

INCOME TAX (AMENDMENT) ACT, 2015

No. 14



of 2015

ARRANGEMENT OF SECTIONS

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An Act to amend the Income Tax Act.

Date of Assent: 16.10.2015

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Income Tax (Amendment) Act, 2015, and shall come into operation on such a day as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

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

Amendment of Cap. 52:01

(a) in the definition of the word “dividend” by inserting, immediately after paragraph (d), the following new paragraph —

“(e) any payment made to suppliers of livestock to the Botswana Meat Commission pursuant to section 18 of the Botswana Meat Commission Act.”; and

Cap. 74:04

(b) by substituting for the definition of the word “farming operations”, the following new definition —

““farming operations” means the keeping of livestock, the undertaking of agricultural activities and pastoral farming including the rearing of dairy cattle for milk and dairy products, stud farming, poultry farming, the rearing of sheep for wool or pelts, irrigated agriculture and horticulture;”.

3. The Act is amended by substituting for section 30, the following new section —

Amendment of section 30 of the Act

“Farming 30. (1) Any amount accrued from farming operations carried on in a tax year by any person shall form part of such person’s gross income for that tax year:

Provided that where farming operations are undertaken by a resident individual which involve the rearing of cattle, sheep or goats for slaughter or dryland farming or both rearing of cattle, sheep or goats for slaughter and dryland farming, the income arising therefrom shall not form part of that resident individual’s gross income if —

- (a) the total number of cattle, sheep or goats does not exceed 300 during the year or the equivalent in whole or in part of sheep goats, on the basis that six sheep or goats are equivalent to one head of cattle; and
- (b) in respect of dryland farming, the total extent of the land involved in dryland farming does not exceed 100 hectares during the tax year.

(2) For purposes of this section, the rearing of cattle, sheep or goats for slaughter does not include rearing of dairy cattle for milk and dairy products, stud farming, poultry farming, pig farming or the rearing of sheep for wool or pelts and dryland farming does not include irrigated agriculture and horticulture.”.

Amendment of section 46 of the Act

4. Section 46 of the Act is amended by deleting the words “farming,” appearing in subsection (2).

Amendment of section 47 of the Act

5. The Act is amended by deleting section 47.

Amendment of section 48 of the Act

6. The Act is amended by deleting section 48.

Amendment of section 51 of the Act

7. Section 51 of the Act is amended by substituting for subsection (2), the following new subsection —

“(2) Where a person makes a donation to —

- (a) any educational institution recommended by the Minister responsible for education;
- (b) any sports clubs or sports associations recommended by the Minister responsible for sports;
- (c) Government, in respect of the provision of health facilities, or to any health institution recommended by the Minister responsible for health; or
- (d) any other eligible beneficiary as may be prescribed by the Minister,

and approved by the Commissioner General, the taxable income ascertained in respect of that person under subsection (1) shall be subject to the deduction of not less than P1,000 of the aggregate value in money’s worth of donations made by him or her:

Provided that such deduction does not exceed 20 per cent of the person's aggregate chargeable income for that tax year."

8. Section 55 of the Act is amended by deleting paragraph (a).

Amendment of
section 55 of
the Act

9. Section 58 of the Act is amended —

(a) by substituting for subsection (1), the following new subsection—

Amendment of
section 58 of
the Act

"(1) Every person who —

- (a) being a resident company, makes any payment of dividend to a resident or a non-resident;
- (b) makes any payment of interest to a resident or a non-resident;
- (c) makes any payment of commercial royalty, entertainment fee, or management or consultancy fee to a non-resident;
- (d) makes any payment of rent, by whatever name called, to a resident or a non-resident for the use of any land or building, or under an agreement or arrangement, except where the rent is paid by an individual and such rent is not claimed or will not be claimed as a business expenditure by such person;
- (e) makes payment on behalf of any mine rehabilitation fund referred to in section 43 (1) (e), to a person having contributed to such fund, any amount being surplus after the rehabilitation of the mine;
- (f) makes payment of commission or brokerage for or in connection with the procurement of any goods or services; or
- (g) makes any payment to another person in respect of, or pursuant to, the purchase of livestock for slaughter or for feeding for slaughter,

shall deduct tax from such payment in accordance with and in the manner specified in the Seventh Schedule, and shall carry out such other obligations as are imposed by that Schedule:

Provided that the provisions of paragraph (d) shall not apply —

- (i) where the rent paid by a person in respect of any property is less than P36 000 during any tax year, or
- (ii) to the payment for accommodation in a hotel, motel, lodge or guesthouse:

Provided further that the provisions of paragraph (f) shall not apply where the commission paid in respect to the procurement of goods or services is less than P36 000 during any tax year."; and

(b) by inserting immediately after subsection (1) thereof, the following new subsection —

"1 (A) Where the person required to make deductions in accordance with subsection 1 (g) is a person in business, and where any deduction is made in respect of payments made to any resident individual who is not carrying on a business of farming, the income arising from such sales shall not be included in the gross income of that resident individual."

Amendment of section 111 of the Act

10. Section 111 of the Act is amended —

- (a) by substituting for subsection (1), the following new subsection —
“(1) Where the Commissioner General is satisfied that any person has paid tax for any tax year, by deduction or otherwise, in excess of the amount finally determined to be payable under this Act for such tax year, that person shall, subject to section 80, be entitled to have the amount of the excess refunded by the Commissioner General, including any amounts of interest paid in excess.”;
- (b) by deleting from subsection (3), the words “Subject to the provisions of subsection (4)”;
- (c) by deleting subsection (4); and
- (d) by inserting, immediately after subsection (4), the following new subsection —
“(5) The Commissioner General may apply any refund due under this section towards the reduction of any tax, duty, levy, interest or penalty payable under any of the revenue laws for which the Commissioner General is responsible under the Botswana Unified Revenue Service Act.”.

Cap. 53:03
Amendment of Second Schedule to the Act

11. The Second Schedule to the Act is amended in Part I —

- (a) by substituting for paragraph (ii), the following new paragraph —
“(ii) Bank of Botswana.”; and
- (b) by inserting, immediately after paragraph (xviii), the following new paragraphs —
“(xix) Botswana Meat Commission; and
(xx) any other body corporate wholly owned by the Government and prescribed by the Minister.”.

Amendment of Fourth Schedule to the Act
Amendment of Seventh Schedule to the Act

12. The Fourth Schedule to the Act is amended by deleting Part I.

13. The Seventh Schedule is amended in paragraph 2 by inserting, immediately after subparagraph (g), the following new subparagraph —

- “(h) 4 percent of each payment made to any person in respect of the sale of livestock for slaughter or feeding for slaughter.”.

Amendment of Eighth Schedule to the Act

14. The Eighth Schedule is amended in Table III, by deleting paragraph 3.

PASSED by the National Assembly this 7th day of August, 2015.

BARBARA N. DITHAPO,
Clerk of the National Assembly.