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botswana unified revenue service

GUIDELINES ON THE

INCOME TAX (AMENDMENT) ACT, 2024

A		**PURPOSE OF THE GUIDELINES**
	A1	The purpose of the guidelines is to give the public information on the latest Income Tax Act Amendment that came into effect on 15 January 2024. The guidelines are given for information purposes only and have no force in law. They do not bind the Commissioner General nor restrict the taxpayers' rights of objection or appeal as provided for under the Income Tax Act.
	A2 **ITA Amendment, 2024**	In January 2024 the Income Tax Act was amended to: 1. Increase the tax-free threshold for pension fund commutable amounts, gratuity, severance and retrenchment payments. 2. Introduce an exemption for amounts accessed by deferred pension fund members for medical reasons and settlement of loans. 3. Provide an exemption to cover members who have retired from employment on medical reasons, who wish to access pension amounts to settle their mortgage loans. The purpose of the Amendment was to align the Income Tax Act with the changes introduced by the Retirement Funds Act of 2022, which increased the amount of pension commutable at retirement and introduced enhancements to encashment by deferred members for purposes of settling medical bills and loans owed. The Income Tax Amendment Act, 2024 commenced on 15 January 2024. The Act is amended at Section 32 and Part II of the Second Schedule.

B			**INCREASE IN TAX-FREE THRESHOLD OF SPECIFIED PAYMENTS**
	B1 **SECTION 32**		At Section 32, the Amendment Act seeks to increase the tax-free threshold applicable to pension fund commutable amounts, gratuity and severance payment, and retrenchment package from one third to **50 per cent**.
	B2 **SECOND SCHEDULE**		The Second Schedule is amended in Part II to: a) Increase exemption threshold for specified amounts and b) Introduce new exemptions.
	B2.1		**INCREASE IN EXEMPT AMOUNT FROM ONE THIRD TO 50 PER CENT**
		B2.1.1	**Paragraph xxvii** - Where under any law in force in Botswana an employee is permitted to commute a portion of his or her pension, an amount not exceeding **50 per cent** of the pension entitlement at the time of retirement shall be exempt from tax. **Example 1:** *Mr. Moruisi has worked in the public service since 2006. He has just celebrated his 45th birthday. He now wishes to retire from public service and pursue farming in his home village of Moletemane through the Temo Letlotlo programme.* *In terms of the Public Service Act, a public officer may voluntarily retire after attaining the age of 45. Mr. Moruisi has applied for voluntary retirement, which application has been duly approved by the employer. Mr. Moruisi has been a member of the Botswana Public Officers Pension Fund (BPOPF) until his retirement on 28 January 2024. The BPOPF rules allow Mr. Moruisi to commute an amount up to 50 per cent of his pension entitlement.*

			Mr. Moruisi elects to commute the maximum of 50 per cent of his entitlement on retirement. Mr. Moruisi shall therefore be entitled to a 50 per cent exemption under the Income Tax Act and the remaining 50 per cent will be taxable over his remaining life (years) when paid as pension income. **Example 2:** *Mr. Lesole enlisted with the Botswana Defence Force (BDF) in 2004 at the age of 18, and has completed 20 years of pensionable service in the force. According to the BDF Act, a soldier may retire at any time upon or after completing 20 years pensionable service.* *Mr. Lesole, now 38, has indicated his intention to retire from the force to venture into other opportunities. He has been a contributing member of the BPOPF until his retirement on 27 February 2024. The BPOPF rules allow Mr. Lesole to commute an amount up to 50 per cent of his pension entitlement.* *Mr. Lesole elects to commute 50 per cent of his pension entitlement on retirement, and therefore the 50 per cent shall be exempt from tax under the Income Tax Act. The remaining 50 per cent will be taxable over the years when he receives pension income.*
		B2.1.2	**Paragraph xxviii** - Any person other than the one subject to paragraph (xxvii), 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 **50 per cent** of his or her full entitlement at the date of his or her retirement shall be exempt from tax; **Example 3:** *Ms. Makepe has worked for Botswana Merchant Services (Pty) Ltd (BMS) for 27 years. She decided to retire from employment on 16 February 2024 upon reaching the age of 57.* *BMS has entered into an arrangement with Pitse-E-Sule Insurance Company to provide pension benefits for its employees. Ms. Makepe*

			is entitled to a pension on retirement payable by the Insurer. Under the insurance scheme rules, BMS employees can retire from the age of 50 and Ms. Makepe is entitled to receive up to 50 per cent of her full entitlement. *Ms. Makepe elects to commute 50 per cent of her entitlement. She will therefore be entitled to a 50 per cent exemption under the Income Tax Act. The remaining 50 per cent will be taxable over the years when she receives pension income.*
		B2.1.3	**INCREASE IN EXEMPT AMOUNT FROM P500 TO P20 000**
			Paragraph xxix - Where a person other than a person referred to in paragraphs (xxvii) and (xxviii) is entitled bona fide to an annual pension or annuity of not more than **P20 000**, an actuarially calculated sum representing the commutation of that pension or annuity shall be exempted from tax. **Example 4:** *Ms. Selapong worked in a cleaning company, Clean Hands (Pty) Ltd (CH) for 9 years, and retired on 19 January 2024 after attaining 56 years. CH purchased annuity with an insurance company for its employees. At the time of retirement, Ms Selapong is entitled to annuity from the insurance company.* *The Insurance company upon receiving Ms Selapong's notification of retirement, performed calculations on how much she is entitled to receive annually. The Insurer calculates the amount from the total credit that Ms Selapong is entitled to, being P235 200, and she will be able to receive a total of P16 800 annually as annuity for the next 14 years.* *Since the projected or calculated entitlement of her annual annuity is less than P20 000.00 per annum, Ms. Selapong will be entitled to*

commute the full credit (P235 200) to a single lump sum, and the entire amount will be exempt from tax.

B2.2

INSERTION OF NEW PARAGRAPHS (XLIV) AND (XLV) OF PART II OF THE 2ND SCHEDULE

B2.2.1

Paragraph xliv - Any amount withdrawn by a deferred member under the Retirement Funds Act from the pension entitlement, for purposes of medical treatment shall be exempt from tax.

This provision allows for exemption of benefits accessed by deferred pension fund members to pay for medical treatment in respect of terminal ailments or chronic diseases.

Example: 5

Mr. Benson was a pensionable employee of Reform Services (Pty) Ltd (RS) and resigned on 31st August 2023. Unfortunately, he received a terminal disease diagnosis in December 2023. He proceeded to utilize his medical aid benefit for hospital treatments.

On 23rd February 2024, the medical aid provider informed him that his medical aid benefit was exhausted. At that time, he still had to undergo four (4) further treatments, totaling an amount of P50 000.

Mr. Benson approached his previous employer's pension fund, RS Pension Fund, to withdraw the required P50 000 for his hospital treatments. His fund credit with the RS Pension Fund was P300 000. Upon application to the pension fund board to settle his medical treatments, he was approved and allowed to withdraw the required amount of P50 000.

The new provision allows Mr. Benson to withdraw the amount required to settle the medical bill without any tax payable.

		B2.2.2	**Paragraph xlv** – Where a deferred pension fund member withdraws an amount from their pension entitlement for purposes of settling a loan, they shall be entitled to 50 per cent tax exemption on the amount withdrawn, and the remaining 50 per cent being taxable. Where, due to tax payable, the amount withdrawn is not enough to settle the loan payable, the whole amount shall be exempt from tax. The provision allows for 50 per cent exemption on amounts accessed by deferred members to pay for loans. Where the tax is payable on the remaining amount and the balance could not settle the loan in full because of the tax, the whole amount withdrawn will be exempt from tax. The exemption also applies to deferred pension fund members who have retired due to medical reasons and wish to access their benefits to settle mortgage loans. **Example 6:** *Mr. Mark, a 34 year-old former employee of Enlist Services Limited (ESL), was retrenched on 31 July 2023. Despite receiving a retrenchment package, he found himself burdened with a loan balance of P450 000 with his bank. The amount of his pension fund credit at the time of his retrenchment was P459 000. He is currently unemployed and without any promising job prospects.* *On 16 January 2024, a former colleague from ESL who works in the Human Resources department alerted him of the latest amendments to the Income Tax Act. Mr. Mark had been aware of the Retirement Funds (Amendment) Act of 2022, which allowed a deferred member to withdraw any amount from their pension fund benefit to settle any loan, upon meeting specified requirements.* *His former colleague explained to him that the latest Income Tax Amendment Act allows tax exemptions on any amounts withdrawn by a deferred pension fund member to settle any loan, as from 15 January 2024.*

Mr. Mark has made the application to the pension fund board to settle his loan after being unemployed for six consecutive months. Mr. Mark was approved by the pension fund board to withdraw the loan settlement amount of P450 000. 50 per cent of the amount withdrawn will be exempted from tax and the other 50 per cent will be taxable.

The tax amount calculated on the taxable 50 per cent for Mr. Mark was more than the amount remaining in his fund and would reduce the amount of P450 000 withdrawn if tax is deducted thereby making the withdrawn amount not enough to settle the loan payable. For this reason, there will no tax charged on the P450 000 withdrawn from the fund as the amount will not be enough to settle the loan payable as a result of the tax payable on the withdrawn amount, and the amount of the fund credit is not enough to settle the loan and also pay the tax on the taxable amount of 50 per cent.

Example 7:

In July 2023, Ontiretse who is 42 years of age, resigned from his job as a nurse, to pursue other opportunities. He had a loan balance of P150 000 with his bank. The amount of his pension fund credit at the time of his resignation was P600 000. The new opportunity he wanted to pursue did not materialize and he has remained unemployed since his resignation.

Ontiretse made an application to his previous employer's pension fund to access his pension fund amounts to settle his loan. He was approved by the pension fund board after meeting all the requirements.

Ontiretse's pension fund credit is sufficient to settle the loan balance together with the tax payable on the taxable amount of 50 per cent of the withdrawn amount.

The pension fund will settle Ontiretse's loan of P150 000 with the bank and remit the tax payable to the Commissioner General, i.e. 50per cent of the P150 000 (P75 000) will be exempted from tax and the pension fund will calculate and withhold tax on the remaining 50 per cent of the withdrawal amount.

		B2.2.3	**Deferred Member:** A member of a fund who no longer contributes to the fund, but who has benefits preserved and has preserved pension rights with the fund (Retirement Funds Act, 2022).
D			**IMPLEMENTATION OF THE AMENDMENT**
	D1		**APPLICATIONS SUBMITTED WITH THE COMMISSIONER GENERAL:** • The 50 percent exemption shall apply to payments made on or after 15 January 2024. • All payments made to pension fund members and/or individuals prior to 15 January 2024 are not affected by the amendment. • Employers are reminded to submit tax calculations for purposes of direction by the Commissioner General in the prescribed form (form ITW6 and 6A). • Applications to access pension fund amounts for medical treatment or settlement of loans are processed by the pension fund boards, and BURS will receive complete and approved applications, with calculations, from the pension fund boards. **NB:** An **"employer"** means any person who pays remuneration to any employee and includes the trustee of an approved superannuation fund.

E	FURTHER INFORMATION	
		For further information or clarification on the tax exemptions above, please contact the office of the Botswana Unified Revenue Service (BURS), Domestic Taxes Division through e-mail domestictaxesdivision@burs.org.bw and telephone on 3639604, or the BURS Call Centre on toll free number 17649

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