

INCOME TAX (AMENDMENT) ACT, 2021

No. 6



of 2021

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Income Tax Act.*Date of Assent:* 29th April, 2021*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Income Tax (Amendment) Act, 2021, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Income Tax Act (hereinafter referred to as "the Act") is amended in section 58 by —

Amendment of section 58 of Cap. 52:01

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

“(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 a 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;

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- (f) makes payment of commission or brokerage for or in connection with the procurement of any goods or services;
- (g) makes payment to another person in respect of, or pursuant to, the purchase of livestock for slaughter or feeding for slaughter; or
- (h) being a resident company, makes any payment of directors' fees or similar fees to any person in the person's capacity as a member of the board of directors of the company;

shall deduct 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 the 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 P48,000 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 to a resident individual is less than P48,000 during any tax year.”.

- (b) substituting for subsection (1A) , the following new subsection —
“(1A) 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 payment 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 and the deduction shall be a final charge to tax.”.

Amendment of
section 59
of the Act

3. The Act is amended in section 59 by —

- (a) inserting immediately after subsection (2), the following new subsection —

“(2A) Where any directors' fees or similar fees accrue from Botswana to a resident or non-resident —

- (a) tax shall be charged for each tax year at the rates specified in paragraph 2 of the Seventh Schedule; and
- (b) the tax charged for a non-resident shall be a final charge to tax and the directors' fees or similar payment shall not form part of the assessable income of the non-resident.”.

- (b) substituting for the word “7”, appearing in subsection (5), the word “6”.

Amendment
of Seventh
Schedule to
the Act

4. The Seventh Schedule of the Act is amended in paragraph 2 by —

- (a) deleting the words; “Except as provided in section 60 and” appearing therein;

- (b) substituting for subparagraph (a) appearing therein, the following new subparagraph —

“(a) 10 per cent of each payment of dividend made to any person;”.

(c) substituting for subparagraph (d) appearing therein, the following new subparagraph —

“(d) 10 per cent of interest to a resident;”;

(d) inserting, immediately after subparagraph (h), the following new subparagraphs —

“(i) 10 percent of each payment of directors’ fees or similar fees for a resident person; and

(j) 15 percent of each payment of directors’ fees or similar fees for a non-resident person.”.

5. The Act is amended in the Eighth Schedule by substituting for that Schedule, the following new Schedule —

Amendment
of Eighth
Schedule to
the Act

“EIGHTH SCHEDULE

RATES FOR 2021/2022 AND SUBSEQUENT TAX YEARS

(section 59)

TABLE I

<i>Taxable Income</i>	<i>Tax</i>
0 - 48,000	0
48,001 - 84,000	0 + 5% of excess over P48,000
84,001 - 120,000	1,800 + 12.5% of excess over P84,000
120,001 - 156,000	6,300 + 18.75% of excess over P120,000
156,001 and above	13,050 + 25% of excess over P156,000

Table I applies to resident individuals

TABLE II

<i>Taxable Income</i>	<i>Tax</i>
0 - 84,000	5% of every Pula
84,001 - 120,000	4,200 + 12.5% of excess over P84,000
120,001 - 156,000	8,700 + 18.75% of excess over P120,000
156,001 and above	15,450 + 25% of excess over P156,000

Table II applies to non-resident individuals, trusts falling under section 14 (2) and estates of deceased persons.

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TABLE III

1. Resident company	Taxable income	22%
2. Non-resident company	All taxable income	30%
3. Pension and Provident Funds not approved by the Commissioner General	Investment income defined under section 2	10%
4. Dividends accruing outside Botswana	Gross income	10%
5. Persons not included in paragraphs 1 to 4 above	Taxable income	25%
6. International Financial Services Centre Company	(a) Income arising from approved financial transactions with non-resident, International Financial Services Centre companies and Specified Collective Investment Undertaking	15%
	(b) All other income	22%

TABLE IV

<i>Taxable Income</i>	<i>Tax</i>
0 - 36,000	0
36,001 - 84,000	0 + 5% of excess over P36,000
84,001 - 120,000	2,400 + 12.5% of excess over P84,000
120,001 - 156,000	6,900 + 18.75% of excess over P120,000
156,000 and above	13,650 + 25% of excess over P156,000

Table IV applies to aggregate gains for individuals.”.

6. The Twelfth Schedule of the Act is amended by substituting for paragraph 9, the following new paragraph —

“Withholding taxes 9. The rate of withholding taxes shall be —

- (a) 10 per cent on each payment dividend made to a resident and non-resident;
- (b) 15 per cent on each payment of interest, commercial royalty, management or consultancy fee made to a non-resident; and
- (c) 10 per cent on each payment of entertainment fee made to a non-resident.”.

Amendment
of Twelfth
Schedule to
the Act

PASSED by the National Assembly this 15th day of April, 2021.

B. N. DITHAPO,
Clerk of the National Assembly.

