily all withheld taxes at 30% will result in refunds for transactions that are taxable at 24.72% and below. While this is meant to force compliance, it creates an administrative burden and also results in significant value erosion to taxpayer funds which could have been put to better use by the taxpayer with a compounding effect on the working capital cycles, generating significantly more income and resulting in significantly more taxes. Increasing the rate from 10% is therefore potentially self-defeating.

d. Punitive Change –

The 24.72% is on taxable income while the 30% is on topline. This significant difference is illustrated below:

Assume a sale transaction of water $1,000 which had been purchased for $600 for resale. This means that the business is operating on a gross profit margin of 40% which is normal for retailers

	Withholding Tax@ 10%	*Withholding Tax@ 30%*
Sale	*1,000*	*1,000*
Allowable Deduction	*600*	*600*
Taxable Income	*400*	*400*
Tax Payable @ 24.72%	*99*	*99*
Withholding Tax	*100*	*300*
(Refund)/Tax Payable	*(1)*	*(201)*

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Punitive Cashflow Implication – This illustrative example shows that the taxpayer suffers 75% of the profit of $400 upfront only to be refunded 50% of that 75% at year end. This militates against ease of doing business.

While this rate increase may improve compliance, it may have the unintended consequences of:

- Choking some businesses since not having a tax clearance in a lot of cases is because of ZIMRA not being able to issue them out to willing taxpayers. This therefore is akin to killing the goose that lays the eggs.
- Signalling a militant anti-taxpayer sentiment. This rate changes may see increasing non-compliance as businesses may go evasion and risk it all rather than being a part of a high taxes system that has an anti-taxpayer stance. This stance is opposed to viewing taxpayers as partners or clients. So while there could be an increase in compliance amongst those already captured by the tax system, there can be an inadvertently growing resentment by citizenry to view taxes as their moral duty.

e. Inflation –

While there is a refund for all excesses collected upfront, this refund process is an annual process. For the ZWL transactions the amounts are likely to have eroded in value, just going by the current conservative official inflation rate. Furthermore, the cashflows of the business will have been severely crippled.

Tax Clearance Certificates Challenges

The Section 80 withholding taxes are particularly premised on having a valid tax clearance certificate. In Zimbabwe there is a perennial administrative challenge of obtaining tax clearance certificates even for the tax compliant taxpayers. Some of the common reasons for difficulty in obtaining tax clearance certificates are:

- A ZIMRA Information Technology system that is perennially under development and has technical glitches. It is therefore likely to continue into the foreseeable future and 2022 will likely see the same challenges of old in which taxpayers are granted short term or temporary tax clearance certificates which have to be renewed periodically. This means a high probability of numerous taxpayers being affected by the new section 80 yet they are up to date with their taxes.
- ZIMRA is currently rolling out a fiscalisation program that is also failing on many fronts as either the gadgets are not available or those that were sold are now obsolete before taxpayers have properly used them or some other technical challenge. The current legislative changes seek to tie this yet-to-be-successful fiscalisation program to tax clearances and therefore it is more likely than not most

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taxpayers will be strictly non-compliant in 2022, unless granted some relief or unless ZIMRA turns a blind eye to the fiscalisation issues.

- Other administrative challenges including disputes due to lack of clarity to taxpayers on how assessments are done.
- Other administrative challenges such as misallocation of compliant taxpayers payments to wrong accounts i.e. overpaying one tax head and underpaying another.

Given the foregoing, this means SMEs and big companies alike will be severely affected as they will first find it difficult to get a tax clearance certificate and then be affected by this s80 change, whether or not they have their tax affairs in order.

This legislation therefore inadvertently pushes businesses to be informal and evasive rather than to force compliance and grow taxpayer base.

This legislation is also not making it easier to do business in Zimbabwe as it compounds to the already high transaction taxes (IMTT, Bank charges and transaction charges).

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