



**INCOME AND NON-MONETARY BENEFITS TAX
(AMENDMENT) ACT, 2017**

(Act 27 of 2017)

I assent



Danny Faure
President

28th December, 2017

**AN ACT to amend the Income and Non-Monetary Benefits
Tax Act (Cap 273).**

ENACTED by the President and the National
Assembly.

1.(1) This Act may be cited as the Income and Non-Monetary Benefits Tax (Amendment) Act, 2017.

Short title and
commencement

(2) This Act, other than section 2(g), shall come into force on such date, not later than 1st July 2018, as the Minister may, by notice in the Gazette, appoint.

(3) Section 2(g) shall come into force on 1st January, 2018.

Amendment of
Cap 273

2. The Income and Non-Monetary Benefits Tax Act is hereby amended as follows —

(a) in section 4 —

- (i) in subsection (1) by inserting after the words “emoluments received” the words “from each source of employment in a month”;
- (ii) by repealing in subsection (4) the words “gross amount of emoluments received” and substituting therefor the words “emoluments received from each source of employment in a month”;

(b) by repealing in section 5(1) the words “gross amount of emoluments as prescribed” and substituting therefor the words “emoluments received by an employed person from that employer in a month”;

(c) in section 6, by inserting after subsection (1) the following subsection —

“(1A) The payment under subsection (1) shall be accompanied by the Business Activity Statement in the form set out in the Schedule under the Revenue Administration (Filing of Business Activities Statement) Regulations, 2016 (S.I. 1 of 2017) as amended from time to time.”;

(d) by repealing in section 9(2) paragraph (b) and substituting therefor the following paragraph —

“(b) the imposition of any penalty or additional tax not exceeding three times the unpaid amount of the tax due under section 5.”;

- (e) by renumbering section 15 as section 15A and by inserting before section 15A so renumbered the following section —

Anti-avoidance
provision

“15.(1) For the purpose of this section —

- (a) “tax avoidance scheme” means any transaction or arrangement, if one of the main purposes of an employer or an employed person in entering into the transaction or arrangement is the avoidance or reduction of the withholding tax obligation of an employer under this Act; and
- (b) “transaction or arrangement” means any contract, agreement, plan or understanding whether express or implied and whether or not enforceable in legal proceedings.

(2) For the purpose of determining the amount of tax an employer is required to withhold under this Act, the Revenue Commissioner may —

- (a) determine the character

of a transaction or arrangement or an element of a transaction or arrangement that was entered into as part of a tax avoidance scheme;

(b) disregard a transaction or arrangement that does not have substantial economic effect;

(c) determine the character of a transaction if the form of the transaction does not reflect the substance; or

(d) treat fragmented employments as a single employment if the employment has been fragmented under a tax avoidance scheme.”;

(f) by repealing the First Schedule and substituting therefor the following Schedule—

“FIRST SCHEDULE

[Section 4(1)]

RATES OF INCOME TAX

1. The income tax payable by an employed person who is a citizen of Seychelles in respect of emoluments received from each source of employment in a month shall be as follows—

EMOLUMENTS	TAX PAYABLE
Not exceeding SR8555.50	NIL
Exceeding SR 8555.50 but not exceeding SR10,000	15% of the amount in excess of SR8555.50
Exceeding SR10,000 but not exceeding SR83,333	SR216.68 plus 20% of the amount in excess of SR10,000
Exceeding SR83,333	SR14,883.28 plus 30% of the amount in excess of SR83,333

2. Subject to paragraph 3, the income tax payable by an employed person who is not a citizen of Seychelles, in respect of emoluments received from each source of employment in a month shall be as follows —

EMOLUMENTS	TAX PAYABLE
Not exceeding SR10,000	15% of the amount
Exceeding SR10,000 but not exceeding SR83,333	SR1,500 plus 20% of the amount in excess of SR10,000
Exceeding SR83,333	SR16,166.60 plus 30% of the amount in excess of SR83,333

3. Paragraph 1 also applies to the emoluments of an employed person who is not a citizen of Seychelles —

- (a) where a person is entitled to the same emoluments as a citizen of Seychelles under an international agreement referred to in section 79 of the Business Tax Act (Cap 20); or
- (b) where a person falls under an approved scheme of service as may be prescribed.”;

- (g) by repealing the Second Schedule and substituting therefor the following Schedule —

**“SECOND SCHEDULE
EXEMPT EMOLUMENTS**

[Section 4(3)]

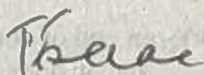
1. The following are exempt emoluments —

- (a) an emolument derived by a person entitled to privileges under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act (Cap 181);
- (b) an emolument being a reimbursement for the use of a motor vehicle provided to the employed person by the employer provided that a logbook is maintained by the employed person;
- (c) an emolument being a reimbursement by an employer of an employed person for the cost of using the employee's own motor vehicle for the benefit of the employer where the reimbursement does not exceed the amount as may be prescribed and provided that a logbook is maintained by the employed person;
- (d) an emolument being a per diem paid to an employed person on overnight travels for lodging, meals, taxi, ground transportation fees and other incidental expenses for business purposes at the rate not exceeding an amount as may be prescribed;

- (e) an emolument being a uniform allowance;
- (f) a compensation payment to the extent that —
 - (i) the compensation is paid pursuant to section 51(2)(a) or section 62A (1)(b) of the Employment Act (Cap 69); and
 - (ii) the concessionary treatment of such compensation payment is capped pursuant to section 47(2)(b)(i) of the Employment Act (Cap 69);
- (g) retirement pension provided under the Social Security Fund and the Seychelles Pension Fund or any other pension provided under any other written law;
- (h) a gratuity payment;
- (i) a bonus paid, provided that the bonus paid is under a bonus scheme and does not exceed 1/12th of the annual salary of the employed person in a tax year;
- (j) a 13th month salary, provided that the 13th month salary does not exceed the amount prescribed under section 46C (8)(C) of the Employment Act (Cap 69);
- (k) an end of contract payment provided that it does not exceed 15% of the total salary of the employed person during the contract period;

- (l) a service charge distribution payment made under an approved service charge distribution scheme provided that the emolument is distinguishable from any other emoluments on the employed person's pay slip and the employer pay rolls' system; and
 - (m) an emolument being an overtime payment provided that it is paid under regulation 6 of the Employment (Conditions of Employment) Regulations, 1991 (S.I. 34 of 1991).
2. In this Schedule, "approved service charge distribution scheme" means a scheme for the distribution of the service charges collected by operators from clients and distributed to all eligible employed persons provided that —
- (a) the scheme is well documented, has unambiguous criteria for qualifying for benefits under the scheme, and benefits under the scheme are freely available to all eligible employed persons; and
 - (b) payments under the scheme are distributed widely, broadly and proportionately to all eligible employed persons."

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th December, 2017.



Mrs. Tania Isaac
Deputy Clerk to the National Assembly