



# SWAZILAND

## GOVERNMENT GAZETTE

### EXTRAORDINARY

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VOL. XXV]

MBABANE, Friday, May 29th., 1987

[No. 521

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#### CONTENTS

No.	Page
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#### PART A — BILLS

7.	The Income Tax (Amendment) Bill, 1987 .....	S1
8.	The Graded Tax (Amendment) Bill, 1987 .....	S3

SUPPLEMENT TO  
THE  
SWAZILAND GOVERNMENT  
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CONTENTS

No.

Page

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7.	The Income Tax (Amendment) Bill, 1987 .....	S1
8.	The Graded Tax (Amendment) Bill, 1987 .....	S3

## THE INCOME TAX (AMENDMENT) BILL, 1987

(Bill No. 7 of 1987)

(To be presented by the Minister for Finance)

## MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to amend the Income Tax Order, 1975 in the following respects—

- (a) to introduce a remission of 7% on tax payable by an individual after deducting any rebates;
- (b) to rationalise the system of disaggregation of a wife's employment income so as to make the disaggregation more equitable by ensuring that the tax payable does not exceed the amount payable on aggregation;
- (c) to grant tax concessions to approved bursary schemes established by employers for providing secondary or high school education and to professional bodies in respect of contributions or donations for educational or training purposes; and
- (d) by subjecting certain benefits in kind to the P.A.Y.E.

D.P. MAKANZA  
*Attorney—General*

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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, 1987, shall be read as one with the Income Tax Order, 1975 (hereinafter referred to as "the Order") and shall come into operation on the 1st July, 1987.

*Amendment of section 2.*

2. Section 2 of the order is amended by inserting after the definition "agent" the following definition—

““approved bursary scheme” means a bursary scheme operated by an employer which is registered with the Commissioner and approved by him in respect of the year of assessment in question upon the following terms and conditions and such others as he may determine—

- (a) that the bursaries under the scheme are awarded on merit according to need to enable students to pursue secondary or high school education at public educational institutions;
  - (b) that the children of all employees of the employer are eligible for such bursaries;
  - (c) that a bursary awarded to any recipient shall not exceed E1000 per annum or such other sum as the Commissioner may specify generally;
- and

- (d) that a bursary scheme is governed by properly defined rules which, together with any amendments thereto, are approved by the Commissioner”.

*Amendment of section 11(2) bis.*

3. Section 11(2) bis of the Order is amended by adding the following proviso thereto—

“Provided that, with effect from the 1st July, 1985 and in respect of subsequent years of assessment, if by virtue of the operation of this subsection the tax payable by the husband, calculated at the married person's rate and the wife's employment income rates, exceeds the tax payable by him on the joint taxable income of the husband and the wife at the married person's rates, then the husband shall be charged to tax on the joint taxable income of the husband and wife at the married person's rate, and the wife's employment income shall not be subjected to tax at the wife's employment income rates as specified in this subsection”.

*Amendment of section 14.*

4. Section 14(1) of the Order is amended by adding the following sub-paragraph after sub-paragraph (iii) of paragraph (t)—

“(iv) by way of contributions, grants or donations not exceeding E20,000.00, made to a professional body, established by law, for educational or training purposes and which the Commissioner is satisfied were paid during the year of assessment.”

*Amendment of Second Schedule.*

5. The Second Schedule to the Order is amended—

- (a) in the definition “remuneration” by adding after the words “or(c)” the words “or the annual value of such benefit or benefits referred to in section 7(f) as the Commissioner may, from time to time, determine in respect of a year of assessment”; and
- (d) in paragraph (a) of that definition by replacing all the words after the words “such amount” with the words “does not exceed the amounts qualifying for exemption under section 12(3)”.

*Amendment of Third Schedule.*

6. The Third Schedule to the Order is amended by adding the following proviso to paragraph 1(1)(d)—

“Provided that there shall be deducted from the amount of tax calculated in accordance with Part 11 of this Schedule a remission equal to 7 per cent of the net amount (being an amount arrived at by deducting the rebates provided for in section 8 of the Order from the tax so calculated)”.

## THE GRADED TAX (AMENDMENT) BILL, 1987

(Bill No. 8 of 1987)

(To be presented by the Minister for Finance)

## MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to amend the Graded Tax Act, 1968 so as to implement the following objectives—

- (a) to relieve the majority of employers from the obligation of maintaining tax cards for their employees and, instead, to require them to operate a monthly deduction system in respect of graded tax;
- (b) to require employers, other than those already registered under the Income Tax Order, 1975, to register themselves with the Commissioner of Taxes in order to facilitate better collection of graded tax on the same basis as the PAYE system;
- (c) to introduce new provisions imposing interest at 1% per month and a discretionary penalty not exceeding 12% per annum for late payment or remission of graded tax to the Commissioner;
- (d) to render employers personally liable for failure to deduct graded tax from the salaries and wages of employees.

2. In addition, the Bill also seeks to empower employers who operate the new system to issue graded tax clearance certificates to their employees and to bring into the graded tax system all Swazi citizens recruited on a foreign contract of employment to work outside Swaziland.

3. The Bill also introduces into the existing Act some other minor and incidental amendments.

D.P. MAKANZA  
*Attorney—General*

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A BILL  
entitled

An Act to amend the Graded Tax Act, 1968.

ENACTED by the King and the Parliament of Swaziland.

*Short title and commencement.*

1. This Act may be cited as the Graded Tax (Amendment) Act, 1987, shall be read as one with the Graded Tax Act, 1968 (hereinafter referred to as "the principal Act") and shall come into operation on the 1st July, 1987.

*Amendment of section 2.*

2. Section 2 of the principal Act is amended—

- (a) by adding at the end of the definition "collector" the words "and also means an employer";

- (b) "employer" has the same meaning as in the Second Schedule to the Income Tax Order, 1975;
- (c) by replacing the definition "income" with the following definition—  
 "“income” means gross cash income received by or accrued to or in favour of a person—  
 (a) from any source within Swaziland in respect of—  
 (i) his trade business or profession;  
 (ii) wages or salary arising from his employment;  
 (iii) any dividend, interest, allowance or annuity, except a cash allowance paid bona fide in terms of a contract of service in lieu of rations in any case where the employee has the option to receive rations as an alternative to the cash allowance;  
 (iv) rent, royalty or premium for a lease;  
 or  
 (b) income deemed to be from a source in Swaziland by virtue of section 3(2)”;  
 (d) by replacing the definition “magistrate’s court” with the following definition—  
 “magistrate’s court” means a court established under the magistrates Courts Act, 1938.

*Amendment of section 3.*

3. Section 3 of the principal Act is amended by renumbering that section as section 3(1) and by adding thereto the following subsection—

“(2) For the purposes of subsection (1), a person who, being a citizen of Swaziland recruited on a foreign contract of employment, is employed outside Swaziland shall be deemed to be domiciled or resident in Swaziland and his income from such employment shall be deemed to be income from a source in Swaziland.”

*Amendment of section 4.*

4. Section 4 of the principal Act is amended by replacing paragraph (b) of subsection (1) with the following—

“(b) a person who is under the apparent age of eighteen years and for the purposes of this subsection a person shall be deemed to be of or over such age unless he produces evidence that he is under such age.”

*Amendment of section 5.*

5. Section 5 of the principal Act is replaced with the following new section—

*“Payment of graded tax derived from employment and related matters.*

5. (1) Every person who, on the 1st July, 1987 is an employer or who becomes an employer after that date shall apply to the Commissioner for registration as an employer in such form as the Commissioner may require within fourteen days of such date or, in the latter case, of becoming an employer or, in either case, within such further period as the Commissioner may allow:

Provided that every person who, on the 1st July, 1987, is an employer or who, after that date becomes an employer and is registered in compliance with paragraph 15 of the Second Schedule to the Income Tax Order, 1975 shall, for the purposes of this section, be deemed to be registered.

(2) An employer shall deduct the amount of the graded tax referable to the income derived by a person from his employment from the first salary or wages payable to him each month in respect of such employment in accordance with Part I of the Schedule:

Provided that:-

- (1) upon being satisfied that a person is employed by more than one employer, the Commissioner may by written notice to all the employers concerned nominate one of them as the employer responsible for the deduction from such person's salary or wages of the total amount of graded tax for which such person is liable under this Act; and
  - (ii) in the event of such person ceasing to be employed by the employer so responsible as provided for in paragraph (i) of this proviso, such employer shall forthwith notify the other employer or employers of such person accordingly, and the provisions of this section shall thereupon apply to such employer or employers, as the case may be.
- (3) An employer may, with the written permission of the Commissioner, maintain a tax card for each employee and such card shall be made available by the employer for inspection by the employer or a collector at all reasonable times:

Provided that the Commissioner may, after reasonable notice to an employer, withdraw any permission granted under this subsection or, by notice in the Gazette, prescribe any class or classes of employers or employees in relation to whom his permission to maintain tax cards shall not be required.

(4) (a) Every employer shall deduct from the salary or wages of his employee the amount of graded tax which the employee is liable to pay under this Act and, except as otherwise provided in paragraph (b), pay the amount so deducted to the Commissioner within seven days after the end of the month to which the deduction relates and within fourteen days after the end of the tax year or within such longer period as the Commissioner may allow, render to the Commissioner a return, in such form as the Commissioner may approve, setting out the names of the employees, the total amount of income paid to each employee and the total amount of graded tax deducted from the salary or wages of each employee during that tax year.

(b) An employer who maintains a tax card for his employee shall, in respect of each deduction of graded tax, affix to the tax card a revenue stamp of a denomination equal to the amount deducted and shall, within fourteen days after the end of the tax year or within such longer period as the Commissioner may allow, deliver to the Commissioner all tax cards of his employees relating to the tax year together with a list in duplicate certified by him as correct showing the names of each employee to whom the tax cards relate.

(5)(a) Except as otherwise provided in paragraph (b), every employer shall issue a graded tax clearance certificate to his employee at the end of the tax year setting out the amount of graded tax deducted in respect of that year.

(b) Where an employer maintains a tax card for an employee and has complied with the provisions of subsection (4)(b), the Commissioner shall issue a graded tax clearance certificate in respect of the relevant tax year and forward the certificate to the employer for delivery to the employee.

(c) Where an employee leaves his employment before the end of a tax year, the employer shall issue a provisional graded tax clearance certificate or a tax card, as the case may be, to such employee and if such person does not become employed within that tax year he may, at the end of that tax year, surrender the provisional graded tax clearance certificate or tax card to the Commissioner who shall issue to him a graded tax clearance certificate.

(6) Before commencing his duties under a contract of employment the employee shall hand over to his employer the provisional graded tax clearance certificate or a tax card, as the case may be, delivered to him by any previous employer during the year in which he so commences his duties.

(7) If an employee fails to hand over to his employer the provisional graded tax clearance certificate or the tax card referred to in subsection (6) or it appears from the certificate or tax card that the employee has not paid tax during the tax year of at least thirty-five cents per month for each month of the tax year to the date the employee entered upon his duties, the employer shall deduct from the first wages or salary of the employee an amount sufficient to make up that amount unless the employee satisfies his employer by means of such proof as may be prescribed that he was exempt from paying graded tax for the previous months of the tax:

Provided that the Commissioner may in writing direct that the employer may deduct a lesser amount or that the amount may be deducted in instalments.

(8) An employer who, without lawful excuse, fails to perform a duty imposed on him by this section shall be guilty of an offence.

(9) An employer who fails to deduct graded tax from the salary or wages of his employee or to pay any amount of tax deducted within the periods prescribed in subsection (4) shall become personally liable to pay such tax and in addition, shall be liable to pay to the Commissioner interest at 1% per month from the date on which the tax not deducted becomes due together with a penalty not exceeding 12% per annum which the Commissioner may impose in respect of graded tax not remitted within the prescribed period."

#### *Amendment of section 6.*

6. Section 6 of the principal Act is amended in subsection (3) by replacing the words "a tax clearance certificate" with the words "a graded tax clearance certificate".

#### *Amendment of section 7.*

7. Section 7 of the principal Act is amended—

(a) in subsection (1)—

(i) by replacing paragraph (a) with the following—

"(a) shall, on demand made by an authorised officer, forthwith produce to him his graded tax clearance certificate; or";

(ii) in paragraph (b) by replacing the words "to do so he" with the word "to produce his graded tax clearance certificate" and by replacing the word "aforesaid" with the word "officer";

(b) in subsection (3) by replacing the words "a tax clearance certificate" with the words "a graded tax clearance certificate".

*Amendment of section 10.*

8. Section 10 of the principal Act is amended by deleting subsection (3).

*Amendment of section 15.*

9. Section 15 of the principal Act is amended by renumbering section 15(1) as section 15 and by deleting subsections (2) and (3).

*Amendment of section 18.*

10. Section 18 of the principal Act is amended in paragraph (b) by replacing the words "section 5(11)" with the words "section 5(8)".