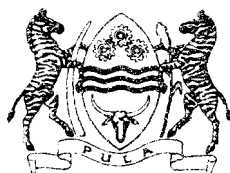


INCOME TAX (AMENDMENT) ACT, 1980

No. 34



of 1980

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of Cap. 52:01
3. Substitution of section 10 of principal Act
4. Amendment of section 41 of principal Act
5. Amendment of section 54 of principal Act
6. Substitution of section 55 of principal Act
7. Amendment of Part II of Second Schedule to principal Act
8. Amendment of Third Schedule to principal Act
9. Insertion of Part III in Sixth Schedule to principal Act
10. Insertion of Part IV in Tenth Schedule to principal Act

An Act to amend the Income Tax Act

Date of Assent: 5.12.80

Date of Commencement: 1.7.80

ENACTED by the Parliament of Botswana

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1980.

Short title
and com-
mencement

(2) Subject to the provisions of subsection (3), this Act shall be deemed to have come into operation on 1st July, 1980.

(3) Sections 7 and 8 shall come into operation on 1st July, 1981.

2. Section 2 of the Income Tax Act (hereinafter referred to as "the principal Act") is hereby amended in the definition of "resident in Botswana" by substituting for –

Amendment
of section 2 of
Cap. 52:01

(a) paragraph (b) thereof, the following new paragraph –

“(b) in the case of a company, that –

(i) its registered office or place of incorporation is in Botswana; or

(ii) it is managed and controlled in Botswana;” and

(b) paragraph (d) thereof, the following new paragraph –

“(d) in the case of a trust, that the trust –

(i) was established in Botswana; or

(ii) is administered in Botswana;”.

Substitution of section 10 of principal Act	<p>3. The principal Act is hereby amended by substituting for section 10 thereof the following new section -</p> <p>“Effective date of accrual</p> <p>10. For the purposes of this Act an amount which accrues to a person shall be deemed to have accrued -</p> <p>(a) in the case of employment, at the time it is -</p> <p>(i) received by him;</p> <p>(ii) due and payable even though not actually paid to him; or</p> <p>(iii) credited in account, reinvested, accumulated, capitalized, carried to reserve or otherwise disposed of by him or on his behalf;</p> <p>(b) in the case of a business, in relation to which the Commissioner is satisfied that a commercially recognized system of accounting is regularly followed, at the time it is credited in the books of account of such person; or</p> <p>(c) in any other case, at the time it becomes due and payable to him.”.</p>
Amendment of section 41 of principal Act	<p>4. Section 41 (2) of the principal Act is hereby amended by substituting for the words “the company”, which appear therein, the words “any person carrying on business”.</p>
Amendment of section 54 of principal Act	<p>5. Section 54 (3) of the principal Act is hereby amended by substituting for the provision immediately following paragraph (b) thereof the following new provision -</p> <p>“and may provide for the exemption of any dividend, interest, commercial royalty, entertainment fee or management or consultancy fee paid by that person to a non-resident or for the relief of that person from any responsibilities, duties or liabilities under this Act to the extent indicated in the Second Schedule.”.</p>
Substitution of section 55 of principal Act	<p>6. The principal Act is hereby amended by substituting for section 55 in Division II of Part VIII thereof the following new section</p> <p>“DIVISION II – SPECIAL CLASSES OF COMPANIES AND BUSINESS</p>
Taxation of special classes of companies and business	<p>55. Notwithstanding anything contained in this Act -</p> <p>(a) the taxable income of the Botswana Meat Commission shall be ascertained in accordance with the provisions of Part I of the Sixth Schedule;</p> <p>(b) the chargeable income of any company which is a member of the Botswana Development Corporation Limited group of companies shall be ascertained in accordance with the provisions of sections 38 to 45 inclusive and Part II of the Sixth Schedule; and</p> <p>(c) the chargeable income derived from the carrying on of insurance business by any person shall</p>

be ascertained in accordance with the provisions of Part III of the Sixth Schedule.”.

7. Part II of the Second Schedule to the principal Act is hereby amended by deleting paragraph (xxi) thereof.

Amendment of Part II of Second Schedule to principal Act

8. The Third Schedule to the principal Act is hereby amended –
(a) in paragraph 4 of Part II thereof, by substituting for the words “an approved industrial business”, which appear therein, the words “the letting or use of an industrial building”;

Amendment of Third Schedule to principal Act

(b) in paragraph 1 of Part VII thereof, in the following definitions –

- (i) “approved industrial business”, by deleting the words “or a process which the Commissioner is satisfied is similar to a process of manufacture”, which appear in paragraph (b);
- (ii) “disposal value”, by inserting, immediately after the word “business”, which appears in paragraph (c), the words “or removal from Botswana”; and
- (iii) “disposed of”, by inserting, immediately after the word “use”, which appears therein, the words “removed from Botswana”.

9. The Sixth Schedule to the principal Act is hereby amended by adding at the end of Part II thereof the following new Part –

Insertion of Part III in Sixth Schedule to principal Act

“PART III – *Person carrying on Business of Insurance including Re-insurance*

Life insurance business

1. The chargeable income derived by any person from the carrying on in Botswana of a life insurance business for any tax year shall be 2½ per cent of the premium obtained during that tax year from the life insurance business less any premium paid for contracts of re-insurance to any other person carrying on the business of life insurance or re-insurance in Botswana.

Insurance other than life insurance

2. The chargeable income derived by any person from the carrying on in Botswana of an insurance business other than life insurance business shall be ascertained by deducting from the sum of all premiums (including premiums on re-insurance) accrued to such person during any tax year in respect of the insurance of any risk, and other amounts accrued from the carrying on of such business, the sum of –

- (a) the total amount of the liability incurred in respect of premiums on re-insurance;

- (b) the actual amount of the liability incurred in respect of any claims during the tax year in respect of that business of insurance, less the value of any claims recovered under any contract of insurance, guarantee, security or indemnity;
- (c) the expenditure, not being expenditure falling under paragraph (a) or (b), incurred in respect of that business of insurance in accordance with sections 38 to 45;
- (d) such deduction as may be allowed by the Commissioner in respect of unexpired risks:

Provided that the deduction allowed under this paragraph in respect of any tax year shall be included in the assessable income of the following tax year;

- (e) such deduction as may be allowed by the Commissioner in respect of claims which have been intimated but not paid:

Provided that the deduction allowed under this paragraph in respect of any tax year shall be included in the assessable income of the following tax year; and

- (f) such deduction as may be allowed by the Commissioner in respect of claims which have not been intimated or paid:

Provided that the deduction allowed under this paragraph in respect of any tax year shall be included in the assessable income of the following tax year.”.

Insertion
of Part IV in
Tenth
Schedule to
principal Act

10. The Tenth Schedule to the principal Act is hereby amended by adding at the end of Part III thereof the following new Part —

“PART IV

	<i>Taxable income</i>	<i>Rate of tax 1980/81 and subsequent tax years</i>
1. Person (other than a company)	first P 3 000	10%
	next P 4 000	20%
	next P 4 000	30%
	next P 6 000	40%
	next P 8 000	50%
	next P20 000	60%
	exceeding P45 000	65%

- | | | |
|-----------------------------|--------------------|-------|
| 2. Resident company | all taxable income | 35% |
| 3. Non-resident company | all taxable income | 35% |
| 4. Botswana Meat Commission | all taxable income | 35%". |

PASSED by the National Assembly this 4th day of December, 1980.

I.P. GONTSE,
Clerk of the National Assembly.