

Name: Alert ID: TMML2024034876313 Former Zimra revenue officer Mr Kennedy Nyatoti has made history by becoming the first person to lose assets under Zimbabwe's civil-based asset forfeiture law when his US\$150 000 mansion and US\$10 000 car were forfeited to the State after he and his divorced wife failed to explain how they could afford these. Mr Nyatoti's lawful income between October 2014 and May 2018 was US\$44 907, and it was established that he neither had private income nor was he running a private business. So he failed to explain how he managed to build the US\$150 000 mansion in Mabvazuva suburb in Harare and buy a Honda CRV valued at US\$10 000. Zimra's lifestyle audit team discovered the mansion and car, after perusing the claims made during the divorce proceedings between Mr Nyatoti and his wife. Investigations established Mr Nyatoti never ran a legitimate business during the period in question, neither did he prove any payment of income tax regarding the funds needed to build the house. A court application was made for civil forfeiture in terms of the amended Money Laundering and Proceeds of Crime Act and the High Court ordered forfeiture of the mansion and the car. Previously, the State could only apply for forfeiture after a conviction for a corruption-related offence. However, the new law now allows the State to apply for forfeiture under civil rules even without instituting criminal proceedings. The main difference is that in civil cases a party only has to make a case on the balance of probabilities, but in a criminal case the rule is proof beyond reasonable doubt. So even if corruption was probable, but not proved, under the old rules the person kept the assets. Under the new law they can lose these. If one fails to justify his or her wealth as required by law, the State can successfully forfeit the unexplained wealth. Prosecutor General Mr Kumbirai Hodzi hailed the court's decision saying processes were now underway to transfer ownership of the house and the car to the State. Mr Hodzi said the new civil forfeiture law was a more effective in recovering funds lost through corruption or fraud. Mr Nyatoti's woes mounted when he parted ways with his wife. The divorce proceedings exposed Mr Nyatoti as someone living an expensive lifestyle well beyond his earnings. Both Mr Nyatoti and his wife, Ms Tatenda Chisadza, were taken to court after failing to explain how they managed to build the property in Harare's Mabvazuva suburb when his earnings during the period under review only amounted to US\$44 900. Investigations by Zimra also revealed that besides constructing a luxurious house, Mr Nyatoti allegedly paid lobola amounting to US\$10 000 in 2016 before taking his family on a trip to China at a cost of US\$15 000 in November 2017. Principal Public Prosecutor Mr Kelvin Mufute said he was satisfied that the couple's identified property constitutes proceeds of crime and was, therefore, tainted. Mr Mufute further said Mr Nyatoti acquired a Honda CRV valued at US\$6 000 which he registered under Ms Chisadza's name, a Nissan Skyline valued at US\$4 000 for his sister, built a house worth US\$150 000 in Mabvazuva, Harare, and bought a Honda Fit registered under his mother's name. The court agreed that the assets could not have been acquired under the known income of the couple. Buttressing the State's case, Zimra's loss control officer Mr Blessing Majoni submitted that his investigations had established that Nyatoti abused his office and obtained the funds through corrupt means, adding he even tried to hide behind his sister, Portia, in a bid to justify how he acquired his wealth. But Portia could not have had the money either. Mr Majoni said Nyatoti lied about the amounts spent on vehicle imports, which was later verified by Zimra.