

**THE INCOME TAX (TRANSITIONAL PROVISIONS) ACT, 1968**

No. 21



of 1968

**AN ACT TO MAKE TRANSITIONAL PROVISION CONSEQUENTIAL UPON THE INTRODUCTION OF A SYSTEM OF EMPLOYEES' TAX DEDUCTIONS**

Date of Assent: 6.3.68.

Date of Commencement: 1.7.67.

ENACTED by the Parliament of Botswana.

**Short Title and Commencement**

1. This Act may be cited as the Income Tax (Transitional Provisions) Act, 1968, and shall be deemed to have come into force on the same date as the Income Tax (Amendment) Act, 1968.

**Interpretation**

2. (1) In this Act, unless the context otherwise requires –

“assessment” has the same meaning as it has for the purposes of the principal law;

“the Collector” means the Collector of Income Tax appointed in terms of section 3 of the principal law;

“company” has the same meaning as in the principal law;

“employee” has the same meaning as in the Second Schedule to the principal law;

“the principal law” means the Income Tax (Consolidation) Proclamation 1959 (Proclamation No. 81 of 1959);

“remuneration” has the same meaning as in the Second Schedule to the principal law;

“tax” has the same meaning as in the principal law;

“taxpayer” has the same meaning as “employee”;

“the transitional period” means the year of assessment ending on the thirtieth day of June, 1968;

“year of assessment” has the same meaning as in the principal law.

(2) For the purposes of this Act, a taxpayer shall be deemed to be in receipt of remuneration if it has been received by him or has accrued to him or in his favour.

(3) For the purposes of this Act, the provisions of section 3 of the principal law shall, *mutatis mutandis*, apply with respect to the duties, powers and functions conferred or imposed on the Collector by this Act.

#### **Special Remission of Tax in Respect of the Transitional Period**

3. (1) In respect of the transitional period, the Collector shall, subject to subsection (3), remit, from the tax payable by any employee, an amount equivalent to three quarters of the tax due by him in respect of his remuneration income during that year:

Provided that where a taxpayer is in receipt of remuneration income and non-remuneration income the Collector shall exclude the non-remuneration income in calculating the tax to be remitted under this subsection.

(2) The remission to be made under subsection (1) shall be made as a deduction from the tax payable entered on the notice of assessment given under section 42 of the principal law and shall be computed without reference to any set off which may arise by virtue of paragraph 16 of the Second Schedule to the principal law.

(3) Where an employee is not in receipt of remuneration income from a Botswana source for the full period of twelve months following the transitional period, the amount of the special remission of tax under this section shall be the same proportion of the maximum three quarters remission as the number of months during which he is in receipt of remuneration income from a Botswana source following the transitional period bears to twelve.

(4) There shall be tax due from such an employee in an amount which is in excess of the deduction for which he is eligible under this section and the Collector shall amend the assessment for such an employee for the transitional period to give effect to this; the Collector may also make an amended assessment in respect of an employee if he has cause to believe that that employee will not be or has not been in receipt of remuneration from a Botswana source for the full period of twelve months following the transitional period.

(5) If in the transitional period the remuneration income of any employee is more than the remuneration income received by him during the year of assessment ended on the thirtieth day of June, 1967, the excess shall, unless it is in the opinion of the Collector attributable to –

- (a) a promotion in the ordinary course of events; or
- (b) the ordinary application of an incremental scale of emoluments; or
- (c) any other similar increase of an ordinary character;

be left out of account in computing the tax payable for the purposes of determining the remission to be made in accordance with the provisions of subsection (1).

#### **Transactions, Operations or Schemes for Reducing the Amount of Tax**

4. Where any transaction, operation or scheme has, whether before, on or after the commencement of this Act, been entered into or carried out which has the effect of reducing the amount of tax payable in respect of the transitional period or any other year of assessment and which, in the opinion of the Collector –

- (a) would not normally have been entered into or carried out; or
- (b) was entered into or carried out by means or in a manner which would not normally be employed in the entering into or carrying out of transaction, operation or scheme of the nature of the transaction, operation or scheme in question,

and the Collector is of the opinion that a reduction in the amount of tax payable in respect of the transitional period or any other year of assessment was the sole purpose or one of the main purposes of the transaction, operation or scheme, the Collector shall determine the amount of tax payable to be such amount as he considers would have been determined had the transaction, operation or scheme not been so entered into or carried out, and the formation of a company may, if the Collector considers that the sole purpose or one of the main purposes of forming such company was the reduction of the amount of tax payable in respect of the transitional period or any other year of assessment, be deemed by him to be a transaction, operation or scheme in terms of this section.

#### **Objection and Appeals**

5. Any taxpayer who is aggrieved by a decision of the Collector made in terms of section 4 shall be entitled to object to such decision and the provisions of

section 52 of the principal law shall apply, *mutatis mutandis*, to such objection and if the taxpayer is dissatisfied with the decision of the Collector on such objection he may appeal therefrom and the provisions of sections 54 and 55 of the principal law shall apply, *mutatis mutandis*, to any such appeal:

Provided that in any proceedings relating to any objection or appeal arising out of the decision of the Collector, where it is proved that the transaction, operation or scheme in question would result in the reduction of the amount of tax payable in respect of the transitional period or any other year of assessment, it shall be presumed, until the contrary is proved, that such reduction was the sole purpose or one of the main purposes of such transaction, operation or scheme.

Passed by the National Assembly this day, the 17th January, 1968.

G.T. MATENGE,  
Clerk of the National Assembly.