

NEW TAX BILL KEEPS TAX HAVEN TAG AT BAY: By Jonathan Hore

Botswana continues to make strides in increasing tax transparency through sharing of information with other countries as a new bill is expected to be debated in this July 2020 session of Parliament to further make the country tax transparent. The bill, which was published in the Government Gazette of 17 April 2020 is expected to soon become law, should it get a nod from the Parliament. The Minister of Finance & Economic Development stated that the bill is, 'to provide for Botswana to meet her international obligations regarding the effective exchange of tax information and transparency in tax matters before signing the OECD Convention on Mutual Tax Administrative Matters.'

More transparency

The new bill seeks to amend a section 5(4)A of the Income Tax Act to make it clear that the country will still be able to share tax information with any other country, despite provisions of other laws, particularly intercountry tax agreements which may provide for the non-sharing of tax information. In other words, the new bill seeks to make Botswana more transparent by having the Income Tax Act override any law which may provide for secrecy in information sharing, when requested by another country.

Why tax transparency?

This bill is a step forward in the country's drive to increase tax transparency through sharing information with other countries, mainly to deter tax evasion and money laundering. It comes at a time when the country amended the Income Tax Act back in 2012 to provide for it to enter into international treaties called Exchange of Tax Information Agreements with other countries.

This followed damning utterances by the then President of France, Nicholas Sarkozy, who labelled Botswana a 'tax haven.' The said President also hinted that such a tag would reduce inflows of the much-needed foreign direct investment (FDI). Most developed countries shun nations listed as tax havens as they regard them as promoters of harmful tax practices, which include tax secrecy. The country then entered into several Exchange of Tax Information Agreements to shrug off the tax haven tag. The new bill allows for enhanced tax transparency and international exchange of tax information, regardless of what other statutes may prescribe.

The law comes as Botswana prepares to become a member of the OECD Convention on Mutual Administrative Tax Assistance in tax matters, which literally wages war against tax secrecy in all its forms. International development NGOs usually state that tax secrecy and hiding taxes in certain countries is perpetrated by some multinational enterprises, prejudicing other countries of revenue. A lot has been reported in international media about some multinational entities alleged to have used their international footprint to hide taxes in certain countries. Apple recently fought a similar battle where it was accused of hiding US\$15bn tax in Ireland, which it earned from Europe, Africa, the Middle East and India. Other global companies which have been accused for similar harmful tax practices include Siemens and Google. Exchange of Tax Information agreements and general tax transparencies fight such practices and remove the chances of being labelled as a tax haven.

Economic benefits

The amendment helps improve Botswana's rankings from a tax transparency perspective, which is a key factor in attracting FDI. With the country currently blacklisted under the EU money laundering protocols, the amendment is likely to herald the country's resolve to remain transparent and also abide by the OCED convention on mutual tax assistance.