



The 2026 Tax Administration Act - A brief comparison against the Income Tax and VAT Acts

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Introduction

The Income Tax Bill, the Value Added Tax Bill, the Customs Amendment Bill, and the Tax Administration Bill were gazetted in December 2025 and are under committee stage presentation in the 2nd meeting of the 2nd session of the 13th Parliament. The anticipation is that they will become effective from 01 July 2026 (subject to any amendments resulting from the Parliamentary review and approval process).

These represent the most significant legislative changes in Botswana's taxation environment for many decades.

These Bills propose not only changes in rates but approach, methodology and scope – with the objective of broadening the tax base, increasing tax collection efficiencies and modernising the entire taxation environment in line with global developments and trends.

Understanding the evolving tax landscape and appreciating how this impacts on you, is now critical – the DSS team are here to help – contact details on the last page.

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Commissioner General = CG

Tax Administration Act = TAA

Registration	
INCOME TAX	TAA (s6 – 9)
<ul style="list-style-type: none"> No express requirement to register 	<ul style="list-style-type: none"> Taxpayers must apply for registration if they are going to undertake a taxable activity or becomes a withholding tax agent CG will issue registration certificate for registered persons CG may issue a person who hasn't applied with a registration certificate Changes in registration details must be notified to CG within 28 days Taxpayers may apply for cancellation of registration and CG may audit the taxpayer within 3 months of application
VAT	
<ul style="list-style-type: none"> Registration requirements are based on activity and turnover within 12 month period Registration rules dovetail with proposed registration rules (section 6 (5) – TAA) 	
SUMMARY: Registration requirements are consolidated into the TAA	

Taxpayer Identification Number (TIN)	
INCOME TAX	TAA (s10 – 16)
<ul style="list-style-type: none"> No express provision for TIN 	<ul style="list-style-type: none"> The CG will issue registered persons with a TIN that is to be used across all tax types
VAT (s55)	
<ul style="list-style-type: none"> CG issues every registered person with a VAT registration number 	
<p>SUMMARY: Provisions relating to issuance of TINs are consolidated into the TAA and apply across all the revenue laws</p>	

Record keeping	
INCOME TAX (s26)	TAA (s14)
<ul style="list-style-type: none"> • General provision requiring proper keeping of records in English or Setswana • CG can direct the method of accounting or the manner in which payments should be made • Records must be maintained and preserved in Botswana for a period of 8 years (s144) • Specific accounting rules for IFSC companies (s142) 	<ul style="list-style-type: none"> • Records must: <ul style="list-style-type: none"> - be in English or Setswana - be maintained in Botswana - be maintained in Pula – unless expressly permitted - enable CG to determine taxpayer’s liability - be retained for 8 years or other period - prescribed in another tax law (may be extended by 5 years)
VAT (s51)	<ul style="list-style-type: none"> • CG may specify taxpayers who are required to keep records in electronic format
<ul style="list-style-type: none"> • General provision requiring proper keeping of specified records in English or Setswana • Records must be maintained and preserved in Botswana for a period of at least 7 years 	
<p>SUMMARY: VAT and Income Tax requirements for keeping of records is harmonised. All tax records are to be kept for a period of 8 years</p>	

Returns filing and Advance returns	
INCOME TAX (s65)	TAA (s16 / 17 / 18)
<ul style="list-style-type: none"> Taxpayers required to file returns within a specified time - 3 months or 4 months Section 65 specifies exceptions for filing returns – unless specifically required by CG Taxpayers may be required to file provisional tax returns (s66) CG may require any person <ul style="list-style-type: none"> - that may leave Botswana; - who has ceased to carry on business; or - that the CG considers determines to file a provisional return. 	<ul style="list-style-type: none"> Returns to be filed in accordance with requirements of the respective revenue laws (s16) Advance returns may be required where taxpayer: <ul style="list-style-type: none"> - dies; - has gone insolvent; - is about to leave Botswana permanently; - ceased to carry on business; - is under suspicion that he may not file a return by the due date
VAT	
<ul style="list-style-type: none"> Tax returns to be filed within 25 days after the end of the period – whether or not tax is payable 	<ul style="list-style-type: none"> An advance return does not preclude a taxpayer from filing a final return (s17) Taxpayer may apply for extension to file a return but must be made at least 7 days before the due date (s18) Extensions shall be not more than 28 days – CG may vary the 28 days in exceptional circumstances
<p>SUMMARY: Under the TAA there is a general requirement for taxpayers to file returns in accordance with the Act and the requirement dovetails with the respective revenue laws. Extensions for filing are only for 28 days but applications must be made not less than 7 days before the due date. The Commissioner may require advance returns under some circumstances.</p>	

Electronic billing solution	
INCOME TAX	TAA (s15)
<ul style="list-style-type: none"> • Not provision 	<ul style="list-style-type: none"> • Suppliers of goods and services must issue electronic invoices using an electronic billing solution
VAT	
<ul style="list-style-type: none"> • Introduced in 2025 Amendment Act 	
<p>SUMMARY: All suppliers of goods and services must issue electronic invoices. Not optional</p>	

Electronic invoicing	
INCOME TAX	TAA (s15)
<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Suppliers of goods and services must issue electronic invoices using an electronic billing system
VAT	
<ul style="list-style-type: none"> • Introduced in 2025 Amendment Act 	
<p>SUMMARY: Suppliers must issue invoices using the electronic billing solution</p>	

Tax assessments	
INCOME TAX (s78 - 87)	TAA (s19 - 24)
<p>CG to make assessment (s78)</p> <ul style="list-style-type: none"> • The CG may accept a return and assessment made by a taxpayer • The CG may make a best judgment assessment where a person fails to furnish a return or where the CG is not satisfied that the return furnished by a person is true and correct or where a person fails to make quarterly payments <p>Additional assessments (s 79) Where the CG is of the opinion that the tax charge is less than what it should have been, or a loss is greater than it ought to have been or there is an excessive refund the CG may make an additional assessment</p> <p>Reduced assessment (s80) Where, within 4 years of the assessment, the CG is satisfied that the tax charge is more than what it should have been, or a loss is less than it ought to have been or a refund is less than it should be and it was due to an error, mistake or omission the CG may make a reduced assessment.</p> <p>Time limits for assessments (s84)</p> <ul style="list-style-type: none"> • CG may make an assessment within 4 years of the tax year. • Where the CG holds the view that an assessment has been made on the basis of misrepresented, undisclosed or neglected facts, an incorrect return or there is no return he/she may make an assessment at any time • Where the CG determines fraud or wilful default he/she may make an assessment at any time 	<p>Self assessment (s19)</p> <ul style="list-style-type: none"> • Self assessment taxpayer is a person who files a self assessment return • Any person who files a self assessment return is treated as having made a self assessment <p>Estimated assessment (s20)</p> <ul style="list-style-type: none"> • CG may make a best judgement or estimated assessment for any person who has failed to lodge a return by the due date. • Taxpayer is still obliged to lodge a return after an estimated return has been served by the CG <p>Advance assessment (s21)</p> <ul style="list-style-type: none"> • CG may make an advance assessment: <ul style="list-style-type: none"> - before due date of the return - only in respect of tax collected by assessment • Taxpayer is still obliged to lodge a return after an estimated return has been served by the CG <p>Amended assessment (s22)</p> <ul style="list-style-type: none"> • CG may amend any assessment: <ul style="list-style-type: none"> - anytime, where taxpayer has been fraudulent or there is wilful default; or - within 8 years, in the case of a self assessment or any other assessment <p>Self amendment of self-assessment (s23)</p> <ul style="list-style-type: none"> • A self-assessment taxpayer may amend a self assessment to increase a tax liability • A self assessment may be amended within 2 years of the original self assessment

VAT (s28)	Application for amendment to self-assessment
<ul style="list-style-type: none"> • CG may make an assessment • Assessments may be made at any time where there is fraud or wilful default but within 5 years in any other case • CG may amend their assessment within 3 years of the original assessment 	<ul style="list-style-type: none"> • A taxpayer may apply to the CG to approve an amendment to a self assessment

SUMMARY: There are various types of assessments. The primary assessment type is the self assessment. Where taxpayer fails to file a return the CG may make a best judgment assessment. Corrections of self assessments can be undertaken by the taxpayer where the correction results in an increase in tax but with the Commissioner Generals approval in any other case.

Objections	
INCOME TAX (s89)	TAA (s27 – 30)
<ul style="list-style-type: none"> • Objections must be lodged within 60 days of the notice of assessment • No objection is considered if there is no tax return for the relevant year and tax on the income declared is fully paid. 	<ul style="list-style-type: none"> • Objections to decisions by the CG must be made within 60 days of the decision • Objections shall not affect payment requirements • Appellant taxpayer is required to make payment: <ul style="list-style-type: none"> - of tax not in dispute and - one-third of amount in dispute
VAT (s30)	
<ul style="list-style-type: none"> • Objections must be lodged within 30 days of the notice of assessment • No objection is considered if all tax on the assessment is fully paid. 	<ul style="list-style-type: none"> • If the CG considers that the objection is not validly lodged he/she shall notify the appellant the reasons why and that the corrected objection may be lodged within 14 days of the notice. • An appellant may apply for an extension to lodge an objection and the CG may grant it. • The CG is required to make a decision on an objection and provide a statement of findings and reasons to the appellant. Where he/she fails to do so the appellant may request the statement – CG must provide it within 7 days. • CG is required to make a decision on an objection within 6 months – if he/she fails to do so, the appellant may notify the CG that he deems the decision to disallow the objection • An appellant who is not satisfied with a decision on an objection may lodge an appeal with the Tax Tribunal
<p>SUMMARY: Objections must be lodged within 60 days of the CG's decision and the CG must respond within 6months of receiving the objection. All CG's decisions must be supported by a statement of findings and reasons. Dissatisfied appellants may appeal to the Tax Tribunal.</p>	

Appeals	
INCOME TAX (s89)	TAA (s87 - 89)
<ul style="list-style-type: none"> Appellant aggrieved by the decision of the CG may notify the CG of intention to appeal within 14days Appellant may appeal to the Board of Adjudicators within 60days of notifying the CG of intention to appeal Appellant shall lodge a memorandum of appeal with the Board within 14days from the date of lodging the notice of appeal to the Board and issue a copy to the CG immediately 	<ul style="list-style-type: none"> A person not satisfied with the CG's appealable decision may lodge notice of appeal to the Tax Tribunal within 60days of the decision The appellant is required to lodge notice of appeal to the CG within 21 days of lodging the appeal with the Tribunal The appellant is required to lodge memorandum of appeal to the Tribunal within 21 days of lodging of notice of appeal The appellant is required to serve the CG with a copy of the memorandum of appeal to the Tribunal within 7 days of lodging of the memorandum with the Tribunal Tribunal decisions are public records but will protect trade secrets and confidential information
VAT (s31)	
<ul style="list-style-type: none"> Appellant aggrieved by the decision of the CG may notify the CG of intention to appeal within 14days Appellant may appeal to the Board of Adjudicators within 30days of notifying the CG of intention to appeal Appellant shall lodge a memorandum of appeal with the Board within 14days from the date of lodging the notice of appeal to the Board and issue a copy to the CG immediately 	
<p>SUMMARY: Appeals are directed to a Tax Tribunal (instead of a Board of Adjudicators) as a court of first appeal.</p>	

Collection and recovery of tax	
INCOME TAX	TAA (s35 – 49)
<p><i>Extensions (s 96)</i> CG may grant extension to pay and default voids the extension</p> <p><i>Priority of tax</i> No provision</p> <p><i>Security (s104)</i> Provided for only where a person is at risk of leaving Botswana</p> <p><i>Order of payment</i> No provision</p> <p><i>Late payment interest (s97)</i> Charged at 1.5% per month compounded for unpaid tax</p> <p><i>Judgement debt procedure (s103)</i> CG may file a statement of tax due with a competent court and the statement will have effect of civil judgment.</p> <p><i>Seizures and forfeitures</i> No provision</p> <p><i>Distress proceedings</i> No provision</p> <p><i>Seizures and forfeitures</i> No provision</p>	<p><i>Extensions (s 36)</i></p> <ul style="list-style-type: none"> • Taxpayers may apply to the CG for an extension of time to pay but must be made by the original due date • CG may grant extension or allow for instalment payments • Tax balance becomes wholly due if taxpayer fails to fulfil an instalment plan – unless they enter into another plan • Interest is still chargeable in spite of payment plan <p><i>Priority of tax (s 37)</i></p> <ul style="list-style-type: none"> • Applicable for withholding tax (WHT) and VAT • WHT and VAT held by a taxpayer is held in trust for Government • WHT is a first charge on the payment from which tax is withheld • WHT is a priority deduction – regardless of any other legal order • WHT deducted by a company in liquidation does not form part of the assets of the company and must be paid to the CG. <p><i>Security (s 39)</i> CG may require security from a taxpayer for tax payable or that may become payable Security may be</p> <ul style="list-style-type: none"> - cash - bond - unconditional bank guarantee - mortgage over taxpayer's property <p>CG is required to specify:</p>

<p><i>Distress proceedings</i> No provision</p> <p><i>Third party recovery (s104 – 106)</i></p> <ul style="list-style-type: none"> - CG may collect from any person who owes or may owe tax and prevent the person from leaving Botswana - Taxes may be recovered from a spouse - Taxes recoverable from a representative taxpayer in the event of death of a taxpayer, judicial management or liquidation, trusteeship etc. 	<ul style="list-style-type: none"> - reasons why the taxpayer is required to provide security - the amount of security - the manner in which it is to be provided - the due date for the security <p><i>Order of payment (s40)</i> Where a taxpayer owes tax, penalty and interest, payment will be applied in the following order:</p> <ul style="list-style-type: none"> - tax; - late payment interest; - penalty <p><i>Late payment interest (s41)</i> Interest is chargeable on unpaid tax Calculated on a simple interest basis Percentage to be prescribed</p> <p><i>Judgment debt procedure for recovery of unpaid tax (s42)</i></p> <ul style="list-style-type: none"> • CG may file a statement of debt with a Court that constitutes a civil judgment in favour of the CG • The Court will notify the taxpayer that a writ of execution will be issued after 14 days if he/she doesn't show evidence of payment <p><i>Seizures and forfeitures (s44)</i></p> <ul style="list-style-type: none"> • CG may enter any premises and seize goods that he/she believes that VAT is or will become payable and has not been paid • Vehicles used in the carriage of goods to be seized may also be seized unless it was used unbeknown to or without knowledge of the owner – the vehicle may be sold by auction
VAT	
<p><i>Extensions (s 33)</i> CG may grant extension to pay</p> <p><i>Priority of tax</i> No provision</p> <p><i>Security (s36)</i> CG may require a person in debt to provide security for the payment of tax</p> <p>CG may cause immovable property of any person who is in default to be held as security</p> <p><i>Order of payment (s34)</i> Where a taxpayer owes tax, penalty and interest, payment will be applied in the following order:</p> <ul style="list-style-type: none"> - penalty; - late payment interest; - tax 	

Late payment interest (s22)

Late payment interest charged at the rate of 1.5% compounded monthly.

Late payment penalty (s33)

P50 per day or 10% of tax outstanding – whichever is greater.

Judgement debt procedure (s34)

CG may file a statement of tax due with a competent court and the statement will have effect of civil judgment in favour of the CG

CG may prevent a taxpayer from leaving the country if he owes tax

Seizures and forfeitures (s37)

CG may enter any premises and seize goods that he/she believes that VAT is or will become payable and has not been paid.

Vehicles used in the carriage of goods to be seized may also be seized unless it was used unbeknown to or without knowledge of the owner – the vehicle may be sold by auction

Distress proceedings (s38)

CG may recover unpaid tax by distress proceedings against movable property of a taxpayer by serving a notice specifying:

- name of the taxpayer
- location of the property
- unpaid tax on which the proceedings relate

Distress proceedings (s45)

CG may recover unpaid tax by distress proceedings against movable property of a taxpayer by serving a notice specifying:

- name of the taxpayer
- location of the property
- unpaid tax on which the proceedings relate

- Distress proceedings do not apply where there is prior secured interest over the property that has priority in law or equity over the tax liability.

- Property distrained may be sold by public auction and the proceeds applied in the following order:

- payment of costs of distress
- tax for which the proceedings were undertaken
- any other tax
- refund the taxpayer

Third party recovery of tax (s46)

- Recovery from third parties can apply where a taxpayer has or will have a tax liability and the CG believes the liability is collectable from a third party – a payer

- CG may issue a garnishee notice to the payer to pay tax owed by a taxpayer

- payer who, without reason, fails to comply with a garnishee notice is personally liable for the tax liability

Liability for tax by a company (s49)

Directors or other executives may be jointly and severally held liable for company tax liability if they are found to have entered into an arrangement that renders the company unable to pay a tax liability

Property distrained may be sold by public auction and the proceeds applied in the following order:

- payment of costs of distress
- tax for which the proceedings were undertaken
- any other tax
- refund the taxpayer

Third party recovery (s40)

CG may collect tax from any person who is liable to pay a registered person by issuing an assessment on the person receiving the supplies

The CG may recover tax from any person owing money to, holding money for, or having authority over funds for a registered person

SUMMARY: The TAA has harmonised many recovery provisions between the revenue acts. Distress proceedings can now be applied for all taxes while there are clear rules for how payments are to be applied towards taxpayers' debt. Application of interest towards unpaid taxes has also been harmonised and simple interest is applicable for all late payments of tax.

Refunds and remission of tax	
INCOME TAX	TAA (s53 - 55)
<p>Refunds (s111)</p> <ul style="list-style-type: none"> • CG may refund any person who has excess tax (including interest) • The burden of proof that there is a refund lies with the taxpayer • Taxpayer is entitled to interest on the refund where the CG has not paid within 6 months of the assessment • Refunds may be paid to other taxes under the administration of the CG <p>Remission of tax (s112)</p> <ul style="list-style-type: none"> • The Minister may remit tax where it is just and equitable to do so or where he determines the tax to be irrecoverable • The CG may remit tax up to P25000 where he determines the tax to be irrecoverable 	<p>Application of tax credits (s53)</p> <ul style="list-style-type: none"> • Tax credits that are refundable are to be applied in the following order: <ul style="list-style-type: none"> - to pay off any other liability for that tax type - to pay off any tax liability for any other tax type - refund to the taxpayer within 60days • Amounts available for refund may, with written application by taxpayer, be applied to future liabilities • CG is liable to pay interest where a refund has not been paid to a taxpayer within 6 months. <p>Refund of overpaid tax (s54)</p> <ul style="list-style-type: none"> • Taxpayer may apply for a refund of tax overpaid • Tax overpaid is tax that does not arise as a result of an assessment • Applications must be made within 2 years of the payment
VAT	
<p>Refund of tax (s42)</p> <ul style="list-style-type: none"> • Where input tax exceeds output tax a taxpayer will be refunded the input tax. • The return giving rise to the refund constitutes an application for refund • Refunds may be paid to other taxes under the administration of the CG • CG will issue refunds either monthly or bi-monthly 	<ul style="list-style-type: none"> • Overpaid tax amounts are to be refunded in the following order: <ul style="list-style-type: none"> - to pay off any other liability for that tax type - to pay off any tax liability for any other tax type - refund to the taxpayer within 28days

- *CG will refund overpayments upon documentary proof of payment within 3 years of the overpayment*
- *CG is liable to pay interest where he has failed to refund within the time limit (monthly or bi-monthly)*

Variation of application of the Act (s77A)

- *The CG may agree with a taxpayer on how difficulties or anomalies in the Act the implementation of the Act may be dealt with – provided the agreement does not significantly reduce or increase liability.*

Recovery of erroneously paid refund (s55)

- Where a taxpayer has been paid a refund in error the taxpayer must refund the amount and may also be liable to pay interest on the amount

Remission of tax (s56)

- CG may remit tax where payment would cause serious hardship to a taxpayer (or dependants of a deceased taxpayer) or the CG determines that it is just and equitable to do so
- The amount CG may remit is to be prescribed – beyond that, the Minister may remit
- Remission does not apply to VAT or withholding tax

SUMMARY: Taxpayers who are due refunds as a result of an assessment or overpayment may be refunded the money by the CG within 60days or 28 days respectively. Taxpayers may claim interest on late payments by the CG (% to be prescribed). CG may remit prescribed amounts of tax for just and equitable reasons or where there is hardship. Beyond the CG's prescribed amounts, only the Minister may remit tax.

Information collection, audits and Investigations	
INCOME TAX	TAA (s58-61)
<p><i>Further returns or information / giving evidence (s69)</i></p> <ul style="list-style-type: none"> • CG may require, in writing, <ul style="list-style-type: none"> - additional information; or - that the information be presented within a given time and at a nominated place; or - that the taxpayer present himself at any time and place <p><i>Powers of entry, inspection and removal of documents (s70)</i></p> <ul style="list-style-type: none"> • For obtaining information, the CG or any person authorised by him, may without notice: <ul style="list-style-type: none"> - Open, remove any article he believes hold money or documents - Size any documents - Retain any documents - Make copies of documents 	<p><i>Examination of premises and records (s58)</i></p> <ul style="list-style-type: none"> • In the administration of the law, the CG: <ul style="list-style-type: none"> - has full and free access to any premises - may make extracts and copies of any documentation - seize documents - retain records - Make copies of data storage media - stop and board any vehicle • Owner or lawful occupier of any premises must provide CG with reasonable assistance in carrying out his duties including answering questions, providing access to information and decrypting information • Where CG uses reasonable force to gain entry into any premises he shall not be liable • Client privilege, contractual duty of confidentiality are not sufficient to prevent CG from executing his duty under this section
VAT	
<p><i>Examination of premises and records (s52)</i></p> <ul style="list-style-type: none"> • Tax officers may: <ul style="list-style-type: none"> - enter any premises with notice; - open or cause to be opened or removed; - seize records; - retains records; - examine and make copies of records; stop and board any vehicle 	<p><i>Notice to obtain information (s59)</i></p> <ul style="list-style-type: none"> • CG may, in writing, require any person to: <ul style="list-style-type: none"> - Provide information on any person; - Attend at any place and time nominated; - Produce any records; - Provide electronic information in any specified format (unless they satisfy the CG that they are unable)

Notice to obtain information or evidence (s54)

- CG may, in writing, demand any information from a taxpayer and to attend at a nominated place and time

Audit and investigation (s60)

- CG empowered to audit or investigate a taxpayer with respect to the taxpayer's history of compliance with tax laws, tax status of the taxpayer, business of the taxpayer
- Taxpayer may be audited as often as the CG considers reasonable
- CG may demand records in electronic format unless the taxpayer can demonstrate that he/she is unable
- Audits and investigations also extend to customs legislation

Mutual administrative assistance process (s61)

- CG empowered to implement exchange of information or collection of tax powers under an international agreement

SUMMARY: Generally, the TAA has not changed the scope of provisions relating to audit and investigations from the current revenue laws. A major difference is the introduction of provisions relating to electronic billing solutions and giving the CG access to all information including information ordinarily protected by privilege.

Tax Clearance certificate (TCC)	
INCOME TAX	TAA (s62)
<p><i>Tax clearance certificate (s112A)</i></p> <ul style="list-style-type: none"> Minister may direct that a TCC be produced for public procurement Officials overseeing public procurement must demand production of TCC CG is to issue a TCC within two weeks of an application if the taxpayer has no tax liability or has made a payment arrangement. CG may deny the issue of a TCC. 	<ul style="list-style-type: none"> CG is to issue a tax clearance certificate (TCC) within 14 days of a taxpayer applying if the CG is satisfied that: <ul style="list-style-type: none"> - the taxpayer has no outstanding liability or returns; or - where there is a liability (including customs or excise duty) the taxpayer and CG have a payment arrangement Where a taxpayer had not previously been registered for tax, the CG is to issue a TCC within 7 days – TCC will state that the taxpayer was not registered for the relevant period CG must provide reasons in writing within 14 days why a TCC cannot be issued TCC is valid for 12 months TCC may be revoked if a taxpayer has substantial non-compliance, failed to fulfil a payment plan or misused a certificate
VAT	
<p><i>Tax clearance certificate</i></p> <ul style="list-style-type: none"> No provision 	
<p>SUMMARY: A taxpayer may apply for a tax clearance certificate to be used for any reason. The requirement for a TCC to be used for public procurement is no longer a condition set by the CG or the revenue laws.</p>	

Rulings and advice	
INCOME TAX	TAA (s63 - 70)
No provision	<p><i>Private rulings (s63)</i></p> <ul style="list-style-type: none"> Public rulings set out the CG's interpretation on the application of a tax law. Public rulings are not to be treated as a decision of the CG Public rulings are binding on the CG until withdrawn Public rulings are NOT binding on the taxpayer <p><i>Issuing public ruling (s64)</i></p> <ul style="list-style-type: none"> Public rulings are to be placed in the Gazette <p><i>Withdrawal of a public ruling (s65)</i></p> <p>Public rulings are withdrawn when:</p> <ul style="list-style-type: none"> legislation has changed a new ruling is issued that is not consistent with the first ruling a court or Tribunal decision is inconsistent with the ruling <p><i>Private rulings (s66)</i></p> <ul style="list-style-type: none"> Taxpayer may apply for a private ruling seeking the CG's opinion on the interpretation of a tax law to a transaction entered into by the taxpayer Application must include: <ul style="list-style-type: none"> - full details of and documentation relating to the transaction; - the question on which the ruling is required; - the taxpayers opinion on the transaction; - the prescribed fee
No provision	

- Private rulings are binding on the CG if:
 - the taxpayer has made a full disclosure of all aspects of the transaction;
 - the transaction has proceeded in all material aspects as described in the application

- Where a private ruling is not consistent with a public ruling – the private ruling takes precedence

Issuing a private ruling (s67)

- CG is to issue a private ruling within 60 days of the application by the taxpayer
- CG may make a private ruling on the basis of assumptions
- Notice of private rulings is to be placed in the Gazette but shall not identify the taxpayer
- Private rulings are binding on the CG in so far as the facts in the ruling

Decision not to issue a private ruling (s68)

- CG may decide not to issue a private ruling if:
 - the CG has already decided on the matter
 - the matter is the subject of an audit or objection
 - the application is frivolous
 - the CG believes the matter has not been carried out or will not be carried out
 - there is insufficient information
 - the matter involves a tax avoidance scheme
 - there are insufficient resources to carry out the application

Withdrawal of a private ruling (s69)

- CG may withdraw a private ruling with written notice when:
 - legislation has changed that is not consistent with the ruling
 - a public ruling is not consistent with the ruling
 - a decision of the Tribunal is not consistent with the ruling
 - A private ruling will continue to operate for the periods prior to the withdrawal

Other advice (s70)

Any guideline, publication or other advice, other than a private or public ruling, is not binding on the CG.

SUMMARY: Rulings are new and provide clear direction on how the CG will interpret provisions of the various revenue laws. The CG is expected to respond within 60days for applications for private rulings.

Due dates for lodging of documents	
INCOME TAX	TAA (s75)
There is no specific provision and reliance is placed on the Interpretation Act (s40 (5))	Where a due date falls on a Saturday, Sunday or a public holiday the due date becomes the next following business day for: <ul style="list-style-type: none"> • Lodging tax returns, application or document; • payment of tax; • taking any other action under the tax laws
VAT	
There is no specific provision and reliance is placed on the Interpretation Act (s40 (5))	
SUMMARY: Unlike the Interpretation Act that only provides for Sundays and public holidays, the Act provides for Saturday, Sunday and public holidays as non-business days and anything due on these days will become due on the next business day.	

Use of ICT in tax transactions	
INCOME TAX	TAA (s75)
No provision	<ul style="list-style-type: none"> • Subject to legislation on use of ICT, the use of ICT is allowed for compliance with the tax laws • The CG may allow various transactions to be done through ICT systems • Taxpayers are not compelled to do anything electronically if they don't have the capacity to do so • Taxpayers that file a return and make payment electronically shall continue to do so unless CG allows them to file or pay in any other way • Taxpayers that are required to file a return electronically but do so manually are to pay a manual processing fee
VAT	
No provision	
<p>SUMMARY: CG is generally empowered to computerise most functions or duties under the tax laws. Taxpayers who use computer systems to file and pay taxes are compelled to keep doing so. If they revert to manual filing, they may be required to pay a processing fee.</p>	

Administrative penalties

TAA (s98 – 109)

- **Failure to register** – 100% of tax payable between when they are required to register and when they register OR fixed penalty of P10,000/month if there is a no tax
- **Failure to use of TIN as required** – P5,000 or P10,000
- **Failure to apply for cancellation of registration** - fixed penalty of P10,000/month for the period between when they are required to be deregistered and when they deregister
- **Use of TIN after cancellation** – P10,000

Failure to maintain records

- **Failure to maintain records** – (a) due to deliberate or reckless failure – 75% of tax payable OR (b) in any other case – 20% of tax payable OR (c) where there is no tax - P10,000 (company) / P5,000 (any other taxpayer) OR where the documentation is transfer pricing documentation – P500,000
- **Failure to translate records into English or Setswana** - P50,000
- **Failure to keep records in electronic format when required to do so** – P50,000/month

Failure to use electronic billing solution

- **Failure to use electronic billing solution** – P10,000/month
- **Failure to issue electronic invoice** – P10,000

Late filing penalties

- **Failure to lodge a tax return by due date** –
 - Income tax return - greater of P100/day up to P20,000 OR 10% of unpaid tax
 - VAT return – greater of P50/day up to P5,000 OR 10% of unpaid tax
 - Any other document -P50/day up to P5,000
 - The fixed penalties cannot exceed the tax payable

Late payment penalty

- Greater of P50/day OR 10% of unpaid tax
- Payable in addition to interest

Tax shortfall penalty

- Applies where a person makes a false or misleading statement to a tax officer
- Difference between amount of correct tax and tax assessed on the basis of a false or misleading statement = tax shortfall
- **Penalty for deliberate or reckless statement** – 75% of tax shortfall OR **in any other case** 20% of shortfall
- **Penalty increases by 10% for second offence under this section**
- **Penalty increases by 25% for third or subsequent offence under this section**
- Penalty may be reduced by half if taxpayer confesses before CG discovers and informs the taxpayer

False or misleading statement penalty

- Applies in cases other than tax shortfall
- **Penalty for deliberate or reckless statement** – P20,000 OR P10,000 for any other false or misleading statement

Tax avoidance and evasion penalty

- Tax avoidance penalty – 200% of tax avoided
- Tax evasion penalty – 300% of tax evaded

Penalty for instalments of income tax (SAT payments)

- **Penalty for short payment by more than 25%** - 10% of the difference between actual tax liability and total instalments paid multiplied by 120%

Withholding tax penalties

- Applies where a taxpayer:
 - **fails to withhold**
 - **fails to remit tax withheld**

Greater of P500/day OR 10% of withholding tax

- **fails to provide a withholding certificate to person from whom tax is withheld**
- **fails to inform CG of a construction contract**

P100/day

VAT penalties

- **Failure to register** – 100% of output VAT
- **Failure to notify CG of change of circumstances** – P10,000
- **Failure to notify CG of cessation of making taxable supplies** - P10,000
- **Failure to produce a tax invoice, credit or debit note** – P10,000
- **Unwarranted issue of a tax invoice, credit or debit note** – P10,000

General provisions

- A taxpayer may make an application to the CG for a waiver of penalty
- CG may waive, in whole or in part, penalties – except tax shortfall penalty

SUMMARY: The TAA introduces new administrative penalties based on either on a daily basis or fixed penalties. The Act identifies specific offences and their respective penalties unlike the general penalties applied in the VAT and Income Tax Act. The penalties are generally significantly higher than previously.

Tax offences

TAA (s111 - 126)

Penalties for failure to apply for registration

- **Deliberate or reckless failure to register** – P10,000 fine OR up to 2 years imprisonment

Fraudulent use of electronic billing solution

- **Using the solution to mislead the CG, issue false or incorrect invoice or tamper with the solution to work improperly** – P100,000 OR up to 2 years imprisonment or both

Failure to maintain records

- **Deliberate failure or recklessness** - P10,000 fine OR up to 2 years imprisonment or both
- **Failure or recklessness for any other reason** – P5,000 fine OR up to 1 year imprisonment or both

Failure to lodge a return

- Fine not exceeding P5,000 or up to 1 year imprisonment or both

Failure to comply with investigation requirements

- Failure to answer questions or to provide facilities or assistance - P10,000 fine OR up to 2 years imprisonment or both

False or misleading statements

- **Deliberately false or misleading statements** - P10,000 fine OR up to 2 years imprisonment or both
- **Any other false or misleading statements** – P5,000 fine OR up to 1 year imprisonment or both

SUMMARY: The regime for penalties in respect of tax offences has largely remained the same in respect of offences under the VAT Act. In so far as income tax offences, the fines have been significantly increased.



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