

LEGAL NOTICE NO. 111 OF 1996

Income Tax (Amendment) Regulations, 1996

Pursuant to section 212 of the Income Tax Act, 1993¹, I,

DR. LEKETEKETE VICTOR KETSO

Minister of Finance make the following regulations:

Citation

1. These regulations may be cited as the **Income Tax (Amendment) Regulations, 1996**.

Commencement

2. (1) Subject to sub-regulations (2) and (3), these regulations come into operation on the date on which they are published in the **Gazette**.

(2) Pursuant to section 212(3) of the Act, regulations 4 and 5(g) and (h) are deemed to have come into operation on 1 April 1993.

(3) Regulations 5(a) to (f), 6, 7, and 8 are deemed to have come into operation on 1 April 1996.

Interpretation

3. In these regulations —

“Act” means the **Income Tax Act 1993**;

“Principal Regulations” means the **Income Tax Regulations, 1994**².

Inflation Adjustment

4. Regulation 18 of the Principal Regulations is amended —

- (a) by omitting sub-regulation (1) and substituting the following sub-regulations —

“(1) For the purpose of subsection 60(8) of the Act, the amount of the adjusted cost base of an asset as at 1 April 1993 indexed for inflation is calculated on the basis that the amount of each item of cost or expense included in the adjusted cost base of expense included in the adjusted cost base of the asset is determined according to the following formula —

$$\text{CB X } \frac{\text{CPID}}{\text{CPIA}}$$

where —

CB is the amount of an item of cost or expense incurred before 1 April 1993 included in the adjusted cost base of the asset; and

CIPD is the consumer price index number published for the quarter ending on 31 March 1993 (but if that number is less than CPI A, then CPIA), and

CPIA is the consumer price index number published for the quarter immediately prior to the date on which the relevant item of cost or expense was incurred.

- (1A) For the purposes of subsection 60(10) of the Act, the amount of the adjusted cost base of an investment asset indexed for inflation is calculated on the basis that the amount of each item of cost or expense included in the adjusted cost base of the asset is determined according to the following formula —

$$\text{CB X } \frac{\text{CIPD}}{\text{CPIA}}$$

where —

CB is the amount of any item of cost or expense included in the adjusted cost base of the asset, including, in the case of an asset acquired before 1 April 1993, the tax cost of the asset as determined under subsection 60(8) of the Act;

CPID is the consumer price index number published for the quarter immediately prior to the date on which the asset was disposed (but if that number is less than CPIA, then CPI A); and

CPID is —

- (a) in the case of the tax cost of an asset determined in accordance with subsection 60(8) of the Act, the consumer price index number published for the quarter ending 31 March 1993; and
- (b) in the case of any other cost or expense included in the adjusted cost base of an asset, the consumer price index number published for the quarter immediately prior to the date on which the relevant item of cost or expense was incurred”, and
- (b) in sub-regulation (2), by adding “and (1A)” after “(1)”; and
- (c) in sub-regulation (3), by adding (1A) after “(1)”.

Amount of Tax to be Withheld**5. Regulation 19 of the Principal Regulations is amended —**

- (a) in sub-regulation (2), by adding the words “reduced by the personal credit allowed to the payee under section 73 of the Act” after the words “in accordance with sub-regulation (3)”; and
- (b) in sub-regulation (3), by omitting the words “73 or”; and
- (c) in sub-regulation (4), by adding the words “reduced by the personal credit allowed to the payee under section 73 of the Act” after the words “in accordance with sub-regulation (5)”; and
- (d) in sub-regulation (5), by omitting the words “73 or”; and
- (e) in sub-regulation (6), by adding the words “reduced by the personal credit allowed to the payee under section 73 of the Act” after the words “in accordance with sub-regulation (7)”; and
- (f) in sub-regulation (7), by omitting the words “73 or”; and
- (g) in sub-regulation (8), by adding the words “other than a non-resident to whom section 12(2) applies” after the word “non-resident”; and
- (h) in sub-regulation (13), by omitting “(1)” and substituting “(2)”

Employee Declaration**6. Regulation 20 of the Principal Regulations is amended —**

- (a) by omitting sub-regulation (1) and substituting the following sub-regulation
 - “(1) An employee who is entitled to a personal credit under section 73 of the Act or a deduction under subsection 95(2) of the Act, or to both, and who wishes to have the credit, deduction, or both taken into account for the purposes of section 156 of the Act in determining the amount of tax withheld from the employment income paid to the employee must furnish an employee declaration to his or her employer”;

(b) by omitting paragraph (2) (c) and substituting the following paragraph —

“(c) specify separately the amount, if any, the employee claims as a credit under section 73 of the Act or a deduction under subsection 95(2) for the year of assessment to which the declaration relates; and”.

Beneficiary Declaration

7. Regulation 22 of the Principal Regulations is amended —

(a) by omitting sub-regulation (1) and substituting the following sub-regulation —

“(1) A beneficiary who is entitled to a personal credit under section 73 of the Act or a deduction under sub-section 95 (2) of the Act, or to both, and who wishes to have the credit, deduction, or both taken into account for the purposes of section 159 of the Act in determining the amount of tax withheld from a pension or annuity paid to the beneficiary by a superannuation fund must furnish a beneficiary declaration to the trustee or fund manager.”; and

(b) by omitting paragraph (2) (c) and substituting the following paragraph —

“(c) specify separately the amount, if any, the beneficiary claims as a credit under section 73 of the Act or a deduction under sub-section 95(2) of the Act for the year of assessment to which the declaration relates; and”.

Requirements Relating to Declarations and Secondary Employment Forms

8. Regulation 23 of the Principal Regulations is amended in sub-regulation (2) by adding the words “credit or” after the words “the amount of”.

DATED: 09/09/96

DR LEKETEKETE VICTOR KETSO,
Minister of Finance.

NOTE

1. Act No. 9 of 1993 as amended by Act No. 2 of 1994

2. Legal Notice No. 23 of 1994