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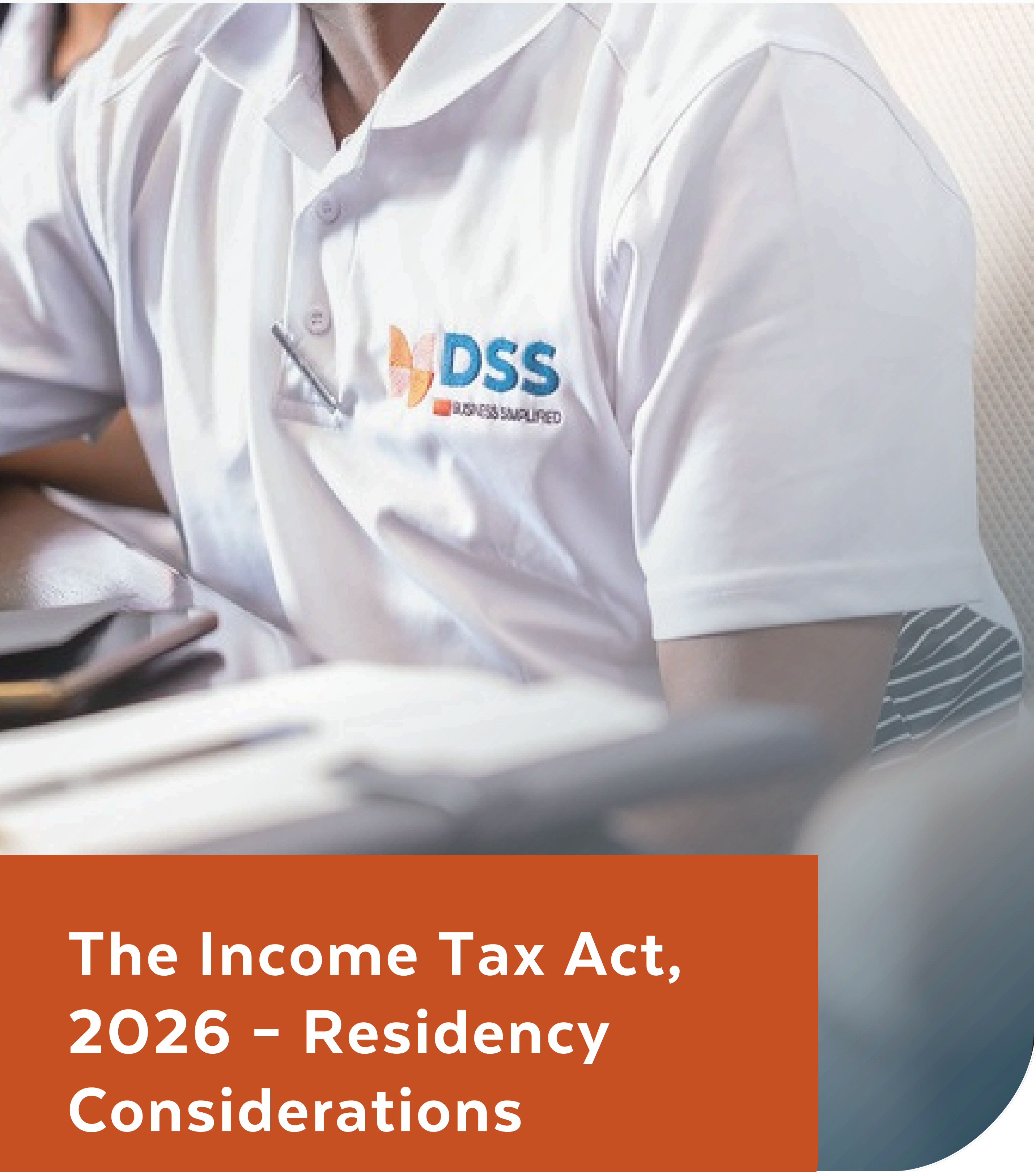

The Income Tax Act, 2026 - Residency Considerations

Business Simplified

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The relevant rules are principally in sections 2, 7, 8 and 14 of the Income Tax Act, 2026 that commenced from 01 July 2026.

1. Resident individual

Under section 7, an individual is a Botswana tax resident when any one of the following applies:

1. The individual has a permanent home in Botswana.
2. The individual is present in Botswana for at least 183 days in any 12-month period that begins or ends during a Botswana tax year.
3. The individual is a Botswana Government employee or official posted outside Botswana.

The Botswana tax year runs from 1 July to 30 June.
For the 183-day calculation:

- Any part of a day in Botswana counts as a full day.
- A temporary absence from Botswana for business, recreation or a similar purpose may continue to count as presence in Botswana.

For someone arriving in or leaving Botswana, the Act contains limited split-year treatment:

- A person who was not resident in the preceding tax year but becomes resident in the current year is generally treated as resident from the first day they were present in Botswana.
- A person who is resident in the current year but not in the following year is generally treated as resident only up to the last day they were present in Botswana.

Example: individual becoming resident under the 183-day test

Facts

Ms. Patel is an Indian citizen who arrives in Botswana on 1 September 2026 for a two-year employment assignment. She does not have a permanent home in Botswana and is not a Botswana Government employee. Between 1 September 2026 and 30 June 2027, she spends 190 days in Botswana.

Determination

Question	Results
Permanent home in Botswana?	No
At least 183 days in a relevant 12-month period?	Yes — 190 days
Botswana Government employee posted abroad?	No
Botswana tax status	**Resident individual**

Because she was not resident in the preceding tax year, her Botswana residence would generally commence on **1 September 2026**, the first day she was present in Botswana.

Because she is neither a Botswana citizen nor a permanent resident, is in Botswana solely for employment and the assignment does not exceed three years, she may also qualify as a **temporary resident.**

That distinction affects the income brought into the Botswana tax calculation:

- income arising to an ordinary Botswana resident includes income from Botswana and foreign sources.
- income arising to a temporary resident includes only Botswana-source income.

Therefore, Ms Patel is a **resident individual**, but potentially a **temporary resident** whose foreign income remains outside Botswana gross income unless it is Botswana-source income.

Alternative example: permanent-home test

Mr Molefe owns and maintains his family home in Gaborone but spends only 140 days in Botswana during the year because he works on projects outside Botswana.

He is a Botswana resident because the permanent-home test is separate from the 183-day test. He does not need to satisfy both tests. The tests are alternatives.

2. Non-resident employee

The Act defines an employee broadly to include a worker and a person holding or acting in a public or private appointment or office.

A “non-resident” is any person who is not a resident of Botswana. Read together, a non-resident employee is therefore an employee who does not satisfy any of the residence tests in section 7.

However, being non-resident does not automatically mean that employment income is exempt in Botswana.

Employment income is Botswana-source to the extent that it relates to employment exercised in Botswana, regardless of:

- where the employment contract was signed;
- where the employer is located;
- where the salary is paid; or
- the currency or bank account used for payment.

On that basis, any Botswana-source income arising to a non-resident employee, unless expressly exempted, will be subject to tax using the rates applicable to non-residents in Schedule 1 Part 1 of the Act.

Short-term employee exemption

A non-resident employee’s Botswana employment income may nevertheless be exempt when **all** of the following conditions are met:

1. The employee is not an entertainer.
2. The employee is present in Botswana for no more than 90 days in aggregate in any 12-month period.
3. The salary is subject to tax in the employee’s country of residence.
4. The employee is paid by a non-resident employer.
5. The remuneration is not an expense of the foreign employer’s permanent establishment in Botswana.

Example: non-resident employee whose income is exempt

Facts

Mr Smith:

- normally lives and works in the United Kingdom;
- has no permanent home in Botswana;
- is present in Botswana for 75 days;
- works for a United Kingdom company;
- is not an entertainer;
- is paid into his United Kingdom bank account;
- pays United Kingdom income tax on his salary; and
- his salary cost is not charged to a Botswana branch or permanent establishment.

Question	**Results**
Permanent home in Botswana?	No
At least 183 days in a relevant 12-month period?	No — 75 days
Botswana Government employee posted abroad?	No
Botswana tax status	**Non-resident employee**

His salary relating to the work performed during the 75 days in Botswana is initially Botswana-source income because the employment duties were physically performed in Botswana.

However, the income should qualify for the short-term employee exemption because:

- he is in Botswana for fewer than 90 days;
- the salary is taxed in the United Kingdom;
- is not an entertainer;
- the employer is non-resident; and
- the cost is not borne by a Botswana permanent establishment.

Conclusion: Mr Smith is non-resident, and his Botswana employment income is exempt because all the short-term exemption conditions are satisfied.

Example where the non-resident employee becomes taxable

Assume the same facts, except that the United Kingdom employer recharges Mr Smith's salary to its Botswana branch.

Mr Smith would remain a non-resident because he has no permanent home in Botswana and is present for fewer than 183 days. However, the short-term exemption would fail because his remuneration is now an expense of a Botswana permanent establishment.

The salary relating to his Botswana duties would consequently be taxable in Botswana.
Similarly, an employee who spends 100 days in Botswana may still be non-resident because 100 days is below the 183-day residence threshold, but would fail the 90-day short-term employment exemption. The Botswana-duty portion of the salary would therefore normally be taxable.

If taxable, the non-resident individual rates begin at 5% from the first Pula and increase through the bands to 27.5% on taxable income above P400,000.

The critical distinction

Test	Purpose	Threshold
Residence test	Determines whether the person is resident or non-resident	183 days
Short-term employment exemption	Determines whether a non-resident employee's Botswana salary is exempt	90 days

The two tests should not be confused. A person may spend between **91 and 182 days** in Botswana, remain a non-resident, but still be taxable on salary relating to work performed in Botswana.

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