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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1779.

22 Augustus 1984

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22 August 1984

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 118 van 1984: Wysigingswet op Inkomstewette, 1984.

No. 118 of 1984: Revenue Laws Amendment Act, 1984.

GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Marketable Securities Tax Act, 1948, so as to effect a textual amendment; to amend the Transfer Duty Act, 1949, so as to provide for an exemption from the payment of transfer duty in respect of certain property acquired by a housing utility company; to amend the Stamp Duties Act, 1968, so as to levy stamp duty on certain debit entries in accounts; to effect a textual amendment; to provide for an exemption from the payment of stamp duty in favour of the Southern African Development Bank; to abolish the stamp duty payable on cheques; to authorize bankers to issue cheque books without the payment of stamp duty; and to do away with an exemption from the payment of stamp duty in respect of certain registrations of transfer of marketable securities effected in branch registers kept outside the Republic; to provide for a refund of stamp duty paid in respect of unused cheque forms, and an exemption from the payment of transfer duty and stamp duty in respect of the passing of the assets, rights, liabilities and obligations of certain corporations; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 12 July 1984.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for paragraph (d) of the following paragraph:
- “(d) in respect of the purchase of any interest-bearing debentures, including debenture stock, debenture bonds and any other securities of a **[company] juristic person**, whether constituting a charge on the assets of the **[company] juristic person** or not, listed by any recognized stock exchange in the Republic.”
- (2) Subsection (1) shall be deemed to have come into operation on 1 July 1983.
- Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982 and section 1 of Act 92 of 1983.
2. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended by the addition of the following subsection:
- “(13) (a) No duty shall be payable in respect of the acquisition of any property by a housing utility company from another housing utility company under a transaction concluded on or after 1 October 1983, if that prop-
- Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959,

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- erty was acquired under a scheme approved by the Director-General: Community Development, for the merger of the interests and activities of those companies and under that scheme the first-mentioned company acquired all the assets and assumed all the liabilities of the other company.
- (b) For the purposes of this subsection 'housing utility company' means an association the receipts and accruals of which are exempt from normal tax under section 10 (1) (cC) of the Income Tax Act, 1962 (Act No. 58 of 1962)."
- (2) Subsection (1) shall be deemed to have come into operation on 1 October 1983.
3. Section 1 of the Stamp Duties Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of "instrument" of the following definition:
- "'instrument' includes any written document or writing and for the purposes of the duty contemplated in Item 6 of Schedule 1 in respect of any debit entry in an account, such a debit entry;"; and
- (b) by the addition to paragraph (b) of the definition of "stamp" of the following proviso:
- "Provided that in the case where the payment of duty is not required to be denoted on an instrument by means of an adhesive stamp or otherwise, 'stamp', when used as a verb, means to make payment of that duty."
4. (1) Section 4 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- "(a) any instrument if the duty thereon would be legally payable and borne by the Government (including any provincial administration, the administration of the territory and the [railway administration] South African Transport Services) or by the government of any other country;"; and
- (b) by the addition at the end of subparagraph (vi) of paragraph (b) of subsection (1) of the word "or", and by the addition to that paragraph of the following subparagraph:
- "(vii) the Development Bank of Southern Africa established on 30 June 1983;"
- (2) Subsection (1) (b) shall be deemed to have come into operation on 30 June 1983.
5. Section 5 of the principal Act is hereby amended by the substitution for paragraph (iii) of the proviso to subsection (1) of the following paragraph:
- "(iii) where the Commissioner is satisfied that any person or class of persons cannot conveniently denote the duty in respect of [cheques or] fixed deposit receipts or the original issue of marketable securities by means of stamps affixed to such [cheques] fixed deposit receipts or marketable securities, he may, subject to such conditions as he may impose and subject to the exercise of such control as he considers necessary, agree that payment of such duty may be acknowledged by means of the issue of a special receipt, and any such [cheque] fixed deposit receipt or marketable security which bears on its face the words 'duty paid', shall for the purposes of this Act be deemed to be duly stamped."

section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, and section 2 of Act 99 of 1981.

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, and section 19 of Act 106 of 1980.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981 and section 4 of Act 87 of 1982.

Amendment of section 5 of Act 77 of 1968, as amended by section 9 of Act 89 of 1972, section 7 of Act 66 of 1973 and section 9 of Act 114 of 1977.

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6. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 6 of Act 77 of 1968, as amended by section 10 of Act 114 of 1977.

5 (1) Every instrument (other than any debit entry contemplated in Item 6 of Schedule 1) shall be written in such manner, and shall be so stamped, that the stamp appears on the face of the instrument."

7. Section 7 of the principal Act is hereby amended—

Amendment of section 7 of Act 77 of 1968, as amended by section 18 of Act 103 of 1969, section 10 of Act 89 of 1972, section 8 of Act 66 of 1973, section 3 of Act 70 of 1975 and section 5 of Act 87 of 1982.

10 (a) by the insertion after paragraph (iA) of the following paragraph:

"(iB) in the case of any debit entry in an account, the banker or person carrying on the credit card scheme concerned;"

15 (b) by the addition of the following subsection, the existing section becoming subsection (1):

"(2) The provisions of subsection (1) (iB) shall not be construed as prohibiting the banker or person concerned from recovering the duty contemplated in that subsection from the holder of the account concerned."

20 8. The following section is hereby inserted in the principal Act after section 18:

Insertion of section 19 in Act 77 of 1968.

"Debit entries.

19. The duty payable in terms of Item 6 of Schedule 1 in respect of any debit entry in an account shall not be denoted by means of stamps but shall be paid by the banker or person carrying on the credit card scheme concerned within a period of 21 days after the end of the month in which that entry is made or, where he satisfies the Commissioner that by reason of the accounting procedures adopted by him the duty cannot conveniently be paid within that period, within such further period as the Commissioner may allow, and if he fails to do so he shall, in addition to the amount of that duty, pay a penalty equal to 10 per cent of that amount for every month or part thereof reckoned from the end of the period within which that amount was payable as provided in this section to the date of payment of that amount: Provided that the Commissioner may, having regard to the circumstances of the case, remit the whole or any part of that penalty."

40 9. (1) Item 5 of Schedule 1 to the principal Act is hereby amended—

Amendment of Item 5 of Schedule 1 to Act 77 of 1968, as amended by section 24 of Act 103 of 1969, section 16 of Act 88 of 1974, section 14 of Act 114 of 1977 and section 9 of Act 92 of 1983.

(a) by the substitution for the words preceding the heading "Exemptions" of the following words:

"Bill of exchange or promissory note:

45 [(1) Cheque 0 05

(2) Any [other] bill of exchange (other than a cheque) or any promissory note, whether payable on demand or otherwise: for every R100 or part thereof of the amount or value 0 05"; and

(b) by the deletion of paragraphs (a) and (f) under the heading "Exemptions".

55 (2) Where under paragraph (iii) of the proviso to section 5 (1) of the principal Act the Commissioner for Inland Revenue has agreed with a banker to accept payment of the stamp duty chargeable in respect of cheques drawn on the banker and the duty is in terms of the agreement payable in advance at the time of issue of cheque books by the banker, he shall not be required to 60 make payment of stamp duty in respect of cheque books issued by him on or after 1 June 1984.

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(3) Subsection (2) shall be deemed to have come into operation on 1 June 1984.

10. The following Item is hereby inserted in Schedule 1 to the principal Act after Item 5:

Insertion of Item 6 in Schedule 1 to Act 77 of 1968.

5 "6. Debit entry: 0 05

For the purposes of this Item, 'debit entry' means any entry by means of which a debit is posted to—

- (a) a bank account from which money is withdrawable by cheque; or
- 10 (b) an account in terms of a credit card scheme as defined in section 1 of the Limitation and Disclosure of Finance Charges Act, 1968 (Act No. 73 of 1968), other than such a scheme which is carried on by a building society or a scheme carried on by a buying association in respect of which the Commissioner is satisfied that it is operated on co-operative principles for the benefit of its members.

Exemptions:

20 Debit entries in an account in respect of—

- (a) interest, service or other charges relating to the holding or use of that account or any charge in respect of the duty under this Item recovered from the holder of the account;
- 25 (b) a bill of exchange (other than a cheque) drawn by the holder of that account;
- (c) the reversal of an entry;
- (d) a banking transaction if the holder of that account is a banking institution managed or controlled outside the Republic;
- 30 (e) a banking transaction if the holder of that account is the Government or a body contemplated in section 4 (1);
- 35 (f) the settling or clearing of accounts between bankers."

11. (1) Item 15 of Schedule 1 to the principal Act is hereby amended—

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982 and section 14 of Act 92 of 1983.

(a) by the insertion after paragraph (2) of the following sentence:

40 "For the purposes of paragraphs (1) and (2) shares, stock or debentures or any certificate or other like instrument representing any interest in respect of shares, stock or debentures shall, when issued by a company or juristic person which is registered, incorporated or established by or under any law of the Republic, be deemed to have been issued in the Republic notwithstanding the fact that such shares, stock, debentures, certificate or other instrument may be registered or noted in a branch register kept by that company or juristic person outside the Republic."; and

(b) by the addition to paragraph (e) under the heading "Exemptions from the duty under paragraph (3)" of the following proviso:

55 "Provided that the exemption in terms of this paragraph shall not apply in respect of any registration of transfer of any marketable security which is effected in any such branch register on or after 5 July 1984 unless—

- 60 (i) that branch register has throughout the period of five years ending on the said date been used for the registration of transfers of marketable securities issued by that company or juristic person; or

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- (ii) the Commissioner is satisfied—
- (aa) that such branch register is kept in a country in which there is a recognized stock exchange;
- 5 (bb) that marketable securities which have been issued by that company or juristic person, and which are of the same kind as the marketable security the registration of transfer of which is effected, are regularly bought and sold on that stock exchange;
- 10 and
- (cc) that such branch register is kept solely or mainly for the convenience of investors who are not ordinarily resident in the Republic,
- 15 and the Commissioner has notified that company or juristic person that he is so satisfied and has not notified that company or juristic person that he is no longer so satisfied.”
- 20 (2) Subsection (1) shall be deemed to have come into operation on 5 July 1984.

12. (1) Where stamp duty has been paid as provided in paragraph (iii) of the proviso to section 5 (1) of the principal Act (as in force prior to the amendment thereof by section 5 of this Act)

25 in respect of any unused cheque forms held by any person on 1 July 1984, the Commissioner may, notwithstanding the provisions of section 32 of the principal Act or of any Revenue Instructions issued or deemed to have been issued under section 40 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975),

30 make or authorize a refund of that duty in the manner contemplated in subsection (2).

Refunds of stamp duty paid in respect of unused cheque forms.

- (2) Where any duty contemplated in subsection (1)—
- (a) was paid by a banker in respect of cheque forms sold by him to the said person, that banker may, if the unused cheque forms are produced for his inspection
- 35 within a period of one year after 1 July 1984, make a refund to that person of the stamp duty paid in respect of those cheque forms and may deduct the amount so refunded from any subsequent payment of stamp duty required to be made by him to the Commissioner in terms of section 19: Provided that no refund shall be made in terms of this paragraph unless the cheque forms are contained in a cheque book issued by the banker and the duty paid in respect of the unused cheque forms contained in the cheque book on 1 July 1984 amounts to at least R1; or
- 40
- (b) was paid by a printer in respect of cheque forms printed by him for his own use or for use by any other person, that printer or other person, as the case may be,
- 45 may within a period of one year after 1 July 1984 submit to the Commissioner an application for refund, in such form as the Commissioner may prescribe and accompanied by such statement or auditor's certificate as the Commissioner may require, of the duty paid in respect of those unused cheque forms held by that printer or other person on the said date.
- 50
- (3) The provisions of section 32 of the principal Act shall not apply to any stamp duty contemplated in subsection (1).
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13. (1) No transfer duty or stamp duty shall be payable in respect of any passing of assets, rights, liabilities and obligations to the South African Development Trust Corporation Limited as a result of the transfer to that Corporation of—

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Exemption from transfer duty and stamp duty in respect of passing of certain assets, rights, liabilities and obligations.

- (a) the exploration undertakings and technical services branch of the Mining Corporation Limited; or
- 65 (b) the transport undertakings and commercial and agricultural undertakings of the Corporation for Economic Development Limited.

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(2) No transfer duty or stamp duty shall be payable in respect of the passing of assets, rights, liabilities and obligations to—

- (a) the KaNgwane Economic Development Corporation Limited;
- 5 (b) the KwaNdebele National Development Corporation Limited;
- (c) the Lebowa Development Corporation Limited;
- (d) the Shangaan-Tsonga Development Corporation Limited;
- 10 (e) the KwaZulu Development Corporation Limited; or
- (f) the Ciskei Peoples Development Bank Limited,

as a result of the transfer to the said Corporations or Bank of the mining undertakings in which the Mining Corporation Limited has an interest.

- 15 (3) Subsections (1) and (2) shall be deemed to have come into operation on 1 April 1984.

14. The amendments effected to the principal Act by section 3, sections 5 to 8 and sections 9 (1), 10 and 12 shall be deemed to have come into operation on 1 July 1984 and shall apply in respect of debit entries made in an account on or after that date.

Commencement
of certain
amendments.

15. This Act shall be called the Revenue Laws Amendment Act, 1984.

Short title.