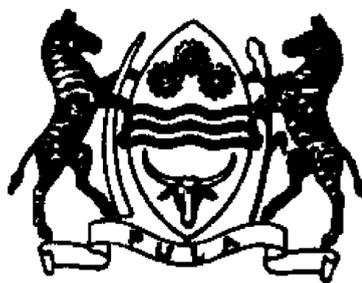


INCOME TAX (AMENDMENT) ACT, 1989

No. 12



of 1989

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 2 of principal Act
3. Amendment of section 31
4. Amendment of section 34
5. Amendment of section 51A
6. Amendment of section 59
7. Deletion of section 60A
8. Amendment of section 125 (2)
9. Amendment of Second Schedule
10. Amendment of Sixth Schedule
11. Amendment of Part VII of the Tenth Schedule
12. Amendment of Twelfth Schedule

SCHEDULE

An Act to amend the Income Tax Act

Date of Assent: 8th June, 1989.

Date of Commencement: 16th June, 1989.

ENACTED by the Parliament of Botswana.

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|---|---|
| <p>1. This Act may be cited as the Income Tax (Amendment) Act, 1989.</p> <p>2. Section 2 of the Income Tax Act (hereinafter referred to as the "principal Act") is hereby amended —</p> <p>(a) by inserting immediately after the definition of the word "approved superannuation fund" the following definition —</p> <p style="padding-left: 2em;">"approved provident fund" means a permanent fund or scheme bona fide established for providing such benefits as may be prescribed by the Minister, other than those provided by an approved superannuation fund;"</p> <p>(b) by deleting the definitions of "marital status" and "married person" with effect from 1st July, 1989; and</p> <p>(c) by deleting paragraph (c) in the definition of "resident in Botswana".</p> | <p>Short title</p> <p>Amendment of section 2 of principal Act</p> <p>Cap. 52:01</p> |
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Amendment
of
section 31

3. Section 31 (1) of the principal Act is amended by substituting for paragraph (b) thereof the following paragraph —

“(b) In respect of any tax year commencing on or after 1st July, 1988, any amount accrued in commutation of moneys due under any contract of employment or service or any amount received in commutation of a pension which is in excess of the commutation of one quarter of the pension exempted under this Act.”

Amendment
of section 34

4. Section 34 of the principal Act is amended by substituting for subsection (2) thereof the following subsection —

“(2) With effect from any tax year commencing on or after 1st July, 1988 —

(a) where a citizen employee in the service of Government is entitled to a gratuity during the course of or on the termination of his employment, and the terms relating to such gratuity are the same as for an approved service under paragraphs (ii) to (viii) of section 31 (8), the provisions of section 31 (7) shall apply to such gratuity;

(b) where an employee elects to withdraw his contributions to an approved superannuation fund in accordance with the rules of the fund and the Income Tax (Superannuation Funds) Regulations, the whole of the amount withdrawn shall be deemed to accrue to him from his employment and shall be included in his gross income in the tax year in which it was withdrawn.”

Amend-
ment of
section 51A

5. (1) Section 51A (2) (a) of the principal Act is amended by substituting for sub-paragraph (ii) thereof the following —

“(ii) with effect from the 1st July 1987, any person specified in Part I of the Second Schedule as being exempted from tax, other than an approved superannuation fund, an approved provident fund, a statutory life insurance fund and the Motor Vehicle Insurance Fund.”

Amendment
of
section 59
Deletion
of
section 60A

6. Section 59 of the principal Act is amended, with effect from 1st July 1989, by deleting subsections (2) and (3) thereof.

7. With effect from 1st July, 1988 the principal Act is amended by deleting section 60A thereof.

Amendment
of
section
125 (2)

8. Section 125 (2) of the principal Act is amended by substituting for paragraph (e) thereof the following paragraph —

“(e) it is an insurance company transacting long-term insurance business”.

Amendment
of
Second
Schedule

9. The Second Schedule of the principal Act is amended by —

(a) inserting in paragraph (x) thereof after the words “approved benefit fund” the words “approved provident fund”;

(b) adding to Part I thereof the following new paragraph —
“(xix) the Motor Vehicle Insurance Fund, as from its date of inception”;

(c) substituting for paragraph (xxxi) of Part II the following new paragraph —

“(xxxi) the terminal, sitting, ward, subsistence and meal allowances payable to a councillor of a local authority or to a member of a land-board or subordinate land-board with effect from 1st July 1987”;

(d) the addition to Part II of the following new paragraphs (xxxii), (xxxiii), (xxxiv) and (xxxv) —

“(xxxii) where under any law in force in Botswana an employee is permitted to commute a portion of his pension, such commuted lump sum payment received by him;

(xxxiii) in the case of any person other than a person subject to paragraph (xxxii), who, being entitled to a pension or annuity on retirement, elects to receive a part of such pension or annuity as a commuted lump sum, an actuarially calculated sum representing a commutation of not more than one quarter of his full entitlement at the date of his retirement;

(xxxiv) in the case of any person other than a person referred to in paragraphs (xxxii) or (xxxiii) who being entitled bona fide to an annual pension or annuity of not more than five hundred pula, an actuarially calculated sum representing a commutation of that pension or annuity;

(xxxv) the investment income, as defined in section 50 (2), with effect from 1st July 1990, of a statutory life insurance fund.”

10. Part III of the Sixth Schedule to the principal Act is amended — Amendment
of Sixth
Schedule

(a) by deleting paragraph (1) thereof with effect from the tax year commencing on 1st July, 1990;

(b) by the addition of the following new paragraphs 3 and 4 —

“3. With effect from the tax year commencing on 1st July, 1988, payments into a Statutory Reserve Solvency Account established under the Insurance Industry Act, 1987, will be deductible in ascertaining chargeable income and payments out of such fund will be included in gross income.

4. With effect from the tax year commencing on 1st July, 1988, the Commissioner may recognize the establishment of a claims equalization account for tax purposes, transfers into the account being deductible in ascertaining chargeable income, and transfers out being included in gross income”.

11. Part VII of the Tenth Schedule to the principal Act is amended by the deletion of Table II thereof, and by substituting for Tables I, III and IV the new Tables contained in the Schedule hereto, and by adding to Table V the following new item (5) — Amendment
of
Part VII
of the
Tenth
Schedule

“(5) with effect from any tax year commencing on 7.5%
or after 1st July, 1990, investment income, as

defined in section 50 (2) of this Act, of a pension or provident fund not approved by the Commissioner.”

Amendment
of
Twelfth
Schedule

12. (1) Paragraph 1 of the Twelfth Schedule of the principal Act is amended by the addition of the following new sub-paragraph (e) —

“(e) immovable property owned by a company the shares of which are wholly owned by one or more of the following funds, where such property is disposed of within three months of the date of acquisition by such funds of all the shares of that company —

- (a) an approved provident fund;
- (b) an approved superannuation fund;
- (c) the Motor Vehicle Insurance Fund;
- (d) a statutory life insurance fund”

(2) Paragraph 6 of the Twelfth Schedule is amended by deleting sub-paragraph (3) thereof.

SCHEDULE

TABLE I
Taxable Income (Pula)

<i>More than</i>	<i>but not exceeding</i>					
0	6000	0				
6000	9000			2.5%	of excess over	6000
9000	12000	75	+	5%	of excess over	9000
12000	18000	225	+	10%	of excess over	12000
18000	24000	825	+	15%	of excess over	18000
24000	30000	1725	+	20%	of excess over	24000
30000	36000	2925	+	25%	of excess over	30000
36000	42000	4425	+	30%	of excess over	36000
42000	48000	6225	+	35%	of excess over	42000
48000	54000	8325	+	40%	of excess over	48000
54000	60000	10725	+	45%	of excess over	54000
over	60000	13425	+	50%	of excess over	60000

This Table is applicable to all resident individuals.

TABLE III
Taxable Income (Pula)

<i>More than</i>	<i>but not exceeding</i>					
0	24000			20%	of every Pula 1	
24000	30000	4800	+	25%	of excess over	24000
30000	36000	6300	+	30%	of excess over	30000
36000	42000	8100	+	35%	of excess over	36000
42000	48000	10200	+	40%	of excess over	42000
48000	54000	12600	+	45%	of excess over	48000
over	54000	15300	+	50%	of excess over	54000

Table III is applicable to non-resident individuals.

TABLE IV
Taxable Income (Pula)

<i>More than</i>	<i>but not exceeding</i>					
0	3000			2.5%	of every Pula 1	
3000	6000	75	+	5%	of excess over	3000
6000	12000	225	+	10%	of excess over	6000
12000	18000	825	+	15%	of excess over	12000
18000	24000	1725	+	20%	of excess over	18000
24000	30000	2925	+	25%	of excess over	24000
30000	36000	4425	+	30%	of excess over	30000
36000	42000	6225	+	35%	of excess over	36000
42000	48000	8325	+	40%	of excess over	42000
48000	54000	10725	+	45%	of excess over	48000
over	54000	13425	+	50%	of excess over	54000

Table is applicable to

- (1) a trust falling under section 15 (2),
- (2) the estate of a deceased person falling under section 18 (1).

PASSED by the National Assembly this 11th day of April, 1989.

C.G. MOKOBI,
Clerk of the National Assembly.