

**Double Taxation Convention (Republic of Botswana) (Amendment) Regulations  
2017**

**GN No. 12 of 2017**

**Government Gazette of Mauritius No. 8 of 21 January 2017**

**THE INCOME TAX ACT**

**Regulations made by the Minister under section 76  
of the Income Tax Act**

1. These regulations may be cited as the **Double Taxation Convention (Republic of Botswana) (Amendment) Regulations 2017**.
2. In these regulations –  
  
“principal regulations” means the Double Taxation Convention (Republic of Botswana) Regulations 1996;  
  
“Protocol” means the Protocol amending the Convention between the Government of the Republic of Mauritius and the Government of the Republic of Botswana for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, signed at Gaborone on 15 August 2015, and set out in the Schedule to these regulations.
3. Regulation 2 of the principal regulations is amended in the definition of “Agreement” by deleting the words “in the Schedule” and replacing them by the words “in the First Schedule as amended by the Protocol set out in the Second Schedule”.
4. The principal regulations are amended –
  - (a) by renumbering the existing Schedule as the First Schedule;
  - (b) by adding, the Second Schedule set out in the Schedule to these regulations.

**5.** The Protocol shall come into operation on such date the Minister may specify in a notice to be published in the Gazette.

Made by the Minister on 12 January 2017.

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## **SCHEDULE**

[Regulation 2]

## **SECOND SCHEDULE**

[Regulation 4]

### **PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS AND THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS**

The Government of the Republic of Mauritius and the Government of the Republic of Botswana;

**DESIRING** to amend the Convention between the Republic of Mauritius and the Republic of Botswana for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, signed at Port Louis on 26th September 1995 (hereinafter referred to as “the Convention”),

**HAVE AGREED AS FOLLOWS:**

#### **ARTICLE I**

The definition of the term “competent authority” in paragraph (1) (i) in Article 3 of the Convention is amended as follows:

- (a) in sub-subparagraph (i) by deleting the words “the Commissioner of Taxes” and replacing them with the words “the Minister of Finance and Development Planning, represented by the Commissioner General of the Botswana Unified Revenue Service”; and
- (b) in sub-subparagraph (ii) by deleting the words “the Commissioner of Income Tax” and replacing them with the words “the Minister to whom the responsibility for the subject of finance is assigned”.

#### **ARTICLE II**

Article 27 of the Convention shall be deleted and replaced by the following:

## **ARTICLE 27**

### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions in particular for the prevention of fraud or evasion of such taxes, in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

### **ARTICLE III**

Each of the Contracting States shall notify the other in writing, through the diplomatic channel, of the completion of the procedures required by its law for the bringing into force of this Protocol, which shall form an integral part of the Convention. The Protocol shall enter into force on the date of receipt of the later of those notifications and shall have effect from that date.

### **ARTICLE IV**

This Protocol shall remain in force as long as the Convention remains in force.

**IN WITNESS WHEREOF** the undersigned, being duly authorised by their respective Governments, have signed this Protocol in two originals in the English language.

**DONE** at Gaborone on the 15<sup>th</sup> day of August in the year 2015.

Hon. M. J. N. Etienne Ghislain SINATAMBOU

Hon. O. K. MATAMBO

***Minister of Foreign Affairs, Regional  
Integration International Trade***

***Minister of Finance and Development  
Planning***

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF MAURITIUS**

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF BOTSWANA**

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