Statutory Instrument No. 92 of 2026

INCOME TAX ACT 2026
(Act No. 13 of 2026)

INCOME TAX REGULATIONS, 2026

(*Published on 30th June, 2026*)

ARRANGEMENT OF REGULATIONS

IN EXERCISE of the powers conferred on the Minister of Finance by section 142 of the Income Tax Act, the following Regulations are hereby made —

PART I — *Preliminary*

Citation

1. These Regulations may be cited as the Income Tax Regulations, 2026 and shall come into operation on 1st July, 2026.

Interpretation

2. In these Regulations, unless the context otherwise requires —

"relevant business" means a business of carrying on approved financial operations as specified in section 93 of the Act.

PART II — *Approved Benefit Funds*

Approval of benefit fund

3. (1) An approved benefit fund is a permanent *bona fide* fund that the Commissioner General is satisfied that it is established solely or mainly for the purpose of providing —

(*a*) sickness, accident or unemployment benefits to its members; and

(*b*) benefits to widows, children, dependants or nominees of deceased members.

(2) A fund that satisfies the requirements of subregulation (1) shall apply to the Commissioner General for approval as an approved benefit fund.

(3) An application made under subregulation (2) shall be accompanied by a copy of the fund's registration certificate issued by the Non-Bank Financial Institutions Regulatory Authority and other constituent documents establishing the requirements under subregulation (1).

(4) The Commissioner General may require an applicant to lodge any further information or documents as the Commissioner General may specify as necessary to determine the application.

(5) The Commissioner General shall approve an application for approval as an approved benefit fund where he or she is satisfied that the applicant —

(*a*) meets requirements specified in subregulation (1); and

(*b*) shall keep and maintain proper books of account.

(6) The Commissioner General shall serve an applicant for approval as an approved benefit fund with written notice of the decision on the application.

(7) An approval granted under this regulation shall be valid for a period of up to 10 years and may, upon expiry, be renewed by application.

(8) An approval granted under this regulation shall take effect from the date specified in the notice of approval and shall remain in force until —

(*a*) the expiry of the period for which the approval was granted, unless renewed; or

(*b*) cancelled under regulation 5.

(9) An approved benefit fund shall notify the Commissioner General, in writing, within 28 days of ceasing to satisfy the requirements in subregulation (1).

(10) An approved benefit fund shall lodge an annual income tax return within three months after the end of the tax year.

(11) An approved benefit fund that fails to comply with subregulation (9) is liable to a penalty of P5 000.

Request for information and documents from approved benefit fund

4. (1) The Commissioner General may, from time to time, request information or documents from an approved benefit fund for the purposes of determining whether the fund continues to be entitled to be approved as an approved benefit fund.

(2) An approved benefit fund shall provide any information or documents requested by the Commissioner General within the time specified in the request notice or within such further time as the Commissioner General may allow by notice, in writing.

(3) An approved benefit fund shall retain its books of account for a period of eight years after the end of the tax period to which they relate in accordance with the provisions of section 14 of the Tax Administration Act.

Act No. 14 of 2026

Cancellation of approval of benefit fund

5. (1) The Commissioner General shall cancel the approval of a fund as an approved benefit fund, by notice, in writing, where —

(*a*) the fund has notified the Commissioner General under regulation 3 (8);

(*b*) the Commissioner General has reasonable grounds to believe that the fund has ceased to be entitled to be approved as an approved benefit fund under regulation 3(1); or

(*c*) the fund fails to provide information or documents requested by the Commissioner General under regulation 4.

(2) The cancellation of an approval under subregulation (1) (*a*) and (*b*) takes effect from the date that the fund ceased to be entitled to be approved as an approved benefit fund or such later date as stated by the Commissioner General by notice, in writing to the fund.

(3) The cancellation of an approval under subregulation (1) (*c*) takes effect from the date of non-compliance with the request of the Commissioner General under regulation 4.

(4) Any exemption granted under the repealed Act to an approved benefit fund and subsisting immediately before the commencement of the Act shall continue to apply after the commencement date of the Act for the remainder of the fund's approval period, unless the Commissioner General provides otherwise by notice, in writing to the fund.

(5) Where the approval of a fund as an approved benefit fund lapses or is cancelled, any tax exemptions applicable to that fund shall cease to apply.

Part III — *Approved Retirement Funds*

Approval of retirement fund

6. (1) An approved retirement fund is a fund that satisfies the following conditions —

(*a*) the fund is licensed as a pension fund, provident fund, retirement annuity fund or superannuation fund under the Retirement Funds Act and shall be a legal person whose assets are separate from the assets of any employer or any member of the fund; Cap. 27:03

(*b*) the fund is established as a retirement annuity or deferred annuity scheme, established and administered by an insurer in terms of the Insurance Industry Act; Cap. 46:01

(c) an annuity purchased by a retirement annuity fund shall, unless purchased from itself or from a pension fund registered under the Retirement Funds Act, be purchased from an insurer under the Insurance Industry Act; and

(*d*) the rules for the fund governing contributions, commutation, withdrawal benefits, death benefits, and permitted payments shall comply with the limits and conditions prescribed under the Retirement Funds Act and as licensed by the Non-Bank Financial Institutions Regulatory Authority.

(2) A fund that satisfies the requirements of subregulation (1) may apply to the Commissioner General for approval as an approved retirement fund.

(3) An application by a fund for approval as an approved retirement fund shall be accompanied by a copy of the fund's registration certificate issued by the Non-Bank Financial Institutions Regulatory Authority and other constituent documents establishing the requirements under subregulation (1).

(4) The Commissioner General may require an applicant to provide any further information or documents as he or she may specify as necessary to determine the application.

(5) The Commissioner General shall approve an application for approval as an approved retirement fund where he or she is satisfied that the applicant —

(*a*) meets requirements specified in subregulation (1); and

(*b*) shall keep and maintain proper books of account.

(6) The Commissioner General shall notify an applicant of the decision on the application through a written notice.

(7) An approval granted under this regulation shall be valid for a period of up to 10 years and may, upon expiry, be renewed by application.

(8) An approval granted under this regulation shall take effect from the date specified in the notice of approval and shall remain in force until —

(*a*) the expiry of the period for which the approval was granted, unless renewed; or

(*b*) it is cancelled under regulation 8.

(9) Any amendment to the rules of an approved retirement fund shall be notified to the Commissioner General.

(10) An approved retirement fund shall notify the Commissioner General, in writing, within 28 days of ceasing to satisfy the requirements in subregulation (1).

(11) An approved retirement fund shall lodge an annual income tax return within three months after the end of the tax year.

(12) A fund that fails to comply with subregulation (9) is liable to a penalty of P5 000.

Request for information and documents from approved retirement fund

7. (1) The Commissioner General may, from time to time, request information or documents from an approved retirement fund for the purposes of determining whether the fund continues to be entitled to be approved as an approved retirement fund.

(2) An approved retirement fund shall provide any information or documents requested by the Commissioner General within the time specified in the request notice or within such further time as the Commissioner General may allow by notice, in writing.

(3) An approved retirement fund shall retain its books of account for a period of eight years after the end of the tax period to which they relate in terms of section 14 of the Tax Administration Act.

Cancellation of approval of retirement fund

8. (1) The Commissioner General shall cancel the approval of a fund as an approved retirement fund, by notice, in writing, where —

(*a*) the fund has notified the Commissioner General under regulation 6 (10);

(*b*) the Commissioner General has reasonable grounds to believe that the fund has ceased to be entitled to be approved as an approved retirement fund, including as a result of a change in the fund's rules to which regulation 6 (9) refers; or

(*c*) the fund fails to provide information or documents requested by the Commissioner General under regulation 7.

(2) The cancellation of an approval under subregulation (1) (*a*) and (*b*) takes effect from the date that the fund ceased to be entitled to be approved as an approved retirement fund or such later date as stated by the Commissioner General by notice, in writing to the fund.

(3) The cancellation of an approval under subregulation (1) (*c*) takes effect from the date of non-compliance with the request of the Commissioner General under regulation 7.

(4) Any exemption granted under the repealed Act to an approved retirement fund and subsisting immediately before the commencement of the Act shall continue to apply after the commencement date of the Act for the remainder of the fund's approval period unless the Commissioner General provides otherwise by notice, in writing to the fund.

(5) Where the approval of a fund as an approved retirement fund lapses or is cancelled, any tax exemptions applicable to that fund shall cease to apply.

PART IV — *Approved Service Gratuity*

Approval of service gratuity

9. (1) Where an approved service gratuity or severance pay is not invested in an approved pension fund or approved retirement annuity fund or scheme, then one half of such gratuity or severance pay shall not be included in employment income and, at the option of the Commissioner General, the remaining one half thereof may be deemed to have accrued at the time it is payable, or accrued in three successive equal annual instalments, the last of such instalments being deemed to have accrued on the date on which the whole amount became payable:

Provided that, the exercise of the option by the Commissioner General would reduce the tax liability of the employee; and

Provided further that the employee is not —

(*a*) a relative of the employer where the employer is an individual;

(*b*) a relative of one or more of the partners where the employer is a partnership; or (*c*) a relative of or a member of a company where the employer is a company, unless the Commissioner General is satisfied that it is a *bona fide* arm's length payment.

(2) For purposes of this regulation "approved service gratuity" means a payment made to an employee in accordance with the written conditions of employment, approved by the Commissioner General, which conditions shall include provisions that —

(*a*) the conditions shall apply to all permanent employees of the employer to whom no retirement benefit accrues under any retirement benefit scheme established by their employer whether such scheme has been approved under the Act or not;

(*b*) the payment is to be in recognition of a period of continuous employment of not less than five years;

(*c*) a payment made in the course of the employment may be made only at the end of a period of continuous employment of five years or a multiple of five years;

(*d*) a payment made shall not exceed five weeks pay for each year of service at the rate of pay applicable to the last year of service in respect of which the payment is made;

(*e*) a payment made on cessation of employment may be made in respect of any residual period of service of less than five years provided that the employee has served in the employment for a continuous period of not less than five years;

(*f*) a period of service may be recognised by a payment of gratuity once only;

(*g*) the total gratuity up to the time any payment is made shall not exceed two years' pay at the rate current when the payment is due; and

(*h*) any changes in the conditions shall only apply on approval by the Commissioner General:

Provided that, where the Commissioner General is of the opinion that there is a good reason for doing so, he or she may approve conditions which do not comply with these requirements in all respects.

(3) Where an employee in the service of the Government is entitled to a gratuity on the same terms as for an approved service gratuity in accordance with paragraphs (b) to (h) of subregulation (2), the provisions of subregulation (1) shall apply to the gratuity.

(4) Where an employee is entitled to a bonus or gratuity under a contract of employment, one half of such bonus or gratuity shall be excluded from his or her gross income, and the remaining one half thereof shall be deemed to have accrued evenly over the duration of the contract or over the last three years thereof, whichever is the lesser, or over the last year of the contract, at the option of the Commissioner General:

Provided that —

(*a*) the exercise of the option by the Commissioner General would reduce the tax liability of the employee; and

(*b*) one half of the bonus or gratuity mentioned herein shall only be excluded from the gross income of an employee if in the opinion of the Commissioner General the payment is reasonable in the circumstances having regard to —

(i) the period of the employment;

(ii) the nature of the employment;
(iii) the salary payable to the employee; and
(iv) the measure of retirement benefits generally prevailing at that time.

PART V — *Non-Profit Organisations*

Application for approval as non-profit organisation

10. (1) An application by a company for approval as a non-profit organisation shall be accompanied by a copy of the company's constituent documents establishing the company's non-profit purpose under section 5 (1) (*a*) of the Act.

(2) An application by an irrevocable trust for approval as a non-profit organisation shall be accompanied by a copy of the duly executed trust deed —

(*a*) demonstrating that the trust is an irrevocable trust; and
(*b*) establishing the trust's non-profit purpose under section 5 (1) (*a*) of the Act.

(3) The Commissioner General may require an applicant for approval as a non-profit organisation to provide any further information or documents as the Commissioner General may specify as necessary to determine the application.

(4) The Commissioner General shall approve an application for approval as a non-profit organisation, if satisfied that the applicant —

(*a*) meets the conditions specified in section 5 (1)(*a*) – (*c*) of the Act; and
(*b*) shall keep and maintain proper books of account.

(5) A non-profit organisation shall lodge an annual income tax return within three months after the end of the tax year.

(6) The Commissioner General shall serve an applicant for approval as a non-profit organisation with written notice of the decision on the application:

Provided that, any approval granted under this regulation shall be valid for a period of five years and may, upon expiry, be renewed by application.

(7) Any exemption granted under the repealed Act to a non-profit organisation and subsisting immediately before the commencement of the Act shall continue to apply after the commencement date of the Act for the remainder of the organisation's approval period unless the Commissioner General provides otherwise by notice in writing to the organisation.

Request for information and documents from non-profit organisations

11. (1) The Commissioner General may, from time to time, request information or documents from a company or irrevocable trust approved as a non-profit organisation for the purposes of determining whether the company or trust continues to be entitled to be approved as a non-profit organisation.

(2) A company or trust shall provide any information or documents requested by the Commissioner General within the time specified in the request notice or within such further time as the Commissioner General may allow by notice, in writing.

(3) A non-profit organisation shall retain its books of account for a period of eight years after the end of the tax period to which they relate in terms of section 14 of the Tax Administration Act.

Cancellation of approval of non-profit organisations

12. (1) The Commissioner General shall cancel the approval of a company or irrevocable trust as a non-profit organisation, by notice in writing, where the –

(*a*) company or trust has notified the Commissioner General under section 5 (4) of the Act;
(*b*) Commissioner General has reasonable grounds to believe that the company or trust has ceased to be entitled to be approved as a non-profit organisation; or

(*c*) company or trust fails to provide information or documents requested by the Commissioner General under regulation 11.

(2) The cancellation of an approval under subregulation (1) (*a*) and (*b*) shall take effect from the date that the company or irrevocable trust ceased to be entitled to be approved as a non-profit organisation or such later date as stated by the Commissioner General by notice, in writing to the company or trust.

(3) The cancellation of an approval under subregulation (1) (*c*) shall take effect from the date of non-compliance with the request of the Commissioner General under regulation 11.

(4) Where the approval granted under regulation 10 (6) lapses without renewal or is cancelled under this regulation, the tax exemptions applicable to the non-profit organisation shall cease to apply.

Register of non-profit organisations

13. (1) The Commissioner General shall establish and maintain a register of approved non-profit organisations containing the following information —

(*a*) the name and address of the non-profit organisation;
(*b*) the non-profit purpose of the non-profit organisation;
(*c*) the date of effect of approval as a non-profit organisation;
(*d*) the date of expiry of the approval;
(*e*) the Taxpayer Identification Number (TIN); and
(*f*) such other matters as the Commissioner General considers appropriate.

(2) The register of approved non-profit organisations shall be made available to the public on the website of the Botswana Unified Revenue Service.

PART VI — *Natural Resource Amount*

Natural resource amount

14. (1) For the purposes of the definition of "natural resource amount" in section 2 of the Act, the reference to a living or non-living resource shall include, the following natural resources, and rights relating to such resources, derived from their exploration or exploitation —

(*a*) mineral resources, including iron ore, aluminium, and nickel;
(*b*) precious metals including diamonds, copper, and gold;
(*c*) rare earth minerals, including cerium, terbium, and erbium;
(*d*) crude oil, petroleum, natural gas, coal, and their in natura by products;
(*e*) water, in whatever form;
(*f*) soil, gravel and sand;
(*g*) forest resources; and
(*h*) bio-diversity based resources.

(2) The list in subregulation (1) shall inform the natural resource amounts subject to withholding tax under Schedule I of the Act.

PART VII — *Employee Non-Cash Benefits*

Value of non-cash benefit

15. (1) The value of a non-cash benefit included in the employment income of an employee under section 16(1)(e) of the Act shall be determined in accordance with this Part.

(2) The value of a non-cash benefit shall be included in the employment income of an employee for the pay period in which the benefit is provided to the employee.

(3) Subject to subregulation (4), non-cash benefits shall include the following —

(*a*) a debt waiver benefit;

(*b*) a housing benefit;
(*c*) a school fees benefit;
(*d*) a motor vehicle benefit;
(*e*) a utilities benefit;
(*f*) an interest benefit; and
(*g*) a residual benefit.

(4) A non-cash benefit provided by an employer to an employee shall be disregarded if the benefit is provided to employees on an infrequent or irregular basis and the value of the benefit does not exceed P1 300.

(5) A reference in this Part to an employer providing a benefit to an employee includes a benefit provided to an employee of an employer by an associate of the employer.

Debt waiver benefit

16. (1) The waiver by an employer of the obligation of an employee to pay or repay an amount owing by the employee to the employer shall be a debt waiver benefit.

(2) The value of a debt waiver benefit shall be the amount of the debt waived.

(3) A debt waiver benefit is provided by an employer to an employee at the time that the debt is waived.

Housing benefit

17. (1) Any quarter or a residence provided by an employer to an employee is a housing benefit.

(2) The value of a housing benefit shall be determined in accordance with regulations 18, 19, 20, 21 and 22.

Quarter or residence leased by employer or associate

18. (1) Where a quarter or a residence is leased by the employer or an associate of the employer, the value of the housing benefit shall be the rent paid by the employer for such a quarter or a residence.

(2) A housing benefit referred to in sub-regulation (1) is provided by an employer to an employee in the pay period in which the rent is paid by the employer or associate.

Rateable quarters or residence owned by employer or associate

19. (1) Where a quarter or a residence is a rateable property owned by the employer or an associate, the value of a housing benefit provided by an employer shall be —

(*a*) equal to 10 percent of the rateable value of the property as shown on the valuation roll of the local authority in respect of the property as at the commencement of the tax year in which the pay period occurs; or
(*b*) in the case where such a quarter or a residence becomes a rateable property during the tax year after completion of the current valuation roll of the local authority, the value of a housing benefit provided by an employer shall be equal to 10 percent of the interim valuation made for the property.

(2) The value of a housing benefit of an employee for a pay period under this regulation shall be calculated according to the following formula —

A/B

where —

A is the amount calculated under subregulation (1) (*a*) or (*b*), as the case may be; and

B is the number determined under subregulation (3).

(3) The number for the purposes of component B in the formula in subregulation (2) is —

(*a*) where the pay period is a month, 12;
(*b*) where the pay period is a fortnight, 26;
(*c*) where the pay period is weekly, 52; and
(*d*) for any other pay period, the number determined by the Commissioner General.

Quarter or residence not rateable property or not valued

20. (1) Where a quarter or a residence is not a rateable property or has not been valued, the value of a housing benefit provided by an employer is an amount equal to 10 per cent of the capital valuation of the property at the commencement of the tax year or the date of the completion of the construction of the property, if completion took place during the tax year.

(2) Subject to subregulation (3), the capital valuation of a quarter or a residence for a tax year shall be calculated by multiplying P2 500 by the gross floor area in square metres of a quarter or a residence as at the commencement of the tax year or as at the date of completion of construction of the property if construction was completed during the tax year.

(3) Where the Commissioner General is satisfied that, by reason of the standard of the building, an excessive current capital valuation results under subregulation (1) or (2), the Commissioner General shall in place of the factor of P2 500 apply such smaller factor but not being less than P1 700, as the Commissioner General considers fair and reasonable.

(4) The value of a housing benefit of an employee for a pay period under this regulation shall be calculated according to the following formula —

A/B

where —

A is the amount calculated under subregulation (1), (2), or (3), as the case may be; and

B is the number determined under subregulation (5).

(5) The number for the purposes of component B in the formula in subregulation (4) is —

(*a*) where the pay period is a month, 12;
(*b*) where the pay period is a fortnight, 26;
(*c*) where the pay period is weekly, 52; and
(*d*) for any other pay period, the number determined by the Commissioner General.

Adjustment to value of housing benefit

21. Where the period for which a quarter or a residence is provided in a tax year is less than 12 months, the value of the housing benefit shall be the amount determined under regulation 18, 19 or 20, pro-rated by reference to the period for which a quarter or a residence is provided.

Limitation on value of housing benefit

22. (1) The value of a quarter or a residence provided by an employer to an employee in a tax year shall not be greater than —

(*a*) where a quarter or a residence is provided for the whole of the tax year, the excess of the relevant percentage of the employee's employment income, excluding the value of a quarter or a residence, for that year over any amount payable by the employee for a quarter or a residence during the year; or (*b*) where a quarter or a residence is provided in a tax year for a period of less than 12 months, the excess of the relevant percentage of the employee's employment income, excluding the value of a quarter or a residence, for that year over any amount payable by the employee for a quarter or a residence during that period.

(2) The relevant percentage of the employee's employment income excluding the value of the provided quarters or residence, for the purposes of subregulation (1) shall be published in the Housing Benefit Table on the Botswana Unified Revenue Service website.

School fees benefit

23. (1) Where an employer bears, pays or reimburses school fees of an employees' child, or a child that is a relative or dependant of the employee, the employer provides the employee with a school fees benefit.

(2) The value of a school fees benefit shall be the higher of —

(*a*) the amount of the school fees borne or paid by the employer;

(*b*) the amount of the school fees reimbursed by the employer; or

(*c*) the market value of the benefit.

(3) A school fees benefit is provided by an employer to an employee at the time that the school fees are borne, paid or reimbursed by the employer.

Motor vehicle benefit

24. (1) A motor vehicle provided by an employer to an employee wholly or partly for the private use of the employee is a motor vehicle benefit.

(2) A motor vehicle benefit shall be treated as including any maintenance or running costs paid by the employer in relation to the private use of the vehicle.

(3) The value of a motor vehicle benefit for a pay period is the amount calculated in accordance with the following formula —

$$^{(A \times 10\%)}/_{B}$$

where —

A is the cost to the employer of acquiring the motor vehicle or, where the vehicle is leased by the employer, the fair market value of the vehicle at the commencement of the lease; and

B is the number determined under subregulation (4).

(4) The amount of component **B** in the formula in subregulation (3) is —

(*a*) where the pay period is a month, 12;

(*b*) where the pay period is a fortnight, 26;

(*c*) where the pay period is weekly, 52; and

(*d*) for any other pay period, the number determined by the Commissioner General.

(5) A reference in this regulation to a motor vehicle being provided to an employee for private use includes a motor vehicle that is made available to an employee for private use even when the employee did not actually use the vehicle for private use on a particular day.

(6) For purposes of this regulation, "motor vehicle" means a road vehicle designed to carry a load of less than one tonne and fewer than nine seated passengers and includes a motorcycle, safari vehicle or similar vehicle.

Utilities benefit

25. (1) Where an employer bears, pays, or reimburses utilities on behalf of an employee, including telephone, water, electricity, internet or similar utilities, the employer provides the employee with a utilities benefit.

(2) The value of the utilities benefit shall be the higher of —

(*a*) the amount of the expenditure borne or paid by the employer on behalf of the employee; or

(*b*) the amount reimbursed by the employer.

(3) A utilities benefit is provided by an employer to an employee at the time that the cost of utilities of the employee is borne, paid, or reimbursed by the employer.

Interest benefit on employee provided loans

26. (1) Where an employer grants an employee an interest-free loan or a loan at a rate of interest lower than the market lending rate, the employer provides the employee with an interest benefit.

(2) The value of an interest benefit shall be the difference in the amount of interest on the preferential rate granted to the employee and the interest that would have been payable at the market lending rate.

(3) When computing the value of the interest benefit —

(*a*) the method used by the employer to charge interest on the loan shall be applied; and

(*b*) where interest is not charged by reference to a fixed period equal to or less than one year, the interest shall be computed on the outstanding daily balance as reflected in the employee's loan account.

(4) An interest benefit is provided by an employer to an employee at the time that the interest is paid by the employee to the employer.

(5) In this regulation, "market lending rate" means the Bank of Botswana Monetary Policy Rate prevailing on 1st July of the tax year in which the interest benefit is provided.

Residual benefits

27. (1) Where an employer provides a non-cash benefit to an employee, which is not otherwise provided for under this Part, the employer provides the employee with a residual benefit.

(2) Subject to subregulation (3), the value of a residual benefit shall be the higher of —

(*a*) the cost incurred by the employer in providing the benefit;

(*b*) the amount reimbursed by the employer in respect of the benefit; or

(*c*) the market value of the benefit.

(3) Where a residual benefit is the provision of free or subsidised air travel provided by an employer who is an airline operator to an employee, the value of the benefit is the lowest economy fare for the flight taken by the employee.

(4) A residual benefit is provided to an employee at the time that the benefit is provided or made available to the employee.

Retrospective employment income

28. (1) Where the period to which a lump-sum amount was derived is eight years or less, the amount shall be included in the employment income of the employee for the tax years in which the amount was derived or would be paid up.

(2) Where the period to which a lump sum amount was derived exceeds eight years the Commissioner General may determine a reasonable basis of apportionment, having regard to —

(*a*) the employee's terms of employment;

(*b*) prior remuneration patterns;

(*c*) the circumstances giving rise to the payment; and

(*d*) the prevailing tax rate for relevant tax years.

PART VIII — *Purchased Annuities*

Prescribed life tables

29. For the purposes of this regulation, "prescribed life tables" in relation to an annuity, means the Life Tables determined by the Commissioner General in consultation with the Non-Bank Financial Institutions Authority applicable for the year in which the annuity first commences to be payable in terms of section 21.

PART IX — *Deduction of Bad or Doubtful Debt*

Deduction of provisions for bad or doubtful debts by a bank

30. A provision for a bad or doubtful debt that may be deducted by a bank in a tax year shall not exceed one and a half per cent of the amount of loans and advances outstanding at the end of that tax year.

PART X — *Tax Deductible Donation*

Beneficiaries of donations for tax deduction purposes

31. (1) A person may benefit from a tax deduction where he or she makes a donation to —

(*a*) an orphaned child under the age of 18 years;
(*b*) a destitute person; and
(*c*) a person living with disabilities:

Provided that the donation is processed through the social welfare office or an institution that provides for the welfare of orphaned children under the age of 18 years, destitute persons and persons living with disabilities.

(2) The relevant office shall recommend to the Commissioner General the beneficiaries of donations referred to in section 34 (1).

(3) The following shall be recognised as the relevant office, Ministry responsible for —

(*a*) local government;
(*b*) child welfare;
(*c*) education;
(*d*) sports and arts;
(*e*) health; and
(*f*) presidential affairs.

(4) A recommendation under subregulation (2) accepted by the Commissioner General shall be valid for a period of up to three years.

(5) Where the Commissioner General is satisfied that the circumstances on which an acceptance was granted under subregulation (4) have changed materially to affect the acceptance, the Commissioner General may, at any time during the period of validity, withdraw such acceptance.

PART XI — *Tax Accounting*

Substituted accounting period

32. (1) A company may apply to the Commissioner General for approval to adopt an accounting period end other than the year ending on 30th June.

(2) An application under subregulation (1) shall be made, in writing and state the reasons for the application and shall be accompanied by such supporting information and documentation as may be required.

(3) All deductions, allowances, capital gains and losses included in the accounting period of a company shall be allocated to the correct tax year.

(4) A company filing a notice to change its accounting period is required to keep the new accounting period for at least 24 months.

(5) A company shall apply for approval to change its accounting period end not later than six months before the proposed new accounting period end.

Simplified income tax for small business

33. (1) A simplified income tax for a small business shall apply in terms of section 53 (2) of the Act, to an individual only in relation to the income, deductions, and other matters arising from the conduct of a small business by the individual to which section 53 (1) applies.

(2) The normal record-keeping period and period for amendment of assessments under the Tax Administration Act apply in relation to any non-business income producing activity of an individual referred to in subregulation (1).

PART XII — *Farming Operations*

Prescribed standard values for livestock

34. (1) This regulation applies for the purposes of section 76 (1) of the Act.

(2) The standard values for livestock acquired by natural increase shall be —

	Animal	*Fees*
1.	cattle	P 750
2.	goats	P 100
3.	sheep	P 100
4.	pigs	P100
5.	chicken	P20
6.	any other livestock	P10

PART XIII — *International Tax*

Arm's length debt amount

35. (1) For the purposes of section 90 (2), the following factors shall be considered in determining the arm's length debt amount of a foreign controlled resident licensee in relation to a resource project for a tax year —

(*a*) the functions performed, assets used, and risks assumed by the licensee during the year relating to its resource project;

(*b*) the terms and conditions of any debt of the licensee for the year attributable to its resource project;

(c) the nature of, and title to, any assets of the licensee attributable to its resource project that are available throughout the year as security for the debt referred to in paragraph (b);

(*d*) the purpose or purposes of the licensee's debt for the year attributable to its resource project;

(*e*) the licensee's capacity to meet all liabilities for the year or a future year relating to its resource project;

(*f*) the licensee's financial accounting profits for the year determined according to financial reporting standards for its resource project and the return on the capital from such project;

(*g*) the general state of the Botswana economy during the tax year; and

(*h*) any other factor relevant to determining the financial capacity of the licensee to service debt for the year.

(2) The reference to "foreign controlled licensee" in subregulation (1) includes a Botswana permanent establishment of a non-resident licensee to which section 90 (4) of the Act applies.

(3) For the purposes of section 92 (1) (*c*), this regulation applies to an international financial services centre company on the basis that —

(*a*) the reference to "licensee" is a reference to an international financial services centre company; and

(*b*) the reference to "resource project" is a reference to financial service centre operations of the company.

Part XIV — *Substantial Economic Presence*

Substance requirements

36. (1) A company has a substantial economic presence in Botswana for a relevant activity where —

(*a*) the company carries on core income-producing activities in Botswana in relation to the relevant business;

(*b*) the company is directed and managed in Botswana in relation to the relevant activity; and

(c) having regard to the level of income derived from the relevant business carried on in Botswana, the company —

(i) has an adequate number of appropriately experienced and, if relevant, qualified employees proportionate to the level of business, who are physically present in Botswana, whether or not employed by the company or by another company and whether on temporary or long-term contracts;

(ii) has an adequate level of operating expenditure incurred in Botswana proportionate to the level of business carried on in Botswana; and

(iii) has adequate physical assets or physical presence in Botswana proportionate to the level of business carried on in Botswana.

(2) A company may outsource a core-income producing activity and still satisfy subsection (1) (*c*) where —

(*a*) the outsourced activity is carried on in Botswana; and

(*b*) the company can demonstrate that it undertakes adequate supervision of the outsourced activity in Botswana.

(3) Subject to subregulation (2), only that part of the activities of the entity carrying on the outsourced activity that are attributable to producing income solely and exclusively for the company shall be considered in determining whether the company satisfies the substantial economic presence requirement.

Direction and management in Botswana

37. For the purposes of section 91 (1) (***b***), subject to regulation 36 (1) (***b***), a resident entity carrying on a relevant business is directed and managed in Botswana where —

(*a*) meetings of the management body are held in Botswana with adequate frequency having regard to the amount of decision-making required by the management body;

(*b*) for each meeting of the management body, a majority of the members of the management body are physically present in Botswana for the meeting;

(*c*) strategic decisions of the company are made at meetings of the management body held in Botswana and the minutes of meetings record those decisions;
(*d*) the management body, as a whole, has the necessary knowledge and expertise to discharge the duties of the management body; and
(e) the minutes of meetings of the management body are kept in Botswana in accordance with Botswana law.

Reporting obligation

38. (1) A company carrying on a relevant business during a tax year shall lodge a report with the Commissioner General for that year for the purpose of enabling the Commissioner General to determine whether the company has satisfied the substance requirements for the year.

(2) A report required to be lodged by a company under subregulation (1) shall —
(*a*) contain the information specified in subregulation (3); and
(*b*) be lodged within three months after the end of the tax year.

(3) A report required to be lodged by a company under subregulation (1) shall include the following —
(*a*) the details of the relevant business carried on by the company;
(*b*) the amount of income derived, expenditures incurred, and assets used in carrying on the business;
(*c*) the details of how the company satisfied the substance requirements for the relevant business for the year including details of any outsourcing of the relevant business;
(*d*) the details of the core income producing activities of the company with respect to each relevant business undertaken by the company during the year;
(*e*) the names and physical addresses of the members of the management body of the company for the year; and
(*f*) the details of the group to which the company belongs.

(4) An entity carrying on an outsourced activity referred to in regulation 36 (2) for a company for a tax year shall file a report of the activity with the Commissioner General, in the approved form, within four months after the end of the year.

Providing documents and information concerning substance requirements

39. In addition to the report required to be lodged under regulation 38, a company carrying on a relevant business shall provide the Commissioner General with such information or documents that the Commissioner General may, by notice in writing, require to determine whether the company satisfied the substance requirements for the relevant business carried on during a tax year.

PART XV — *Tax Treatment of Transactions Within Botswana Development Corporation Group*

Tax treatment of interest and losses within Botswana Development Corporation Group

40. (1) For purposes of this regulation, "member of the Botswana Development Corporation "Limited group of companies", as defined in section 95 (3) of the Act is referred to as a "member of the Development Corporation".

(2) Where a member of the Development Corporation lends money to another member of the Development Corporation", there shall be included in the gross income of the member lending the money, in any tax year, only such amount of interest on the loan as has been actually paid by the borrowing member of the Development Corporation during that tax year.

(3) In ascertaining the chargeable income or the assessed loss for any tax year of a member of the Development Corporation to whom a loan has been granted under subregulation (2), there shall be deducted any amount of interest paid on such loan.

Tax treatment of interest on loans payable to persons outside Botswana Development Corporation Group

41. Where a person, other than a member of the Development Corporation, lends money to a member of the Development Corporation and that member (in this regulation referred to as the "lending member of the Development Corporation") in turn lends such money to another member of the Development Corporation, then, in ascertaining the chargeable income or determining the assessed loss of the lending member of the Development Corporation for any tax year, there shall be deducted any expenditure incurred by way of interest on the loan made to the lending member of the Development Corporation, whether or not any interest has accrued on the loan made to the other member of the Development Corporation.

Offsetting of loss incurred within Botswana Development Corporation Group

42. (1) Subject to subregulation (2), where in any tax year a member of the Development Corporation has incurred an assessed loss, that member may, during the current tax year, by notice in writing to the Commissioner General, elect that the whole or any part of the assessed loss shall be deducted in ascertaining the chargeable income of one or more other members of the Development Corporation, and such other member or members shall be notified accordingly by the member making the election.

(2) Any member in relation to whom an assessed loss is to be deducted under subregulation (1) may, by notice in writing to the Commissioner General, make a claim within three months of being notified of the election that such assessed loss be deducted in ascertaining his or her chargeable income for that tax year, and the Commissioner General may make any reduced assessment necessary to give effect to this regulation:

Provided that, the aggregate of deductions allowed under this regulation for that tax year shall not exceed the amount of the assessed loss.

(3) Any assessed loss referred to in subregulation (1) shall be reduced by the amount of the assessed loss deducted under subregulation (2) and in ascertaining the chargeable income of the member of the Development Corporation incurring that assessed loss for any subsequent tax year, no deduction shall be allowed in respect of any portion of the assessed loss so deducted.

(4) For the purposes of subregulations (1) and (2), an assessed loss incurred in any tax year means an assessed loss incurred in the tax year for which the election is made and does not include —

(*a*) any assessed loss, or part thereof, incurred in any preceding tax year; or

(b) any assessed loss, or part thereof, which has been deducted in ascertaining the chargeable income for any tax year.

PART XVI — *Permanent Establishment*

Repatriated profit of permanent establishment

43. (1) This regulation applies for the purposes of section 99 (3) of the Act.

(2) The following are assets of a Botswana permanent establishment of a non-resident company for a tax year —

(*a*) depreciable assets and business intangibles of the non-resident company to the extent that a depreciation deduction is allowed in relation to the asset or intangible in calculating the taxable income of the permanent establishment for the year; and (*b*) any other asset of the non-resident company where the income from the asset is solely attributable to a business carried on by the company through the permanent establishment.

(3) The total cost of assets net of liabilities shall be informed by the financial statements of the permanent establishment at the end of each tax year provided they have been prepared in accordance with financial reporting standards.

(4) The total cost of assets net of liabilities shall not include the revaluation of assets.

(5) An asset acquired with a purpose of artificially increasing the value of assets of a Botswana permanent establishment of a non-resident company shall be ignored in calculating the repatriated profit of the body.

(6) In determining whether sub-regulation (5) applies to an asset of a non-resident company, regard shall be had to the following —

(*a*) the length of time the asset is used in the business carried on by the non-resident company through a Botswana permanent establishment;

(*b*) whether the asset was acquired by the non-resident company from, or disposed to, an associate;

(c) whether the aggregate value of assets of a Botswana permanent establishment of the non-resident company only increased temporarily on the balance sheet of the permanent establishment; and

(*d*) any other matter relevant in determining whether an asset was acquired by the non-resident company to artificially increase the assets of a Botswana permanent establishment of the non-resident company.

(7) An internal transfer of an asset between a Botswana permanent establishment of a non-resident company and the head office or another permanent establishment of the company shall be ignored in calculating the repatriated profit of the company.

(8) A liability of a non-resident company is a liability of a Botswana permanent establishment of the company to the extent that the loan funds to which the liability relates have been used in a business of the company carried on through the permanent establishment.

(9) If a non-resident company repays or otherwise decreases the liabilities of a Botswana permanent establishment of the company with a view to artificially decreasing the liabilities of the permanent establishment, the decrease in liabilities of the permanent establishment shall be ignored.

(10) In the absence of information to compute the repatriated profit amount of a Botswana permanent establishment of a non-resident company, or the documentation to support it, the Commissioner General may determine the assets and liabilities that shall be used to compute the repatriated profit of the permanent establishment.

Part XVII — *Withholding Tax From Employment Income*

Registration of employers

44. (1) A person who becomes an employer shall apply to the Commissioner General for registration as an employer within 21days after the end of the month in which the person became an employer or within such further time as the Commissioner General may allow.

(2) The Commissioner General, on application under subregulation (1) or on the Commissioner General's own motion, shall register a person as an employer if satisfied that the person is, or will become, an employer. Registration shall take effect from the date on which the person becomes eligible as an employer.

(3) The registration of an employer under subregulation (2) shall remain in force until cancelled under subregulation (5).

(4) A person shall notify the Commissioner General within 14 days of ceasing to be an employer.

(5) The Commissioner General, on notification under subregulation (4) or on the Commissioner General's own motion, shall cancel the registration of a person who ceases to be an employer except where the cessation is only temporary.

(6) An application for registration under subregulation (1) or a notification under subregulation (4) shall be —

(*a*) made in the approved form; and

(*b*) lodged with the Commissioner General in the manner specified in the Tax Administration Act.

(7) A person who is registered as an employer under the repealed Act as at the commencement date of the Act is treated as a registered employer for the purposes of these Regulations unless the Commissioner General provides otherwise.

(8) A person shall be liable for a penalty equal to P1,000 for every month or part of the month for the period where the person —

(*a*) fails to apply for registration as required under sub-regulation (1); or

(*b*) fails to notify the Commissioner General as required under subregulation (4).

Withholding tax from employment income

45. (1) The amount of tax to be withheld by an employer from a payment of employment income shall be determined in accordance with tax withholding tables referred to in regulation 46.

(2) Where an employer deducts from the employment income of a resident employee, the employee's current contribution to an approved retirement fund, the amount of tax to be withheld shall be calculated on the balance of the remuneration remaining after deduction of the contribution subject to section 28 (5) of the Act.

Withholding tax tables

46. (1) The Commissioner General shall publish withholding tax tables on the website of the Botswana Unified Revenue Service based on the rates of income tax specified in paragraph 1 of Part I of Schedule 1 of the Act.

(2) A withholding tax table shall specify the manner of calculation of the tax to be withheld from the following items of employment income —

(*a*) annual and other bonuses;

(*b*) overtime pay;

(*c*) leave pay; and

(*d*) subject to regulation 48, other employment income payments of an abnormal nature.

(3) In the event of a variation of the rates of income tax payable for a tax year, the Commissioner General shall publish new withholding tax tables to take account of the variation of the rates.

(4) The published withholding tax tables shall specify the date upon which the new withholding tax tables take effect.

Termination and superannuation payments

47. (1) Subregulation (2) applies where a payment of employment income is to be made to an employee by way of —

(*a*) a bonus, gratuity, compensation or other lump sum on termination of his or her employment; or

(*b*) a lump sum payment by a superannuation fund on his or her retirement.

(2) An employer shall apply to the Commissioner General, not less than 14 days prior to the date payment is to be made for a direction as to the amount of tax, if any, to be withheld from the payment.

(3) The Commissioner General shall provide a direction referred to under subregulation (2) within seven days of receiving the application and the employer shall comply with the direction.

Variations from withholding tax tables

48. (1) The employer shall, at the written request of an employee, withhold from the employee's employment income an amount of tax greater than that required to be withheld under the withholding tax tables.

(2) Where, in respect of any tax year, the Commissioner General is of the opinion that the amount of tax required to be withheld by an employer in accordance with the withholding tax tables from the employment income payable to any employee would be substantially less than the amount of tax which is likely to be charged for that tax year, the Commissioner General may direct the employer, by notice in writing, to withhold such greater amount of tax than specified in the withholding tax tables as it appears to the Commissioner General to be appropriate to the circumstances of that employee, and the employer shall comply with that direction.

(3) Where, in respect of any tax year, an employee is of the opinion that the amount of tax required to be withheld by his or her employer in accordance with the withholding tax tables would be substantially greater than the amount of tax which is likely to be charged for that tax year, the employee may apply, in the approved form, to the Commissioner General for the issue of a direction under subregulation (2) and, if the Commissioner General is satisfied that it would be reasonable to do so, the Commissioner General may direct the employer by notice in writing to deduct either no tax or such lesser amount than is specified in the withholding tax tables as it appears to the Commissioner General to be appropriate to the circumstances of that employee, and the employer shall comply with that direction.

(4) A request made by an employee to an employer under subregulation (1) or a direction issued or given by the Commissioner General to an employer under subregulation (2) or (3) may be withdrawn at any time by notice in writing given to the employer, and upon receipt of any such notice, the employer shall withhold tax in accordance with the withholding tax tables.

(5) Nothing in subregulation (3) shall be construed so as to authorise the repayment to an employee by the employer of any amount of tax that has been withheld.

(6) Any request made under subregulation (1), direction issued or given under subregulation (2) or (3), or notice of withdrawal under subregulation (4) shall be complied with by the employer on and after the pay day next succeeding a period of seven days following the receipt by the employer of the request, direction, or notice.

Payment of employment income free of tax

49. (1) Any agreement between an employer and an employee whereby the employer agrees to pay, as employment income to an employee, an amount expressed to be free of tax, shall be treated as an agreement providing for payment to the employee of such an amount of employment income as, after withholding of tax in accordance with the withholding tax table appropriate to that employee, would leave an amount equal to the employment income paid.

(2) In any case to which subregulation (1) applies —

(*a*) the employer shall be liable to pay to the Commissioner General an amount equal to the difference between the employment income treated as paid and the amount of the employment income paid;

(*b*) such amount shall be treated as tax to be withheld from employment income; and

(*c*) the employee shall be treated as having received as employment income the amount treated as having been paid by the employer.

PART XVIII — *Miscellaneous Provisions*

Issuing of forms

50. The Commissioner General shall issue the forms to be used for the purposes of making applications, furnishing information, submitting returns, notices, elections, or for any other matter required or permitted under the Act and these Regulations, and the form may be in paper or electronic form.

Transitional and savings

51. (1) If any profits and income of a person are exempt from income tax or subject to a reduced rate of income tax under any specified period and such period has not expired by the commencement date of the Act, such profits and income of that person shall continue to be exempt from income tax payable under the Act, or be subject to the same reduced rate of income tax, as the case may be, for the remaining duration of the specified period.

(2) Any exemption granted under the repealed Act to an approved retirement fund and subsisting immediately before the commencement of this Act shall, be deemed to have been granted on the commencement date of the Act.

(3) Any exemption granted under the repealed Act to a non-profit organisation and subsisting immediately before the commencement of the Act shall, be deemed to have been granted on the commencement date of the Act.

(4) A person who is registered as an employer under the repealed Act as at the commencement date of the Act is treated as a registered employer for the purposes of these Regulations unless the Commissioner General provides otherwise.

(5) The Board of Adjudicators established under section 90 of the repealed Act shall continue to be constituted and operate until the Tax Tribunal is established under section 83 of the Tax Administration Act.

(6) The Ninth Schedule of the repealed Act shall continue to apply while the Board of Adjudicators continues to be constituted and operational under these Regulations.

(7) The Board of Adjudicators shall hear and decide appeals against appealable decisions as provided for in section 87 of the Tax Administration Act on the basis that the references in that section to the Tax Tribunal are references to the Board of Adjudicators.

(8) The Ninth Schedule of the repealed Act shall apply for the purposes of the Board of Adjudicators deciding an appeal against an appealable decision in accordance with these Regulations.

(9) Subregulation (10) shall apply to a company permitted to use a substituted accounting period under the repealed Act and that continues to use the substituted accounting period under the Act in accordance with section 144 (*c*) of the Act.

(10) For a company referred to in subregulation (9) —

(*a*) the repealed Act, including the tax rate, shall apply to substituted accounting periods commencing before the commencement date; and (*b*) the Act, including the tax rate, shall apply to substituted accounting periods commencing after the commencement date.

(11) Any treatment, exemptions granted, registration made, or notification given by the Commissioner General under the Income Tax Act, Tax Administration Act and the Retirement Funds Act shall remain valid for six months after the commencement of these Regulations or until alter date specified by the Commissioner General in writing or on the date on which the exemptions, registration or notification shall expire.

MADE this 30th day of June, 2026.

NDABA NKOSINATHI GAOLATHE,
Minister of Finance.

Statutory Instrument No. 93 of 2026

INCOME TAX ACT
(Act No. 13 of 2026)

INCOME TAX ACT (COMMENCEMENT DATE) ORDER, 2026
(*Published on 30th June-, 2026*)

ARRANGEMENT OF PARAGRAPHS

IN EXERCISE of the powers conferred on the Minister of Finance by section 1 of the Income Tax Act, 2026, the following Order is hereby made —

Citation

1. This Order may be cited as the Income Tax Act (Commencement Date) Order, 2026.

Commencement of Act No. 13 of 2026

2. The Income Tax Act shall come into operation on 1st July, 2026.

MADE this 30th day of June, 2026.

NDABA N. GAOLATHE,
Minister of Finance.