



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XXVI]

MBABANE, Thursday, June 2nd, 1988

[No. 598

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SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
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PART A

S1

THE INCOME TAX (AMENDMENT) BILL, 1988

(Bill No. 6 of 1988)

(To be presented by the Minister for Finance)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Income Tax Order 1975 so as to make provision for the following:

- (a) reduce the incidence of personal taxation by increasing the single person's and married person's rebates, and by reducing the rates of tax generally.
- (b) in the case of mining companies, by permitting eligible capital expenditure to be expensed in the year of expenditure and by prohibiting the setting off of losses incurred in one mine from the profits of another mine.
- (c) the grant of additional tax concessions to the hotel industry and give tax concessions to export oriented companies and certain new businesses, for the purpose of providing incentives to investors.
- (d) to provide for exchange of information between the Income Tax Department and the Department of Customs and Excise, and to introduce other minor amendments.

D.P. MAKANZA
Attorney-General

A BILL entitled

An Act to amend the Income Tax Order, 1975.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement.

1. This Act may be cited as the Income Tax (Amendment) Act, 1988 and shall be read as one with the Income Tax Order, 1975 (hereinafter referred to as "the Order") and shall save as otherwise provided come into operation on the 1st July, 1988.

Amendment of section 5.

2. Section 5 of the Order is amended by—

- (a) inserting between paragraphs "(c)" and "(d)" the following new paragraph
"(ca)";

"(ca) The Secretary for Customs and Excise may have access to such docu-

Amendment of section 7.

3. Section 7 of the Order is amended by replacing paragraph (g) with the following—

“(g) any amount by which recoupment of capital expenditure which has been deducted under section 14(1)(m) or the corresponding provisions of any previous income tax law, exceed such capital expenditure calculated in terms of section 14(1)(m).

Amendment of section 8.

4. Section 8(1) of the Order is amended in paragraph (a) by replacing—

- (a) the words “sixty-two” with the words “one hundred and thirty five”;
- (b) the words “forty-six” with the words “one hundred and five”.

Amendment of section 12.

5. Section 12 of the Order is amended in sub-section (5)(a) by inserting after the words “which is not already in existence in Swaziland”, with the words “or with effect from 1st July, 1987, any business which is predominantly engaged in exporting goods from Swaziland”.

Amendment of section 14.

6. Section 14 of the Order is amended in sub-section (1)—

- (a) by replacing paragraph (d) with the following—

“(d) an amount equal to four per centum of the cost to the taxpayer of any industrial building and any improvements thereto (other than repairs) and other than buildings provided for in section 16(4)(a).

- (b) by inserting in paragraph (e) sub-paragraph (i) after the words “the process of manufacture” where they first appear, the words “or brought into use by a taxpayer engaged in the hotel industry”;
- (c) by adding the following new proviso to paragraph (e) sub-paragraph (i)—
 “Provided that where such plant and machinery is brought into use by a taxpayer engaged in the hotel industry, the initial allowance shall apply with effect from 1st July, 1988”;
- (d) by inserting in paragraph (e) sub-paragraph (ii) after the word “building” where it first appears, the words “other than hotel buildings and improvements brought into use after 1st July, 1988”.

- (e) by replacing paragraph (h) with the following—

“(h) in the case of a taxpayer who incurs any capital expenditure in connection with the erection by him of a new hotel or the effecting of any beneficial improvements to the amenities of an existing hotel, a hotel initial allowance for the year of assessment during which such new hotel or the beneficial improvements into an existing hotel are first used, equal to fifty per centum of the actual cost incurred by the taxpayer on or after the 1st July, 1988, together with an annual allowance of four per centum of such expenditure in respect of that year and each of the succeeding years, so that

Provided that any expenditure in respect of which an allowance in terms of this paragraph has been made shall not qualify for an allowance under any other provision of this Order: and"

(d) by replacing paragraph (m) with the following—

"(m) in respect of income from mining operations on amount to be ascertained under section 16 in lieu of the allowances in paragraphs (c), (e), (f), (g) and (m)."

Amendment of section 16.

7. Section 16 of the Order is amended by replacing it with the following—

"Calculation of capital expenditure allowance in connection with mining operations.

16. (1) Excepting in cases where the taxpayer and the Government have, in writing, agreed otherwise, the amount to be deducted each year, under section 14(1)(m) in respect of income from mining operations, shall be the capital expenditure incurred in the year of assessment after subtracting therefrom any recoupments received during the year from capital expenditure (irrespective of the date when such capital expenditure was originally incurred).

(2) If separate and distinct mining operations are carried on in mines that are not contiguous, the allowance for capital expenditure shall be computed separately for each mine.

(3) The amount of capital expenditure determined under sub-section (1) in respect of any year of assessment in relation to any one mine shall not exceed the taxable income (as determined before the deduction of any amount allowable under section 14(1)(m) derived by the taxpayer from mining on that mine and any amount by which such capital expenditure would, but for the provisions of this subsection have exceeded such taxable income as so determined, shall be carried forward and be deemed to be an amount of capital expenditure incurred during the next succeeding year of assessment in respect of that mine.

(4) For the purposes of this section and section 17 "capital expenditure" means expenditure on:—

- (a) shaft sinking, building, works or equipment including any single renewals or replacements of equipment;
 - (b) development, general administration and management (including any interest payable on loans utilised for mining purposes) prior to the commencement of production or during any period of non-production but excluding the costs of acquiring mineral rights.
 - (c) "expenditure" means net expenditure after taking into account any rebates, recoupments or returns of expenditure;
 - (d) "expenditure on shaft sinking" includes the expenditure on sumps, pump chambers, stations and or bins, accessory to a shaft;
- (5) Subsections (1) to (4) are deemed to have come into effect from 1st July, 1983."

Amendment of section 22.

Section 22 of the Order is amended in subsection (2) by adding the following new

- “(c) dividends accruing to a non-resident shareholder, which the Government has, in terms of a written undertaking, exempted from tax to the extent specified in such undertaking.

Amendment of section 67.

9. Section 67 of the Order is amended in subsection (2) paragraph (c) by deleting the words “in Swaziland”.

Amendment of section 69.

10. Section 69 of the Order is amended by replacing subsection 2 with the following—

- “(2)(a) Notwithstanding any other provisions of this Order, where the Minister is satisfied that a new business is beneficial to the development of the economy, he may, with the prior consent of Cabinet, nominate such business as a development enterprise, and he may issue an order, known as “development approval order” in respect of such business, granting additional tax concessions to such business;
- (b) (i) Any person seeking tax concession under this sub-section shall, prior to the commencement of business, apply to the Minister in a manner prescribed by him;
- (ii) The Minister may, upon examination of such application, grant or refuse to grant, in writing, a tax concession for the purposes of this sub-section.
- (iii) The Minister’s decision under paragraph (ii) shall be final;
- (c) A development approval order may be issued subject to such conditions, and for such period of time, as the Minister deems fit;
- (d) The Minister shall, within twenty one days of the issue of a development order under paragraph (a), cause to be published, by notice in the Gazette, the name and address of the business nominated as a development enterprise under paragraph (a);
- (e) The Minister may, at any time, with the concurrence of Cabinet, amend or revoke a development approval order issued in terms of this sub-section.
- Provided that where the Minister has cause to revoke a development approval order, he shall, within a period of twenty one days, cause such revocation to be published, by notice, in the Gazette.
- (f) Paragraphs (a) to (e) are deemed to have come into effect from 1st July, 1984.

Amendment of Second Schedule.

11. The Second Schedule to the Order is amended in paragraph 14 by adding the following new sub-paragraph (3a) after sub-paragraph (3) —

“(3a) Notwithstanding the provisions of paragraph 19(1)(i), any employer who fails to comply with the provisions of paragraph 14 (3) shall, while such failure to comply continues, be liable to a penalty not exceeding twenty Emalangeni for each day during which the failure continues.”

THIRD SCHEDULE
RATE OF NORMAL TAX
PART I

1. (1) For the purposes of section 6(2), the rates of tax to be levied for the year of assessment commencing on the first day of July, 1985 and subsequent years are, subject to subsection (2), as follows:

- (a) in the case of companies the sole or principal business of which in Swaziland is that of mining, for each lilangeni of taxable income not exceeding twenty thousand emalangeni, twenty seven cents, and for each lilangeni, of taxable income exceeding twenty thousand emalangeni, thirty seven and half cents;
- (b) in the case of all other companies, for each lilangeni of taxable income, thirty seven and one half cents; and
- (c) in the case of persons (other than companies) as prescribed in Part II.

(2) In the case of a person (other than a company) who, during the year of assessment, was not ordinarily resident in Swaziland, the rate of tax to be levied shall not reduce the total tax payable below an amount equal—

- (a) to ten cents of each lilangeni of his taxable income, but,
- (b) if any part of his taxable income consists of a pension, three cents of each lilangeni of such part.

PART II

RATES OF NORMAL TAX IN THE CASE OF PERSONS OTHER THAN COMPANIES

(a) PERSONS WHO ARE NOT MARRIED

<i>Taxable Income</i>	<i>Rate of Tax.</i>
Where taxable income does not exceed E1250	4 per centum of each E1 of taxable income
Exceeds E1250 but does not exceed E2500	E50 plus 10 per centum of the amount by which the taxable income exceeds E1250
Exceeds E2500 but does not exceed E3750	E175 plus 12 per centum of the amount by which the taxable income exceeds E2500
Exceeds E3750 but does not exceed E5000	E325 plus 14 per centum of the amount by which the taxable income exceeds E3750
Exceeds E5000 but does not exceed E6250	E500 plus 16 per centum of the amount by which the taxable income exceeds

Exceeds E7500 but does not exceed E8750	E925 plus 20 per centum of the amount by which the taxable income exceeds E7500
Exceeds E8750 but does not exceed E10000	E1175 plus 22 per centum of the amount by which the taxable income exceeds E8750
Exceeds E10000 but does not exceed E11250	E1450 plus 24 per centum of the amount by which the taxable income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1750 plus 26 per centum of the amount by which the taxable income exceeds E11250
Exceeds E12500 but does not exceed E13750	E2075 plus 28 per centum of the amount by which the taxable income exceeds E12500
Exceeds E13750 but does not exceed E15000	E2425 plus 30 per centum of the amount by which the taxable income exceeds E13750
Exceeds E15000 but does not exceed E16250	E2800 plus 32 per centum of the amount by which the taxable income exceeds E15000
Exceeds E16250 but does not exceed E17500	E3200 plus 34 per centum of the amount by which the taxable income exceeds E16250
Exceeds E17500 but does not exceed E18750	E3625 plus 36 per centum of the amount by which the taxable income exceeds E17500
Exceeds E18750 but does not exceed E20000	E4075 plus 38 per centum of the amount by which the taxable income exceeds E18750
Exceeds E20000 but does not exceed E21250	E4550 plus 40 per centum of the amount by which the taxable income exceeds E20000
Exceeds E21250 but does not exceed E22500	E5050 plus 42 per centum of the amount by which the taxable income exceeds E21250
Exceeds E22500 but does not exceed E23750	E5575 plus 44 per centum of the amount by which the taxable income exceeds E22500
Exceeds E23750 but does not exceed E25000	E6125 plus 45 per centum of the amount by which the taxable income exceeds E23750
Exceeds E25000 but does not exceed E26250	E6687.50 plus 45 per centum of the amount by which the taxable income exceeds E25000

Exceeds E27500 but does not exceed E28750	E7812.50 plus 45 per centum of the amount by which the taxable income exceeds E27500
Exceeds E28750 but does not exceed E30000	E8375 plus 45 per centum of the amount by which the taxable income exceeds E28750
Exceeds E30000	E8937.50 plus 45 per centum of the amount by which the taxable income exceeds E30000

(b) MARRIED PERSONS

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*Taxable Income**Rates of Tax*

Where taxable income does not exceed E2500	4 per centum of each E1 of taxable income
Exceeds E2500 but does not exceed E3750	E100 plus 6 per centum of the amount by which the taxable income exceeds E2500
Exceeds E3750 but does not exceed E5000	E175 plus 8 per centum of the amount by which the taxable income exceeds E3750
Exceeds E5000 but does not exceed E6250	E275 plus 10 per centum of the amount by which the taxable income exceeds E5000
Exceeds E6250 but does not exceed E7500	E400 plus 12 per centum of the amount by which the taxable income exceeds E6250
Exceeds E7500 but does not exceed E8750	E550 plus 14 per centum of the amount by which the taxable income exceeds E7500
Exceeds E8750 but does not exceed E10000	E725 plus 16 per centum of the amount by which the taxable income exceeds E8750
Exceeds E10000 but does not exceed E11250	E925 plus 18 per centum of the amount by which the taxable income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1150 plus 20 per centum of the amount by which the taxable income exceeds E11250
Exceeds E12500 but does not exceed E13750	E1400 plus 22 per centum of the amount by which the taxable income exceeds E12500
Exceeds E13750 but does not exceed E15000	E1675 plus 24 per centum of the amount by which the taxable income exceeds

Exceeds E16250 but does not exceed E17500	E2300 plus 28 per centum of the amount by which the taxable income exceeds E16250
Exceeds E17500 but does not exceed E18750	E2650 plus 30 per centum of the amount by which the taxable income exceeds E17500
Exceeds E18750 but does not exceed E20000	E3025 plus 32 per centum of the amount by which the taxable income exceeds E18750
Exceeds E20000 but does not exceed E21250	E3425 plus 34 per centum of the amount by which the taxable income exceeds E20000
Exceeds E21250 but does not exceed E22500	E3850 plus 36 per centum of the amount by which the taxable income exceeds E21250
Exceeds E22500 but does not exceed E23750	E4300 plus 38 per centum of the amount by which the taxable income exceeds E22500
Exceeds E23750 but does not exceed E25000	E4775 plus 40 per centum of the amount by which the taxable income exceeds E23750
Exceeds E25000 but does not exceed E26250	E5275 plus 42 per centum of the amount by which the taxable income exceeds E25000
Exceeds E26250 but does not exceed E27500	E5800 plus 44 per centum of the amount by which the taxable income exceeds E26250
Exceeds E27500 but does not exceed E28750	E6350 plus 45 per centum of the amount by which the taxable income exceeds E27500
Exceeds E28750 but does not exceed E30000	E6912.50 plus 45 per centum of the amount by which the taxable income exceeds E28750
Exceeds E30000	E7475 plus 45 per centum of the amount by which the taxable income exceeds E30000

(c) WIFE'S EMPLOYMENT INCOME RATES

<i>Wife's Employment Income</i>	<i>Rates of Tax</i>
Where wife's employment income does not exceed E1250	Nil
Exceeds E1250 but does not exceed E3750	4 per centum of the amount by which the wife's employment exceeds E1250
Exceeds E3750 but does not exceed E5000	E100 plus 16 per centum of the amount

Exceeds E5000 but does not exceed E6250	E300 plus 19 per centum of the amount by which the wife's employment income exceeds E5000
Exceeds E6250 but does not exceed E7500	E537.50 plus 23 per centum of the amount by which the wife's employment income exceeds E6250
Exceeds E7500 but does not exceed E8750	E825 plus 24 per centum of the amount by which the wife's employment income exceeds E7500
Exceeds E8750 but does not exceed E10000	E1125 plus 24 per centum of the amount by which the wife's employment income exceeds E8750
Exceeds E10000 but does not exceed E11250	E1425 plus 26 per centum of the amount by which the wife's employment income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1750 plus 26 per centum of the amount by which the wife's employment income exceeds E11250
Exceeds E12500 but does not exceed E13750	E2075 plus 30 per centum of the amount by which the wife's employment income exceeds E12500
Exceeds E13750 but does not exceed E15000	E2450 plus 30 per centum of the amount by which the wife's employment income exceeds E13750
Exceeds E15000 but does not exceed E16250	E2825 plus 32 per centum of the amount by which the wife's employment income exceeds E15000
Exceeds E16250 but does not exceed E17500	E3225 plus 34 per centum of the amount by which the wife's employment income exceeds E16250
Exceeds E17500 but does not exceed E18750	E3650 plus 36 per centum of the amount by which the wife's employment income exceeds E17500
Exceeds E18750 but does not exceed E20000	E4100 plus 38 per centum of the amount by which the wife's employment income exceeds E18750
Exceeds E20000 but does not exceed E21250	E4575 plus 40 per centum of the amount by which the wife's employment income exceeds E20000
Exceeds E21250 but does not exceed E22500	E5075 plus 42 per centum of the amount by which the wife's employment income exceeds E21250
Exceeds E22500 but does not exceed E237500	E5600 plus 44 per centum of the amount by which the wife's employment income exceeds E22500

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Exceeds E25000 but does not exceed E26250	E6712.50 plus 45 per centum of the amount by which the wife's employment income exceeds E25000
Exceeds E26250 but does not exceed E27500	E7275 plus 45 per centum of the amount by which the wife's employment income exceeds E26250
Exceeds E27500 but does not exceed E28750	E7837.50 plus 45 per centum of the amount by which the wife's employment income exceeds E27500
Exceeds E28750 but does not exceed E30000	E8400 plus 45 per centum of the amount by which the wife's employment income exceeds E28750
Exceeds E30000	E8962.50 plus 45 per centum of the amount by which the wife's employment income exceeds E30000.