

INCOME TAX ACT
(Cap. 52:01)

INCOME TAX (TRAINING) REGULATIONS, 2007
(Published on 19th January, 2007)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Application
3. Eligibility for claim of deduction
4. Training which may qualify
5. Claims in respect of course of training
6. On-the-job training
7. Allowable expenditure
8. Revocation of Cap 52:01 (Sub Leg.)

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by sections 44 and 145 of the Income Tax Act the following Regulations are hereby made –

1. These Regulations may be cited as the Income Tax (Training) Regulations, 2007. Citation
2. These Regulations shall apply to all education or training approved by the Botswana Training Authority after consultation with the Commissioner General in accordance with section 44 of the Act, irrespective of whether the education or training is academic, vocational or professional. Application
3. An employer may claim a deduction under section 44 of the Act for purposes of education or training in respect to an employee who is – Eligibility for claim of deduction
 - (a) a citizen of Botswana;
 - (b) either in full-time or part-time employment with such employer; and
 - (c) undertaking or has undertaken education or training relevant to the employment of such employee but which does not include secondary or primary education.
4. Education or training which may qualify for approval of the deduction under section 44 of the Act may be conducted at – Training which may qualify
 - (a) an established university, polytechnic or other public institution for education or training in or outside Botswana, which is approved by the Botswana Training Authority;
 - (b) a training establishment approved by the Botswana Training Authority –
 - (i) which is situated at the employer's own place of business; and
 - (ii) at which a training officer who holds academic or professional qualifications or has experience considered adequate by the Botswana Training Authority is employed wholly or substantially for the purpose of training;
 - (c) a place of business in or outside Botswana, other than the employer's own place of business, at which the Botswana Training Authority is satisfied that relevant training is provided by a training officer as provided under paragraph (b).

Claims in respect of course of training

5. (1) Where an employer claims a deduction in respect of a course of education or training under paragraphs (a), (b) or (c) of regulation 4, the employer shall satisfy the Commissioner General that —

- (a) in the case of a claim under regulation 4 (a), the university, polytechnic or other public institution is one which is approved by the Botswana Training Authority;
- (b) in the case of professional or vocational training provided by an establishment in accordance with regulation 4 (b) and (c) —
 - (i) the establishment is an approved training establishment for the purposes of such training;
 - (ii) the training officer has the necessary academic or professional qualifications or experience for the instruction of trainees;
 - (iii) the course of instruction is specified by reference to a syllabus which defines the content and duration of the course and the type and purpose of the qualifications so gained; and
- (c) in every case, that the trainee is a citizen of Botswana.

(2) The Botswana Training Authority shall, after consultation with the Commissioner General —

- (a) certify all work based learning programmes;
- (b) monitor training or apprenticeship for which a deduction under section 44 of the Act is to be claimed; and
- (c) provide an employer who qualifies for a deduction under section 44 of the Act with a certificate to accompany the claim for such deduction.

On-the-job training

6. (1) An employer may claim a deduction in respect of the cost incurred by him or her for purposes of on-the-job training of an employee, which is approved by the Botswana Training Authority under regulation 4 (b) and is conducted at the employer's own place of business, if —

- (a) the course of training is clearly specified and is of a limited duration;
- (b) the training officer has academic or professional qualifications or experience which the Botswana Training Authority considers adequate, except that while such training officer need not be wholly or substantially engaged in instructing trainees on-the-job, the instruction or demonstrations imparted by him or her to the said trainees are clearly identifiable as a structured course for purposes of on-the-job training, distinct from supervision of trainees and other employees in the normal course of management.

(2) Subject to subregulation (3) training imparted in the employer's own place of business shall be deemed to be on-the-job training for the purposes of this regulation where —

- (a) the employee is not a skilled worker in the line of work for which such employee was engaged or promoted and the period of such training does not exceed eight weeks;
- (b) the employee is engaged for subordinate duties of a clerical or administrative nature and the period of such training does not exceed eight weeks; or
- (c) the employee is a professional, scientific or managerial trainee and the period of such training does not exceed 12 weeks.

(3) The Commissioner General may require evidence to establish that the whole or part of the period of training referred to under subregulation (2) and the whole or part of the cost incurred was actually spent on on-the-job training.

(4) For the purposes of this regulation “skilled worker” means an employee belonging to the industrial class who has already been fully trained in the line of work for which such employee was engaged or promoted.

7. The expenditures referred to in section 44 of the Act, in respect of which the deduction from assessable income specified therein may be made, are the following –

Allowable
expenditure

- (a) course fees;
- (b) boarding fees, hotel charges or other costs of accommodation incurred by reason of the employee being away from his normal place of employment;
- (c) costs of travel to and from the place of education or training where it is away from the workplace (within Botswana) or place of residence (where the course is abroad);
- (d) subsistence allowance and, where education or training abroad requires it, a clothing allowance;
- (e) costs of text books and other material required for education or training, including correspondence course fees if such course is an integral part of a structured course;
- (f) examination fees;
- (g) the following costs of a training establishment set up by the employer –
 - (i) office rental, electricity, telephone and costs of maintenance;
 - (ii) stationery and course materials;
 - (iii) one half of the cost of capital equipment used in the courses provided by the establishment;
 - (iv) remuneration of the training officer and, where the training officer has been brought to Botswana for the specific purpose of the training establishment, the costs of travel to Botswana to take up employment and the costs of travel to the place of his permanent residence on the termination of his employment;
 - (v) remuneration of external instructors engaged for the courses provided by the establishment, including travel and hotel costs in the case of instructors not residing in Botswana;
 - (vi) remuneration of clerical and other staff engaged wholly for the purposes of the training establishment;
- (h) wages paid to an employee employed on a part time basis or serving an apprenticeship course approved by the Botswana Training Authority at an approved training establishment.

8. The Income Tax (Training) Regulations are hereby revoked.

Revocation of
Cap. 52:01
(Sub. Leg.)

MADE this 17th day of January, 2007.

B. GAOLATHE,
*Minister for Finance and
Development Planning.*