

INCOME TAX (AMENDMENT) ACT, 2012

No. 21



of 2012

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Income Tax Act.

Date of Assent: 19.12.12

Date of Commencement: 01.07.12

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Income Tax (Amendment) Act, 2012 and shall be deemed to have come into operation on 1st July, 2012.

2. The Income Tax Act, (in this Act referred to as “the Act”), is amended in section 5 —

- (a) by substituting for subsection (3) (f), the following new paragraph —
“(f) to any authorised officer of the Government of a country with which an agreement for the avoidance of double taxation or an agreement for the exchange of information in tax matters exists, for purposes of that agreement.”; and
- (b) by inserting, immediately after subsection (4), the following new subsection —
“(4A) Notwithstanding subsection (4), any information obtained from a competent authority of the government of any other country in pursuance of an agreement provided for under section 53, unless expressly authorised pursuant to the agreement, either as part of a request for information from the competent authority of the Government of any other country or in response to a request for information by the Botswana Unified Revenue Service to the competent authority of the Government of any other country, shall be disclosed only to persons or authorities, including courts of competent jurisdiction and administrative bodies concerned with —
 - (i) the assessment or collection of,
 - (ii) the enforcement or prosecution in respect of, or
 - (iii) the determination of appeals in relation to,

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Amendment of section 5 of Cap. 52:01

taxes covered by such agreement, the persons or authorities to whom the information is disclosed shall use the information only for the purposes provided in this subsection.”.

Amendment of section 53 of the Act

3. Section 53 of the Act is amended by inserting the following new subsection —

“(4) Where the Minister enters into an agreement under subsection (1), the Commissioner General shall have the power to obtain information, or to give information in response to a request for information by a competent authority of the government of that other country under such agreement.”.

Amendment of section 59 of the Act

4. Section 59 of the Act is amended by inserting the following new subsection —

“(3A) Where a resident individual pays withholding tax under paragraph 2 of the Seventh Schedule, at the rate specified therein, on interest that accrued from a bank or building society, this shall be a final charge to tax, and the interest shall not form part of the assessable income of the resident individual.”.

Amendment of section 101 of the Act

5. Section 101 of the Act is amended by substituting for subsection (1), the following new subsection —

“(1) Any tax deducted or deductible by any person and not paid within the time specified in section 98, 99 or 100 shall bear interest at the rate of one and half per cent for each month or part of a month during which it remains unpaid, compounded monthly.”.

Amendment of section 118 of the Act

6. Section 118 of the Act is amended in —

(a) subsection (4), by substituting for the words “two per cent per month”, appearing therein, the words “one and half per cent per month, compounded monthly,”; and

(b) subsection (5), by substituting for the words “two per cent per month”, appearing therein, the words “one and half per cent per month, compounded monthly.”.

Amendment of section 138 of the Act

7. Section 138 of the Act is amended by substituting for subsection (2), the following new subsection —

“(2) The Minister or his or her authorised representative may, on the recommendation of a committee established in accordance with subsection (1) (b), issue a tax certificate certifying that activities of a company as are specified in the certificate are, with effect from the date specified in the certificate, approved financial operations.”.

Amendment of Eighth Schedule to the Act

8. The Eighth Schedule to the Act is amended by inserting immediately after Table III, the following new table —

“TABLE IV

<i>Taxable income</i>	<i>Tax</i>
0 – 18 000	0
18 001 – 72 000	0 + 5% of excess over P18 000
72 001 – 108 000	2 700 + 12.5% of excess over 72 000
108 001 – 144 000	7 200 + 18.75% of excess over P108 000
144 000 and above	13 950 + 25% of excess over P144 000

Table IV applies to net aggregate gains of individuals.”.

PASSED by the National Assembly this 13th day of December, 2012.

BARBARA N. DITHAPO,
Clerk of the National Assembly.