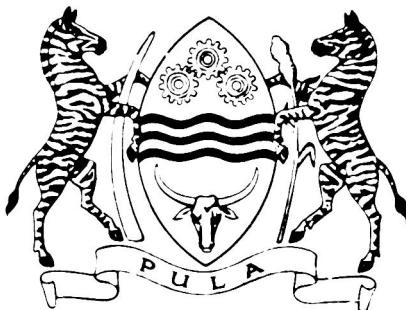


**REPUBLIC OF BOTSWANA**



# **GOVERNMENT GAZETTE**

## **EXTRAORDINARY**

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**GABORONE**

**27th November, 1978.**

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### **CONTENTS**

*Page*

The following Supplement is published with this issue of the Gazette –  
Supplement B – Income Tax (Amendment) (No. 2) Bill, 1978 – Bill No. 40 of 1978 . . . . . B.175 – B.178

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*Bill No. 40 of 1978*

**INCOME TAX (AMENDMENT) (NO. 2) BILL, 1978**  
*(Published on 27th November, 1978)*

**MEMORANDUM**

A draft of the above Bill, which it is proposed to present to the National Assembly, is set out below.

2. The principal object of the Bill is to amend the Income Tax Act, Cap. 52:01, to provide rules, which accord with current costs and rents, for the valuation for income tax purposes of any quarters or residence provided for an employee.

3. Clause 2 proposes an amendment to Section 31 (3) of the Act to provide that the value of any quarters or residence should be measured normally by reference to the current cost of their provision and to any rent payable by the employee. In addition, it is proposed that —

- (a) the taxable value should be nil for any employee whose employment income, excluding the value of quarters or residence, is not above the tax threshold which is at present P1 500 and P3 000 for single and married persons respectively; and
- (b) for any other employee, the taxable value should not exceed a certain percentage of his employment income, excluding the value of quarters or residence, less any rent payable by him.

Because of fluctuations in housing costs and in the percentage of income which an employee might reasonably be expected to pay as rent, it is proposed that the arithmetical factors relevant thereto should be prescribed by regulations. Clause 2 further proposes that where, in the opinion of the Commissioner of Taxes, arrangements for provision of any quarters or residence are made to avoid or reduce taxation the value should be an amount which he considers reasonable.

**Q.K.J. MASIRE,**  
*Vice-President and*

*Minister of Finance and Development Planning.*

## ARRANGEMENT OF SECTIONS

### SECTION

1. Short title and commencement
2. Amendment of section 31 of Cap. 52:01

### A BILL entitled

#### An Act to amend the Income Tax Act

*Date of Assent:*

*Date of Commencement:*

ENACTED by the Parliament of Botswana.

Short title  
and com-  
mencement

1. (1) This Act may be cited as the Income Tax (Amendment) (No. 2) Act, 1978.

(2) This Act shall be deemed to have come into operation on 1st July, 1978, and shall apply to the assessment of income for the tax year ending on 30th June, 1979, and all subsequent tax years.

Amendment  
of section 31  
of Cap. 52:01

2. Section 31 of the Income Tax Act is amended by substituting for subsection (3) thereof the new subsections following —

“(3) For the purposes of this section, the value of any quarters or residence provided for an employee in respect of his employment shall be deemed to be the sum of —

(a) an amount equal to the total of all expenditure of a recurrent nature incurred by the employer on the quarters or residence during the tax year or, where the period for which the quarters or residence are provided in the tax year is less than twelve months, during that period; and

(b) if the quarters or residence are owned by the employer, ten per centum of the current capital cost thereof or, where the period for which the quarters or residence are provided in the tax year is less than twelve months, such amount as bears to that sum the same ratio as that period bears to twelve months,

less any amount payable by the employee as rent for such quarters or residence during the tax year or, where the period for which the quarters or residence are provided in the tax year is less than twelve months, during that period:

Provided that —

(i) in the case of any quarters or residence provided during any tax year for an employee whose employment income, excluding the value of the quarters or residence, for that year does not exceed the amount of the personal allowance to which he is entitled under section 47 for that year, the value of

the quarters or residence shall be deemed to be nil; and

- (ii) in any other case, the amount deemed to be the value of an employee of any quarters or residence provided for him in any tax year shall not be greater than —

- (aa) where the quarters or residence are provided for the whole of a tax year, the excess of the relevant percentum of his employment income, excluding the value of the quarters or residence, for that year over any amount payable by him as rent for the quarters or residence during that year; or

- (bb) where the quarters or residence are provided in the tax year for a period of less than twelve months, the excess of the relevant percentum of his employment income, excluding the value of the quarters or residence, for that period over any amount payable by him as rent for the quarters or residence during that period.

(3A) Where any quarters or residence are provided for an employee in respect of his employment and the Commissioner is of the opinion that any arrangement made in relation to —

- (a) the acquisition or lease of such quarters or residence by the employer;
- (b) the amount of rent payable by the employee for such quarters or residence;
- (c) the employment of the employee or any of his relatives; or
- (d) the amount of the employment income of the employee or any of his relatives,

was made to avoid or reduce the liability to tax of such employee, then the provisions of subsection 3 shall not apply and the value to such employee of the quarters or residence shall be deemed to be such amount as the Commissioner considers reasonable having regard to all matters which appear to him to be relevant.

(3B) For the purposes of subsections 3 and 3A, “employer” includes any person who, with the agreement, authority, consent or knowledge of the employer of any employee, provides or assists in the provision of any quarters or residence for that employee in respect of his employment.

(3C) The Minister may, from time to time, prescribe the amounts of —

- (a) the current capital cost of any quarters or residence owned by an employer for the purposes of subsection (3B); and
- (b) the relevant percentum of the employment income, excluding the value of the provided quarters or residence, of an employee for the purposes of paragraph (ii) of the proviso to subsection (3)."

*L2/4/642 II*