Stautory Instrument No. 55 of 1989

INCOME TAX ACT

(Cap. 52:01)

INCOME TAX (TRAINING) REGULATIONS, 1989

(Published on 16th June, 1989)

ARRANGEMENT OF REGULATIONS

REGULATION

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 131 of the Income Tax Act, the following Regulations are hereby made —

Citation

1. These Regulations may be cited as the Income Tax (Training) Regulations, 1989.

Application

2. These Regulations shall apply to all education or training approved by the Commissioner in accordance with section 41(3) of the Act irrespective of whether the education or training is academic, vocational or professional.

Claims limited to full-time or bonded citizen employees

3. Any education or training in respect of which an employer seeks a deduction under section 41 of the Income Act may only be claimed in respect of an employee who, being a citizen of Botswana, is either in full-time employment under the claimant or is bonded to work for him on the completion of the said education or training, and only in respect of education or training which is relevant to the employment of the trainee concerned and which does not include secondary or primary education.

Training which may qualify

4. Education or training which may qualify for approval of the deduction under section 41 of the Income Tax Act may be conducted —

(*a*) at an established university, polytechnic or other public institution for education or training in or outside Botswana which is approved by the Commissioner for the purposes of section 41 of the Income Tax Act;

(*b*) at a training establishment, approved by the Commissioner, in the employer's own place of business or elsewhere in Botswana at which a training officer with academic or professional qualifications or experience which the Commissioner considers adequate is employed wholly or substantially for the purpose of training;

(*c*) at a place of business in or outside Botswana, other than the claimant's own place of business, at which the Commissioner is satisfied that relevant training is provided by a training officer as under paragraph (*b*).

Claims in respect of a course of training

5. Where an employer claims a deduction in respect of a course of education or training under paragraphs (*a*), (*b*) or (*c*) of regulation 4, he will be required to satisfy the Commissioner that —

(*a*) in the case of a claim under regulation 4(*a*), the university, polytechnic or other public institution is one which is approved by the Commissioner;

(*b*) in the case of professional or vocational training provided by an establishment in accordance with regulation 4(*b*) and (*c*) —

(i) the establishment is an approved training establishment for the purposes of such training;

(ii) the training officer has the necessary academic or professional qualifications or experience for the instruction of trainees;

(iii) the course of instruction is specified by reference to a syllabus which defines the content and duration of the course and the type and purpose of the qualifications so gained; and

(iv) if the establishment is at the claimant's own place of business, the training is conducted in premises which are either maintained independently from the main place of business or are at least separately demarcated from the main place of business and are, in any case, used solely for the purpose of training the claimant's employees or persons bonded to serve the claimant; and

(*c*) in every case, that the trainee is a citizen of Botswana.

On-the-job training

6. (1) An employer may claim a deduction in respect of the cost incurred by him in "on-the-job" training, approved by the Commissioner for the purpose of section 41(3), conducted at his workplace of a person employed by him if —

(*a*) the course of training is clearly specified and is of a limited duration;

(*b*) the training officer has academic or professional qualification or experience which the Commissioner considers adequate, except that while he need not be wholly or substantially engaged in instructing trainees on-the-job, the instruction or demonstrations imparted by him to the said trainees are clearly identifiable as a structured course of on-the-job training, distinct from supervision of trainees and other employees in the normal course of management;

(*c*) the work done by the trainee does not add value to the goods produced or services provided by the claimant in his business:

Provided that where —

(i) the employee is not a skilled worker in the line of work for which he was engaged or promoted, as the case may be, and the period of such training does not exceed six weeks; or

(ii) the employee is engaged for subordinate duties of a clerical or administrative nature and the period of such training does not exceed six weeks, or

(iii) the employee is a professional, scientific or managerial trainee and the period of such training does not exceed ten weeks,

the training imparted shall be deemed to be on-the-job training for the purposes of this paragraph unless the Commissioner requires evidence to establish that the whole or part of the said period and the whole or part of the cost incurred was actually spent on on-the-job training; and if the Commissioner is satisfied by the evidence, the trainee's labour shall not be taken to have added value to the goods or services provided by the claimant in his business.

(2) For the purposes of this regulation "skilled worker" means an employee belonging to the industrial class who has already been fully trained in the line of work for which he was engaged or promoted.

Allowable expenditure under section 41(3) of the Act

7. The expenditures referred to in section 41(3) of the Income Tax Act and in respect of which the deduction from assessable income specified therein may be made are —

(*a*) course fees;

(*b*) boarding fees, hotel charges or other costs of accommodation incurred by reason of the employee being away from his normal place of employment;

(*c*) costs of travel to and from the place of eduction or training where it is away from the workplace (within Botswana) or place of residence (where the course is abroad);

(*d*) subsistence allowance and, where education or training abroad requires it, a clothing allowance;

(*e*) costs of text books and other material required for education or training, including correspondence course fees if such course is an integral part of a structured course;

(*f*) examination fees;

(*g*) the following costs of a training establishment set up by the claimant —

(i) office rental, electricity, telephone and costs of maintenance;

(ii) stationery and course materials;

(iii) one half of the cost of capital equipment used in the courses provided by the establishment;

(iv) remuneration of the training officer and, where the training officer has been brought to Botswana for the specific purpose of the training establishment, the costs of travel to Botswana to take up employment and the costs of travel to the place of his permanent residence on the termination of his employment;

(v) remuneration of external instructors engaged for the courses provided by the establishment, including travel and hotel costs in the case of instructors not residing in Botswana;

(vi) remuneration of clerical and other staff engaged wholly for the purposes of the training establishment;

(*h*) wages paid to an employee serving an apprenticeship course approved by the Commissioner at an approved training establishment, commencing with 100% of the wages for the first quarter of the apprenticeship course, reducing at the rate of 25% for each subsequent quarter so that the qualifying expenditure for the last quarter does not exceed 25% of the wages.

MADE this 8th day of June, 1989.

P.S. MMUSI,
Vice-President Minister of Finance and Development Planning.

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