

THE INCOME TAX (AMENDMENT) ACT, 1967

No. 20



of 1967

AN ACT TO AMEND INCOME TAX (CONSOLIDATION) PROCLAMATION, 1959

Date of Assent : 14th September, 1967.

Date of Commencement : 15th September, 1967.

ENACTED by the Parliament of Botswana.

Short Title and Application

1. This Act may be cited as the Income Tax (Amendment) Act, 1967, and shall be deemed to have come into operation in respect of the year of assessment ended the 30th June, 1967.

Amendment of Section 13 of Proclamation No. 81 of 1959

2. Section 13 of the Income Tax (Consolidation) Proclamation, 1959 (hereinafter referred to as the principal law) is amended in subsection (1) by the deletion of paragraphs (c), (d) and ((dd)) and the substitution of —

“(c) such sum as the Collector may think just and reasonable as representing the amount by which the value of any industrial buildings, machinery, implements, utensils and articles used by the taxpayer for the purposes of his trade has been diminished by reason of wear and tear during the year of assessment :

Provided that —

- (i) where a deduction has been allowed under the provisions of paragraph (b), the Collector shall take into consideration the sum allowed under that paragraph in determining the sum to be allowed under this paragraph :
- (ii) no allowance shall be made for the depreciation of buildings other than buildings of the nature described in this paragraph, and no allowance shall be made for the depreciation of structures or works of a permanent nature ;

(iii) the value of any machinery or plant used by the taxpayer for the purposes of his trade shall, for the purposes of this paragraph, be deemed to be reduced by the amount of any allowance made under paragraphs (d) or (da) but shall not be deemed to be reduced by any allowance made under paragraph (db);

(d) an allowance to be known as a new machinery initial allowance, which shall be made in respect of new or unused machinery or plant brought into use by the taxpayer for the purposes of his trade during the year of assessment and used directly in the process of manufacture, and shall be equal to 20 *per centum* of the cost to him of such machinery or plant:

Provided that any allowance made under this paragraph shall be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);

(da) an allowance to be known as the industrial buildings initial allowance, which shall be given in respect of new industrial buildings or improvements to industrial buildings brought into use by the taxpayer for the purposes of his trade during the year of assessment, and shall be equal to 10 *per centum* of the cost to him of such buildings or improvements:

Provided that any allowance made under this paragraph shall be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);

(db) an allowance to be known as a new machinery investment allowance, which shall be given in respect of new or unused machinery or plant brought into use by the taxpayer during the year of assessment and used directly in the process of manufacture, and shall be equal to 25 *per centum* of the cost to him of such machinery or plant:

Provided that any allowance made under this paragraph shall not be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);”.

Amendment of Section 24 of Proclamation No. 81 of 1959

3. Section 24 of the principal law is amended —

(a) by the deletion of subsection (1) and the substitution of —

“(1) Where the Collector is satisfied that, in respect of any period for which the accounts of a private company incorporated or registered under any law in force in Botswana have been made up, the amounts distributed as dividends prior to the end of the twelve months after the date to which such accounts have been made up are less than the total of any investment income plus 50 *per centum* of the earned income of the company ascertained in accordance with the provisions of this Proclamation for that period, he may, after taking into account losses previously incurred, by notice in writing to the public officer of the company,

order that the undistributed portion of such total of any investment income plus 50 *per centum* of the earned income of the company for that period shall be deemed to have been distributed as dividends amongst the shareholders as at the end of the sixth month after the date to which such accounts have been made up and thereupon the proportionate share thereof of each shareholder shall be included in the taxable income of such shareholder for the purposes of this Proclamation:

Provided that —

- (a) where the Collector is satisfied that in consequence of drought, flood or other similar unforeseen circumstances abnormal book debts have been reasonably accumulated, he may extend the abovementioned period of six months for such period as he may consider necessary to enable the company to reduce its book debts to a normal figure having regard to the interest of the community and the nature of the business of the company:
 - (b) where the company has agreed in writing with the Collector to the expenditure by a date fixed in the agreement of a sum to be invested in the development of industry, commerce and agriculture, and where such expenditure has been approved by the Minister for the time being responsible for industry, commerce or agriculture, as the case may be, the Collector may deem such expenditure to be a distribution of dividends for the purposes of this section and such sum shall not be included in the taxable income of the shareholder.”.
- (b) by the renumbering of subsection (10) as subsection (6).

Amendment of Section 31 of Proclamation No. 81 of 1959

4. Section 31 of the principal law is amended by the deletion of paragraph (a) of subsection (1) and the substitution of —

“(a) The Collector shall annually give public notice that all persons liable to taxation under the provisions of this Proclamation, whether personally or in a representative capacity, are required to furnish within thirty days after the date of such notice, returns for the assessment of tax:

Provided that any person who is prevented by absence, sickness or other reasonable cause from furnishing any such return may, within the time prescribed in this subsection or within any extension of time allowed by the Collector, apply to the Collector for an extension or further extensions, within which to make any such return and the Collector may allow such extension or further extension or further extension as the case may be, not exceeding 30 days, as may seem to him just.

(aa) Every application made in terms of the proviso to paragraph (a) shall be accompanied by a fee of R2.”.

Amendment of Section 51 of Proclamation No. 81 of 1959

5. The principal law is amended in section 51 by the deletion of paragraph (e) and the substitution of —

“(e) any company which makes default in appointing a public officer or appointing a place for the service or delivery of notices in accordance with this Proclamation, or in keeping the office of a public officer constantly filled, or in maintaining a place for the service or delivery of notices, or which fails to notify to the Collector any change of public officer or of the place for the service or delivery of notices, shall be liable to pay an amount of R2.00 for every day during which the default continues and this amount shall be charged as tax payable by the company”.

Addition of Section 71 to Proclamation No. 81 of 1959

6. The principal law is amended by the addition of the following section —

“Registration of Employers

71. (1) Every person who is an employer shall apply to the Collector, in such form as the Collector may prescribe, for registration as an employer —

(a) in the case of a person who is an employer on the 1st November, 1967, not later than the 13th November, 1967; and

(b) in the case of a person who becomes an employer after the 1st November, 1967, within fourteen days of becoming an employer;

or in either such case within such further period as the Collector may approve.

(2) Every person who has applied for registration under subsection (1) shall, within fourteen days after changing his address or ceasing to be an employer, notify the Collector in writing of his new address or of the fact of his having ceased to be an employer, as the case may be.

(3) Any person who fails or neglects to apply to the Collector for registration as an employer as required by subsection (1), or having so applied fails or neglects to notify the Collector of any change of address or the fact of his having ceased to be an employer as required by subsection (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding R400 or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

(4) For the purposes of this section “employer” means any authority or person (including any person acting in a fiduciary capacity or in his capacity as trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, provident fund, retirement annuity or any other fund) who pays or is liable to pay to any person other than a company any amount by way of remuneration, and any company.”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,
Clerk to the National Assembly.