



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 222

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 69

1991

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 8 of 1991: Income Tax Amendment Act, 1991.

Act No. 8, 1991

INCOME TAX AMENDMENT ACT, 1991

EXPLANATORY NOTE:

————— Words underlined with solid line indicate insertions proposed.

ACT

To amend the Income Tax Act, 1981, so as to make provision for certain exemptions in respect of housing benefits; and to provide for incidental matters.

(Signed by the President on 7 June 1991)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 24 of 1981, as amended by section 1 of Proclamation AG. 10 of 1985, section 1 of Act 8 of 1987 and section 1 of Act 1 of 1989.

1. Section 1 of the Income Tax Act, 1981 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (g) of the definition of "gross income" of the following paragraph:

“(g) subject to the provisions of section 16A, the value during the year of assessment of any benefit or advantage granted in respect of employment, as determined by the Permanent Secretary: Finance;”.

Insertion of section 16A in Act 24 of 1981.

2. The following section is hereby inserted in the principal Act after section 16:

“Taxation of housing benefits.

16A (1) For the purposes of this section -

“approved scheme” means a scheme approved under subsection (4);

“housing benefit” means any amount in cash or benefit or advantage paid or granted under an

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approved scheme to an employee in respect of employment, which relates to -

- (a) residential accommodation (excluding meals) provided by his or her employer, whether free of charge or for a rental consideration which is less than the rental value of such accommodation as determined by the Permanent Secretary: Finance;
- (b) any cash payment made or subsidy granted by his or her employer in respect of -
 - (i) any rental due by him or her for the lease of a private residence; or
 - (ii) the repayment of, or any interest due on, the amount of any loan obtained and used by him or her for the purchase of a private residence; or
- (c) a rate of interest which is less than an appropriate rate of interest as determined by the Permanent Secretary: Finance, charged by his or her employer on a loan granted by such employer out of his or her own funds to such employee and obtained and used by such employee for the purchase of a private residence;

“purchase” includes the improving of a private residence; and

“remuneration” shall have the meaning assigned to that word in paragraph (1) of Part I of Schedule 2, but excluding any housing benefit, leave pay, honorarium, gra-

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tuity, overtime pay or refund of contributions referred to in paragraph (d) of the definition of "gross income" in section 1.

(2) The cash equivalent of a housing benefit referred to in paragraph (a) of the definition of "housing benefit" in subsection (1) shall, in the case of a person whose remuneration for the year of assessment -

(a) does not exceed R15 000, be exempt from tax; or

(b) exceeds R15 000, but not R30 000, be reduced -

(i) by an amount equal to such percentage of such cash equivalent as determined in accordance with the formula -

$$y = 100 - \frac{x}{150}$$

in which formula y represents the percentage to be determined and x the amount of the said remuneration which exceeds R15 000; and

(ii) by an additional amount equal to one-third of such cash equivalent, after deduction of the amount determined in accordance with subparagraph (i).

(3) In any case where the provisions of subsection (2) do not apply, an amount equal to one-third of the cash equivalent of any housing benefit shall be exempt from tax.

(4) The Permanent Secretary: Finance shall not approve any scheme for

the purposes of this section unless he or she is satisfied that -

- (a) such scheme is operated *bona fide* solely for the purpose of -
 - (i) providing assistance to an employee to lease or purchase a private residence; or
 - (ii) providing residential accommodation to an employee;
- (b) no housing benefit under the scheme will be granted in substitution for any reward for services rendered which would otherwise have been granted to such employee; and
- (c) such private residence or residential accommodation will be occupied by such employee personally.

Commencement.

3. The amendment effected to the principal Act by this Act shall -

- (a) in relation to a person referred to in subsection (2)(a) of section 16A, as inserted by this Act, be deemed to have come into operation on 1 March 1987; and
- (b) in relation to any other person, be deemed to have come into operation on 1 March 1990.

Short title.

4. This Act shall be called the Income Tax Amendment Act, 1991.
