

No PAYE on foreign employment income

Botswana residents who work for employers based outside of Botswana may sometimes wonder whether their foreign salary should be taxed in Botswana. The Income Tax Act (ITA) provides relief in this situation. Paragraph 5 of Part 6 of Schedule 2 provides that foreign employment income earned by a resident individual is exempt from income tax in Botswana, but only where that employment income is subject to income tax in the foreign country where the person works. We will analyse this matter in detail below. In this article, words importing the masculine shall be deemed to include the feminine.

Who qualifies

The rule applies to a resident individual who earns employment income from work performed in another country. Being a resident of Botswana is important because the exemption is specifically aimed at resident individuals. Botswana Unified Revenue Service (BURS) explains that residency for an individual can depend on factors such as having a permanent place of abode in Botswana and the number of days spent in Botswana during the tax year.

The important condition

The exemption is not automatic simply because someone works outside Botswana. The most important requirement is that the salary must actually be subject to income tax in the foreign country where the employment is exercised. In other words, the employee must be working in another country where the foreign employment income falls within that country's income tax system. If the income is not subject to foreign income tax, the exemption under Part 6 does not apply and the resident individual will be taxed under Botswana PAYE.

Why this matters

This condition helps prevent a resident employee from being taxed twice on the same foreign employment income. For example, imagine a Botswana resident works for a company in South Africa and earns P600,000 during the year. If the P600,000 is subject to income tax in South Africa, it qualifies for the exemption under Part 6 of Schedule 2. The employee would therefore not be taxed in Botswana on that same foreign employment income. Anyone relying on this exemption should keep evidence showing that the foreign employment income was subject to tax in the foreign country. This could include foreign payslips, tax certificates, tax assessments or other documents showing the foreign tax treatment. Such records are useful if BURS requests the taxpayer to support the exemption claimed.

Conclusion

Part 6 of Schedule 2 provides important relief for Botswana residents who work abroad. It prevents qualifying foreign employment income from being taxed again in Botswana when

that income has already been brought within the foreign country's income tax system. However, taxpayers should not assume that every salary earned abroad is automatically exempt. The key requirements are that the individual is a Botswana resident, the income is employment income earned from employment exercised outside Botswana, and, most importantly, that the income is subject to income tax in that foreign country.

As Yours Truly and team say goodbye, remember to pay to Ceaser what belongs to him!

Tax hint: If you have never had a tax audit/review conducted by a tax consultancy firm to check whether you are tax compliant, or should it be apparent that you are not certain that your tax affairs are good order, then don't wait for the taxman to pounce on you, as that can be very costly. Contact us today so we can help you fix your tax affairs whilst you still have time.

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