

Excerpts by our experts on the recent Income tax and VAT amendments...

Income Tax

- There is no change in company tax rates. Additional company tax (ACT) benefits continue.
- ACT for a particular tax year will lapse if not utilised within 5 years from end of that tax year.
- Income tax slabs have been amended for resident individuals and non residents, resulting in reduction of marginal tax rate.
- Non corporate tax payers have the option to furnish Self Assessment Tax return and pay SAT at the time of filing of tax return. SAT quarterly instalment is optional.
- The institutions paying interest will be required to deduct WHT@10% if it is paid to a resident exceeding P1500/quarter.
- Any person, who has deducted tax, fails to deliver the tax deduction certificate (ITW9) to any contractor within the specified time limit will be penalized.
- Capital gains will be charged for disposal of Principal Private Residence by an individual in case proceeds are not reinvested in a residential property within 24 months. However exemption will be granted once in a lifetime for the first principal private residence even if no reinvestment is done.
- An investment company or collective investment undertaking disposing shares, debentures or units in a listed company will continue to get allowed exemption on capital gains. However the net sale proceeds arising out of the above disposals will be taxed as business income.
- **In case of disposal of shares of company where the underlying assets is an immovable property then the sale shall be deemed to be sale of property. Disposal gains or loss will be calculated accordingly.**
- Disposal gains on sale of shares, debentures etc, in a public company listed on Botswana Stock Exchange will be eligible for 100% exemption only if more than 49% of the company shares were released and traded on the Stock Exchange.

Value Added Tax

- Definition of input VAT widened to include transfer duty and any tax fraction of the value of the second hand goods acquired in respect of taxable supplies or imports.
- The definition of zero rated items amended to incorporate millet grain, millet meal, wheat grain, maize cobs flour, sugar and setswana beans. Some pesticides, fertilizers and farming tractors also to be included under zero rating. However zero rating will be limited to food items when sold as they are & not mixed with other products.
- The list of exempt goods and services extended to include supply of passenger transportation, donations, grants and condoms. Transportation of tourists by bus, air, safari vehicles or boats to remain taxable.

Tax on Charitable Institutions

A brief overview

The Income Tax Amendment Act, 2004 included charitable, religious, educational institutions and public trusts established for public purposes, under the definition of Company. BURS have announced that no more blanket exemption will be provided to these institutions.

Effect of this amendment

The following institutions are brought under the definition of Company.

- Charitable, Educational, Religious Institutions & Public Trusts.
- Social associations and sports bodies

Responsibility

The manager or trustee of these institutions are required to do the following

- Register for tax if not done so already using the prescribed form- ITRG1
- Submit self assessed tax return in the prescribed format-ITA25 (SA) along with the financial statements and other details required.
- Apply for extension for application of funds wherever required in prescribed form.
- Pay SAT quarterly instalments in line with the financial year wherever the annual tax exceeds P 50 000.
- Register for PAYE where their employees are paid employee remuneration more than the minimum taxable limit of P 25 000 and file annual return of withholding tax (ITW10).
- Register for Other Withholding Taxes where they are making any payments pertaining to construction contracts, dividends, royalty, interest etc and file annual return of withholding tax (ITW10).

Taxability of income

The following income is taxable in the hands of these institutions

	Type of Institution	Taxable	Exempt
1	Charitable, Educational, Religious Institutions & Public Trusts.	1. Business income and disposal gains not applied for public objectives.	1. Any other income which is not business income or disposal gains 2. Business income and disposal gains applied for public objectives within the financial year or approved extended period.
2	Social associations and sports bodies	1. Any income not applied for public objectives.	1. Any income applied for public objectives within the financial year or approved extended period.

Clarifications from BURS on some of the FAQ's put forth by us...

1. What is meant by public objective for the purposes of application of business income?

Public objectives refer to the objectives for which the institutions are formed. This will be primarily determined by the constitution or objectives stated as per Memorandum and Articles of these associations. Hence any institution which feels that they have expended their funds for these purposes may claim it as exempt. In case these institutions need a confirmation they may write to the CG (Commissioner General). However the onus to prove that the funds have been applied for public objectives lies with taxpayer.

2. What is the difference between a charitable, education and religious institution and any other associations doing a charity work? How is the tax treatment different for both these types of institutions?

Charitable institutions are those institutions which directly render any services for public benefit such as medical services, education services, religious institutions etc and their motive for engaging into such services is not to make profit. Other associations are institutions which do not render services for public benefits directly. However these associations may be engaged in charity such as donations for public benefit purposes.

For the purposes of tax, non business income earned by charitable institutions is fully exempt. Other associations will be taxed on all income received by them that is not applied for public objectives.

3. What is business income in the context of such institutions? What is the treatment of business loss in the hands of such institutions?

Business refers to business, profession, vocation trade, letting of property, any adventure or concern in the nature of trade. Looking further into the definition of these terms any activity which is carried out with the objective of making profit is business. Risk and reward is part of this activity.

Business loss will be allowed to be carried forward for 5 years as is the case of any other company. This carry forward loss will be allowed as a set off against the future business income.

4. Is there a specific manner for preparation of financial statements of these institutions for the purposes of submission to tax department? If yes then whether the business and non business income needs to be maintained separately?

BURS do not specify a manner of preparation of financial for such institutions. All the institutions are only required to follow the manner of tax computation prescribed.

However in case these institutions are maintaining the business and non business income/expenditures separately it would be easier to compute taxable income.

More tax queries...

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