

CAPITAL TRANSFER TAX (AMENDMENT) ACT, 2019

No. 19



of 2019

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 4 of Cap. 53:02

An Act to amend the Capital Transfer Tax Act.

Date of Assent: 28.08.19

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Capital Transfer Tax (Amendment) Act, 2019, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. Section 4 of the Capital Transfer Tax Act is amended by substituting for subsection (1), the following new subsection —

Amendment of section 4 of Cap. 53:02

“(1) Capital transfer tax shall not be chargeable in respect of —

- (a) the value of any property which is disposed of —
 - (i) by way of inheritance to a spouse on the death of the other spouse,
 - (ii) to or for the benefit of the donor’s spouse during the lifetime of the spouse,
 - (iii) to a person on his marriage or in consideration of the performance of any customary rites,
 - (iv) to any person being a descendant of a deceased person and is an heir or a legatee and is entitled as an heir or legatee to a property consisting of households goods, chattels and personal belongings of a deceased person, or
 - (v) if such property consists of livestock or produce which has been included in the gross income of the donor under section 29 of the Income Tax Act;
- (b) the value of the disposal of any property situated outside Botswana if the person beneficially entitled to it is domiciled outside Botswana;

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- (c) the sum of the value of all property disposed of by the donor for the maintenance, education or training of a child for a period ending not later than the year in which the child attains the age of 18 or, after attaining that age, if he continues to undergo full time education or training, the year in which he ceases to undergo full-time education or training;
- (d) the value of any debt which is included in the gross income of the debtor under section 28 (2) (b) of the Income Tax Act;
- (e) so much of the aggregate value of all the gifts of not more than P25 000 donated to any person in any tax year;
- (f) the value of any property which is disposed of –
 - (i) in consequence of the restructure or merger of two or more resident companies (including a subsidiary company of such companies), and where the Commissioner is satisfied that the restructure or merger is carried out in such manner that the beneficial ownership of the shares of the companies concerned in the restructure or merger remains unchanged and that no shareholder benefits at the expense of another, or
 - (ii) as a consequence of the reorganisation of a resident company, including restructure or merger as in subparagraph (i), and the Commissioner is satisfied that the sole objective of the reorganisation, restructure or merger is the offer of its shares for listing on the Botswana Stock Exchange:
Provide that an application for listing of the shares is made to the Botswana Stock Exchange within a period of one month after the completion of the reorganisation, restructure or merger, and the application is successful before the expiration of 12 months from the date of application;
- (g) any transaction involving transfer of immovable property which is exempted from payment of transfer duty under the Transfer Duty Act; and
- (h) any transaction involving a donation of property to any person as provided under the Income Tax Act.”

PASSED by the National Assembly this 24th day of July, 2019.

BARBARA N. DITHAPO,
Clerk of the National Assembly.