

DGN 9  
(Departmental  
Guidance Note)

## **DEPARTMENT OF TAXES**

### **Departmental Guidance Note on Procedure of Extension of Time limits for submission of Income Tax Return/ Annual Withholding Return**

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#### **1. INTRODUCTION**

##### **1.1. The purpose of this DGN**

The purpose of this DGN is to explain the provisions and procedure relating to extension of time limits for submission of Income Tax Return / Annual Withholding Return.

This DGN supercedes all circulars issued earlier on this issue and will take immediate effect.

#### **2. Due Dates for filing returns**

##### **2.1 Income Tax Returns:-**

**a)** Section 65 (1) as amended by the Income Tax Amendment Act No.9 of 2001 has determined the due date for filing of Income Tax Returns 'within 3 months' from the end of that tax year. Therefore the due date for filing Income Tax Returns has been shifted by the amendment to 30<sup>th</sup> September following the end of that tax year. Thus from the tax year 2001/2002, the due date is 30<sup>th</sup> September; e.g. for tax year 2001/2002, it was 30<sup>th</sup> September 2002 and for tax year 2002/2003, it will be 30<sup>th</sup> September 2003 and so on and so forth.

**b)** It should also be noted that the Amendment Act No. 9 of 2001 also brought in an additional subsection (1A) to section 65 whereby taxpayers to whom self-assessment provisions apply are required to furnish a return of gross income and other particulars as may be required in the return, computation of taxable income and tax payable as well as payments made

thereof in the prescribed form. This refers to the self-assessment return. The due date for filing the self-assessment returns is also determined by the same subsection as within three months from the end of that tax year. Thus the due date is on or before 30<sup>th</sup> September from the end of that tax year.

## **2.2 Employers' Annual Returns – Section 56**

In the case of 'employer' taxpayers, there is no change in the due date for the filing of annual withholding returns. It is still within 31 days after the end of that tax year; or where any person ceases to be an employer during that tax year, within 31 days after such cessation or within such time as the Commissioner may allow.

## **2.3 Persons Withholding Tax on Construction Contracts – Section 57**

Similarly in the case of Persons Withholding Tax under any contracts relating to construction operations, the due date for filling of annual withholding returns is within 31 days after the end of that tax year or within such further time as the Commissioner may allow.

## **2.4 Persons Withholding Tax on dividends, interest, commercial royalties, entertainment fees and management and consultancy fees – section 58.**

Finally, in the case of Persons Withholding Taxes on dividends, interest, commercial royalties, entertainment fees and management and consultancy fees, the due date for filing of annual returns is within 31 days after the end of that tax year or within such time as the Commissioner may allow.

## **3. Extensions of time limit for Filing returns**

### **3.1 Income Tax Returns:**

Extensions for submission of income tax returns are determined under section 77 of the Tax Act No. 12 of 1995. This was amended in 2001 by the Amendment Act No 9 of 2001. Based on the amendment, extension is only allowable on request by the person or the agent acting on behalf of that person in writing on just cause. In other words, no 'blanket extensions' will be allowed as in the past. The term 'Just cause' may include circumstances such as sickness, out of the country, emergency situations in the conduct of business such as theft, break-in, fire, damage

etc. No other reasons will be considered except in circumstances similar to those stated above. Evidence or proof in all such circumstances must be filed by the taxpayer or the agent and the officer dealing with the extensions shall call for such proof if not provided by the applicant. In genuine cases extensions may be considered but limited to a maximum period of three months.

### **3.2 Annual Return in Respect of Section 56, 57 and 58**

The law does not allow any extensions except in the circumstances where the Commissioner may allow further time. Therefore it may be possible for some taxpayers to request for further time to submit annual returns for valid reasons. But in such circumstances, the employer or the person responsible for filing of annual returns must make the request in writing before the end of the final date for the submission of the annual returns, which will be decided on a case by case basis.

## **4. Circumstances where no extensions will be granted**

- 4.1 Section 78 under subsection (5) empowers the Commissioner to serve a notice in writing requesting any person to furnish tax returns within such time as may be specified in the notice.
- 4.2 Similarly section 67 empowers the Commissioner to require from persons leaving Botswana, ceasing to carry on business in Botswana and in case where Commissioner decides it is expedient to do so to serve a notice to such a person to furnish a tax return on the specified date as given in the notice, not being less than seven days from the date of service of such notice.
- 4.3 In the circumstances stated as above in 4.1 and 4.2, no extensions shall be considered necessary.

## **5. Procedure of application for extension to be followed**

- 5.1 Procedures outlined below are applicable to income tax returns as well as to the submission of annual returns in respect of Section 56, 57 and 58.
  - a) All requests for extensions should be made in writing in the prescribed form attached to this note, well in advance of the last date for filing the relevant return. This request form must be filed in duplicate.
  - b) The forms would be made available to all taxpayers and agents on requests

at Registration, Corporate, Business and Enforcement Divisions, Regional Offices and at the Taxpayer Assistance Centre.

- c) Requests made in writing by letters for extensions will not be considered and in such cases the taxpayer will be expected to complete the prescribed forms in duplicate.
- d) Once the forms are received, they will be processed by the Department, looking into the reasons and evidences submitted by the taxpayer or agent.
- e) The Division Manager, Registration will communicate the decision of the Commissioner by way of a letter to the taxpayer or to his agent.
- f) No extension should be presumed by the applicant( taxpayer or agent) until a written communication granting extension as mentioned in e) above is received from the Department.
- g) The above mentioned procedure will be strictly followed.

## **6. Penalties for non-filing or for late filing without the extensions being granted**

**6.1** All penalties shall be imposed as per the provisions of the Income Tax Act.

## **7. Assistance available**

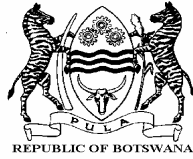
**7.1** Any clarification on the issue of extension may be sought from the following officer:

Division Manager (Registration, Intelligence and File Management) @ Telephone No 361 4600.

Sd/-

**G. Mbangwa (Mrs.)  
Commissioner of Taxes**

**23<sup>rd</sup> July 2003**



## DEPARTMENT OF TAXES

**Application for the purposes of requesting extensions for the submission of income tax returns/annual withholding returns under section 77 of the Income Tax Act. (To be submitted in duplicate to the respective Division Managers where the tax file is located)**

1.	Tax ref. No/Tin No:	
2.	Name of taxpayer:	
3.	Postal address for purposes of serving Notices:	
4.	Name of tax agent (if he/she is applying on behalf of the taxpayer):	
5.	Postal address of the tax agent for the purposes of serving notices on behalf of the taxpayer	
6.	Tax year/years for which extension is requested:	
7.	Period of extension requested from the final date for submission:	
8.	Reasons for request of extension: (submit proof for reason of extension request)	
9.	Any other particulars/comments	
10.	Signature of the applicant (state the name and phone number and the status whether taxpayer or agent.	
11.	Date	

## For Office Use Only:

12.	Extension Allowed/Disallowed (Please mention the period of extension if the extension allowed is different from the extension requested. Reasons must be stated , if extension is disallowed.)	
13.	Name & signature of the Officer , and name of Division	
14.	Date	

