

INCOME TAX ACT
(Cap. 52:01)

INCOME TAX (SPECIAL ECONOMIC ZONES DEVELOPMENT
APPROVAL) ORDER, 2021
(Published on 22nd October , 2021)

ARRANGEMENT OF PARAGRAPHS

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Finance and Economic Development by section 52 of the Income Tax Act, the following Order is hereby made —

- Citation 1. This Order may be cited as the Income Tax (Special Economic Zones Development Approval) Order, 2021.
- Interpretation 2. In this Order, unless the context otherwise requires —
- Cap. 53:03 “Commissioner General” has the same meaning assigned to the term under the Botswana Unified Revenue Service Act;
- “developer” means an investor —
- (a) with right over land in a special economic zone, held for purpose of development of special economic zones infrastructure through privately obtained funding of his or her own;
 - (b) who draws from his or her networks to bring in other investors to be licensed to locate in and operate their businesses from the special economic zone which he or she shall also be responsible for managing; and
 - (c) who has been granted tax relief by the Minister;
- “investor” means a person who —
- (a) has been licensed by the relevant licensing authority to carry on business in a special economic zone;
 - (b) exports 100 percent of his or her goods or services, or has been exempted from the 100 percent requirement by the Minister responsible for trade and industry in accordance with the Special Economic Zones Regulations;
 - (c) undertakes within a special economic zone, any development project or activity listed in paragraph 5 of this Order; and
 - (d) has been granted tax relief by the Minister;
- Cap. 43:13 “manufacturing” means the subjection of a raw material to a process that will result in the product having new and distinctive characteristics from the raw material from which it is made, and includes the process for —
- (Sub. Leg.)

- (a) cutting, polishing and refining of minerals; or
- (b) tanning of leather:

Provided that the following processes shall not on their own qualify as manufacturing —

- (i) packaging and bottling,
- (ii) diluting, mixing or blending of ingredients which does not result in the formation of a different product,
- (iii) printing, marking and labelling,
- (iv) washing, painting, dyeing, bleaching, texturing of textile goods and impregnating of mercerising operations,
- (v) etching, decorating, calibration, polishing, cutting up and re-enforcing of an otherwise finished article,
- (vi) simple assembly operations,
- (vii) baking, or
- (viii) simple operations consisting of removal of dust, sifting or screening, sorting, grading, classifying and matching including the making up of sets of goods; and

“special economic zone” means an area of land established as such under section 29 of the Special Economic Zones Act being a geographical demarcation with special regulatory provisions applicable to such an area, and where the legal, regulatory and fiscal and custom schemes applicable to business differ, generally in a more liberal way, from those in application in the rest of the national territory.

Cap. 43:13

3. (1) For purposes of section 52(1) (d) of the Act, this Order shall apply to development projects or activities carried out by investors or developers in an area which has been declared as a Special Economic Zone in accordance with section 29(6) of the Special Economic Zones Act.

Application of Order

(2) This Order shall also apply to any development projects or activities carried out by investors or developers in any area which may be declared as a special economic zone or any single factory special economic zone established as such by any outside party in terms of section 30(2) (e) of the Special Economic Zones Act.

4. (1) The income of an investor or a developer, which has been approved as a special economic zone area licensed business arising from its operations in any special economic zone shall be taxable at a special rate of 5 percent for the first 10 years of the operation of the business in the special economic zone.

Tax relief tax rate

(2) The income of an investor or developer referred to under subparagraph (1) shall, after the first 10 years of operation within the special economic zone, be taxable at a special rate of 10 percent for operations in the special economic zone.

(3) For the avoidance of doubt, the special tax rate relief applicable under this paragraph shall only apply to income arising from the operations of a business in relation to the development projects or activities for which a certificate is granted in accordance with paragraph 7.

5. Notwithstanding paragraph 6, the tax relief granted under paragraph 4 shall only be applicable to an applicant who —

Eligibility criteria

- (a) has been licensed to operate in a special economic zone to undertake the following business activity or service —
 - (i) an agrobusiness activity,
 - (ii) a manufacturing activity,

- (iii) a warehousing, distribution or logistics service, or
- (iv) an internationally traded service;
- (b) intends to export 100 percent of its annual production or sales, except in cases where an exemption from the 100 percent requirement has been granted by the Minister responsible for trade and industry in accordance with the Special Economic Zones Regulations; and
- (c) sets up a new business within a special economic zone or expands or relocates an existing business from a customs territory to a special economic zone, or expands or relocates an existing business from one special economic zone to another:

Provided that —

- (i) no part of the operations of the existing business is moved to the special economic zone,
- (ii) the investment in the special economic zone will be incremental and will generate new employment, products and services in addition to those provided by the operations of the existing business, and
- (iii) no reduction in employment in the existing business will occur as a result of the expansion or relocation to the special economic zone.

Application for
tax relief
certificate

6. (1) A business which wishes to be granted tax relief under paragraph 4 shall apply to the Minister in accordance with Form A set out in the Schedule.

(2) An application made under subparagraph (1) shall be accompanied —

- (a) by an assessment report and a recommendation letter from the Special Economic Zones Authority;
- (b) for a new business, an approved registration for tax;
- (c) for an existing business, a tax clearance certificate;
- (d) an investor or developer licence to operate within a special economic zone issued by the Special Economic Zones Authority; and
- (e) any other documentation that the Minister may require.

(3) The Minister shall, for the purpose of granting tax relief, consider a recommendation from the Special Economic Zones Authority on whether a proposed project or activity would be beneficial to the development of the economy in accordance with section 52 of the Act.

Issuance of tax
relief certificate

7. Where the Minister issues an applicant with a development approval order in accordance with section 52(5) of the Act, the Minister may issue the applicant with a certificate of tax relief in accordance with Form B set out in the Schedule, indicating the tax rates applicable to the applicant's business.

**SCHEDULE
FORM A
(paragraph 6(1))**

**Application for a Development Approval Order in respect of Special
Economic Zone Licensed Businesses**

**To: Permanent Secretary
Ministry of Finance and Economic
Development
Private Bag 008
Gaborone**

Application for approval is hereby made in terms of section 52 of the Income Tax Act, for the issue of a development approval order in respect of a special economic zone licensed business.

1. Name of Applicant:

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2. Postal Address:

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3. Physical Address:

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4. Contact Telephone:

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5. Tax Identification Number (if applicable)

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6. Date of commencement of business:

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7. Existing business:

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8. New business proposed date of commencement:

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9. Capital Investment

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10. Number of people employed or to be employed by the company:

Citizen	Non-citizen	Total
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11. Particulars of facilities, if any, for training and imparting skills to Botswana citizens:

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12. Any other relevant information relating to your business:

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13. The effects your activity is likely to have on the development of the economy or the economic advancement of citizens:

(a) in what way will your business stimulate other economic, industrial or commercial activities, whether of the business or otherwise?

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(b) is there potential for the business to attract downstream activities in the special economic zone?

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(c) is there any potential for substitution of materials produced outside Botswana with materials produced in the special economic zone?

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(d) will your business activity result in the reduction of prices to consumers?

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DECLARATION

As an officer of

.....
(Name of company)

I, of
(Full name of Declarant)

.....
(Postal Address)

.....
Declare that to the best of my knowledge and belief, the information given in this application is true and correct.

Date

Signature
Declarant/Authorised Agent

Authorised Agent's full name

FORM B
(paragraph 7)

Tax Relief Certificate

Issued under the Income Tax (Special Economic Zones Development Approval) Order Cap. 52:01

1. Name of business

This tax relief is issued to:

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2. Approved business development project or activity

The following are the development projects or activities for which the tax relief applies:

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3. Area where development project or activity will be carried out

The business shall operate in the following area or areas –

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4. Type and rates of tax relief

(a) New company

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(b) Existing company

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5. Date of commencement of tax relief

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6. Terms and Conditions of certificate

- (a) The development project or activity shall only be carried out in the areas listed hereunder. The applicant shall apply to the Minister for approval to conduct the same or any different development projects or activities in an area not listed in this certificate.
- (b) Where the development project or activity is relocated to an area not listed in this certificate without prior approval by the Minister, this shall result in the revocation of this certificate.

7. Revocation

The Minister may upon satisfaction that the applicant has ceased operating in the approved area, revoke the certificate.

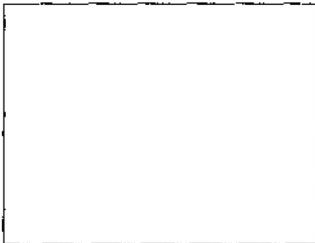
8. Certification

I, Minister of Finance and Economic Development, certify that to which this certificate refers is with effect from granted the tax relief in accordance with the purpose of section 52 of the Income Tax Act.

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Minister of Finance and Economic Development

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Date

Official Stamp



MADE this 5th day of October, 2021.

PEGGY O. SERAME,
Minister of Finance and Economic Development.