



Grant Thornton

Tax Alert

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A spotlight of the Tax amendments that has been recently published in Government Gazette. These amendments will be effective from 01 July 2011 for the tax year June 2012, pending final gazette publication. The amendments regarding withholding tax on rent will be effective from the date of publication.



- ➔ Income Tax rates – corporate and personal tax rates revised.
- ➔ Withholding Tax rates –introduced on rents.
- ➔ Additional Company tax (ACT) - abolished from tax year June 2012.
- ➔ Capital Gains Tax – conditions changed for exemption on principal primary residence and listed company shares.

INCOME TAX – CORPORATE TAXATION

- The corporate tax rate has been **reduced** from 25% to 22%.
- **Non resident companies** will be taxed at 30%.
- Other income of **IFSC companies** will be taxed at 22%.
- Manufacturing companies will be charged as per the **Manufacturing Approval Order** issued by the Minister until the time limit specified in the order.
- Taxation for corporate shall be a single tier system with the **abolition** of Additional Company tax (ACT).
- Amount contributed to a **mine rehabilitation fund**, approved by the Minister, will be allowed as a deduction.
- **Training levy** paid in accordance with the provisions of the Vocational Training Act and Vocational Training (Structured Training) Regulations to be allowed as a tax deduction.
- Payments received by the taxpayer as **reimbursement of training costs** paid under the Vocational Training (Reimbursement) Regulations to be included in gross income.
- Additional 100% **training expenditure deduction** cannot be claimed where a taxpayer is entitled to reimbursement under the Vocational Training (Structured Training) Regulation.

INCOME TAX – PERSONAL TAXATION

- Threshold for individual's tax **increased** from P30 000 to P36 000
- With the change in the **definition of business**, individuals are allowed to set off losses from one business with another. Farming, mining and capital losses are ring fenced.



The revised tax rates for June 2012 are as follows:

RESIDENTS

TAXABLE INCOME	TAX
0-36,000	0
36 001-72 000	0+ 5% of excess over 36 000
72 001- 108 000	1 800 + 12.5% of excess over 72 000
108 001-144 000	6300 + 18.75% of excess over 108 000
144 001 and above	13 050 + 25% of excess over 144 000

INDIVIDUALS –NON RESIDENTS

TAXABLE INCOME	TAX
0 -72,000	5% for every Pula
72 001- 108 000	3,600 + 12.5% of excess over 72,000
108 001-144,000	8100 + 18.75% of excess over 108,000
144,001 and above	14,850 + 25% of excess over 144,000

WITHHOLDING TAX

Withholding tax and Additional Company Tax

- Withholding tax (WHT) on dividends **reduced** from 15% to 7.5% with effect from the tax year June 2012.
- **Additional Company tax** (ACT) will not be carried forward if they are not utilised before 30 June 2011.
- Companies with financial year end other than 30 June 2011 will be allowed to set off the carried forward ACT if the dividends are declared before **30 June 2011**.

Withholding tax on Rents and premiums

Payments of **rent for use of land or buildings** during any tax year by a resident or a non resident are subject to withholding tax at 5%.

Withholding tax shall not be applicable to:

- Payments of **accommodation** in a hotel, motel, guest house or lodge
- Payments of less than **P36 000** per tax year
- The recipient of the payments is **exempt** from tax
- The rent is not to be claimed as **business expenditure**.

Withholding tax on mine rehabilitation fund

- Any payments made to a person who has contributed to the fund from or on behalf of any **mine rehabilitation fund** will be subject to withholding tax at 10%.
- The withholding tax paid is a **final tax** and therefore the surplus amount will not be subject to further income tax in Botswana.

The Proposed Withholding Tax rates for June 2012

Nature of payment	Rate %
Dividends (residents and non-residents)	7.5
Interest, royalties and management or consultancy fees paid to non residents	15
Entertainment fees paid to a non-resident	10
Interest paid to residents (WHT applicable on excess of P 1950 per quarter)	10
Rent paid for use of buildings and land (resident and non resident)	10
Surplus payments made on behalf of any mine rehabilitation fund after rehabilitation of a mine (resident and non-resident)	10
Brokerage commission (resident and non-resident)	10

Withholding tax - Other provisions

- Deduction of **tax certificates** against tax payable relating to contract revenue, interest etc, to be allowed only if the withholding has been paid to BURS.
- Further, any credit for deduction of tax paid can be **claimed** only in the tax year in which the tax is paid.
- The definition of **commercial royalty** has been expanded to include the right to commercially develop and exploit software.
- The definition of **management or consultancy fee**, payable to non-residents, has been expanded to include the development or customization of software.

CAPITAL GAINS TAX

- Exemption from capital gains on **principal primary residence** (PPR) is allowed only if the property is held by the individual for 5 years.
- Exemptions from capital gains on **subsequent disposal** of the PPR will be allowed if 5 years have lapsed from tax year in which the previous exemption was granted.
- Capital gains on disposal of shares, units or debentures of a **resident public company** is exempt from capital gains tax only if they have been held for at least 1 year by the taxpayer.

TAX RATES (Proposed for June 2012)

DETAILS	TAX RATES (%)
Resident Company	22
Non Resident Company	30
Botswana Meat Commission (all taxable income)	15
Pension and provident fund not approved by the Commissioner General (Investment income)	7.5
Dividends accruing outside Botswana(Gross income)	15
Persons not included in the above categories	25
International Financial Services Company	
a) On income from approved financial transactions with Non –residents, IFSC Companies and specified collective	15
b) All other Income	22

BOARD OF ADJUDICATORS

- Any taxpayer aggrieved by the Commissioner General's decision may lodge an **appeal** within 60 days of the assessment to the Board of Adjudicators before appealing to the High Court.
- The appeal shall be served to the Commissioner General within 14 days from the date of lodging the appeal.
- The appeal shall be in **writing** and in the format prescribed by the Minister.
- The decision of the Board of Adjudicators to be made **public**.
- **New evidence** shall not be produced during the appeal process unless specifically required by the Board of Adjudicators.
- The **rules** for appointment of the board have been modified.

INTEREST AND PENALTIES

- Interest on unpaid income tax to be payable at 1.5% **compounded** monthly or part of a month thereof instead of at simple interest.
- Interest for failure to **submit income tax and withholding tax returns** has been reduced from 2% per month or part of a month to compound interest of 1.5% per month or part thereof.
- A penalty of P10 000 to be imposed for **failure to register** for TIN allotment. However the penalty is subject to remission on appeal to the Commissioner General.
- Penalties up to P20 000 to be imposed for **failure to submit** additional information requested by the Commissioner General.

OTHERS

- The definition of **assessment** now includes the determination of any withholding tax due by the Commissioner General. Further, the Commissioner General is empowered to raise an assessment for withholding tax where withholding tax has not been deducted.
- The definition of **business** has been amended to include all persons and to aggregate income accruing from different business activities (i.e. including individuals) except where the income is received from mining, farming and disposal of property.
- **Tax Identification Number** (TIN) to be provided to the payer where withholding tax is being deducted (i.e. PAYE, 3% on construction payments, 10% withholding tax on interest received) so that it is included on the withholding tax certificate.
- Exempt portion of **interest** received by resident individuals from banking institutions or building societies increased from P6 000 to P7 800.
- Exemption on commercial royalty payments made to non-residents in respect of **leasing of aircraft** has been repealed.
- The Commissioner General to be notified before any **transfer of licence** or mineral permits are approved.



TAX CLEARANCE

- Any person tendering in accordance with the Public Procurement and Asset Disposal Act (PPAD) will be required to have a **Tax Clearance Certificate** (TCC)
 - The time required to process and obtain a TCC will be **2 weeks** from the date of application.
 - A TCC **will be issued** if:
 - There are no outstanding **liabilities**
 - The taxpayer has made sufficient arrangements for the **payment** of tax due
 - Any person who has been denied issuance of a TCC can **object** to the Commissioner General.
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