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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1356.

29 Julie 1977.

No. 1356.

29 July 1977.

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. 114 van 1977: Wysigingswet op Inkomstewette, 1977.

No. 114 of 1977: Revenue Laws Amendment Act, 1977.

ACT

To amend the Marketable Securities Tax Act, 1948, so as to increase the rate of tax payable in respect of the purchase of marketable securities and to abolish the tax payable in respect of the sale of such securities; to amend the provisions of the Estate Duty Act, 1955, relating to the value for estate duty purposes of fiduciary, usufructuary or other like interests in property, or of any annuity; to amend the provisions of section 62 of the Income Tax Act, 1962, relating to the value for donations tax purposes of fiduciary, usufructuary or other like interests in property, or of any annuity; to amend the Stamp Duties Act, 1968, so as to further regulate the payment of, and to increase, stamp duty in respect of certain instruments; to provide an exemption from stamp duty in respect of certain cessions of bonds; and to impose stamp duty in respect of certain leases of movable property; to amend the Companies Act, 1973, so as to increase the rate of annual duty payable by companies and to levy that duty on certain undistributable reserves; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 11 July 1977.)*

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

Amendment of section 2 of Act 32 of 1948 as substituted by section 1 of Act 103 of 1969.

1. (1) The following section is hereby substituted for section 2 of the Marketable Securities Tax Act, 1948:

“Imposition of marketable securities tax.

2. There shall be paid for the benefit of the State Revenue Fund in respect of every purchase of marketable securities by a stockbroker on behalf of any person, a tax to be called the Marketable Securities Tax (hereinafter referred to as “the tax”), at the rate of one and a half per cent of the consideration for which such securities are so purchased.”

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

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 and section 2 of Act 88 of 1974.

2. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of the words “or the sale” wherever they occur.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

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Amendment of section 4 of Act 32 of 1948 as substituted by section 2 of Act 103 of 1969.

3. (1) Section 4 of the Marketable Securities Tax Act, 1948, is hereby amended—

- (a) by the deletion in subsection (1) of the words “and sales”;
- (b) by the deletion in subsection (2) of the words “and sales”; and
- (c) by the deletion in subsection (3) of the words “or sale”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of section 7 of Act 32 of 1948.

4. (1) Section 7 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of the words “or sale” wherever they occur.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of section 8 of Act 32 of 1948.

5. (1) Section 8 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of the words “or sale” wherever they occur.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Substitution of long title of Act 32 of 1948.

6. The following long title is hereby substituted for the long title of the Marketable Securities Tax Act, 1948:

“To provide for the imposition of a tax on purchases of marketable securities.”

Amendment of section 5 of Act 45 of 1955, as amended by section 3 of Act 59 of 1957, section 4 of Act 65 of 1960, section 10 of Act 71 of 1961, section 10 of Act 77 of 1964, section 4 of Act 81 of 1965 and section 2 of Act 56 of 1966.

7. (1) Section 5 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) in the case of any such fiduciary, usufructuary or other like interest in property as is referred to in paragraph (a) of section 3 (2), an amount determined by capitalizing at twelve per cent the annual value of the right of enjoyment of the property in which the deceased held any such fiduciary, usufructuary or other like interest, to the extent to which the person who upon the cessation of the said interest of the deceased in consequence of the death of the deceased becomes entitled to any right of enjoyment of such property of whatever nature, over the expectation of life of such person, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period: Provided that in any case in which it is proved to the satisfaction of the Secretary that such person paid any consideration for the right of ownership in the property whereby he became entitled to the right of enjoyment of the property upon the death of the deceased, the value shall be so much of the value so arrived at as exceeds the amount of such consideration together with interest thereon calculated at six per cent per annum from the date of payment of such consideration to the date of death of the deceased: Provided further that where upon the cessation of the interest of the deceased in any property, there accrues to the holder of the bare dominium therein, the full ownership in that property, the value of the advantage or benefit so accruing by reason of the cessation of the interest held by the deceased, shall not exceed the difference between the fair market value of that property as at the date of such cessation and the value of the bare dominium as at the date when such bare dominium was first acquired under the disposition creating the said interest held by the deceased: Provided further that

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if, upon the cessation of the interest held by the deceased it is not possible to ascertain until some future date the person or some or all of the persons who will become entitled to the right of enjoyment of the property, the value shall be determined by capitalizing at twelve per cent over a period of fifty years the annual value of the right of enjoyment of the property in which such interest was held, unless the Secretary and the executor agree that, having regard to the circumstances of the case, it would be reasonable to adopt a lesser period than fifty years, in which event such lesser period, as agreed, may be adopted accordingly;”;

- (b) by the substitution in paragraph (c) of the said subsection for the word “six” of the word “twelve”;
- (c) by the substitution in paragraph (d) of the said subsection for the word “six” of the word “twelve”;
- (d) by the substitution in paragraph (d)*bis* of the said subsection for the word “six” of the word “twelve”;
- (e) by the substitution in paragraph (f) of the said subsection for the word “six”, wherever it occurs, of the word “twelve”;
- (f) by the substitution in paragraph (f)*ter* of the said subsection for the word “six” of the word “twelve”; and
- (g) by the substitution in subsection (2) for the word “six”, wherever it occurs, of the word “twelve”.

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 April 1977.

Amendment of section 62 of Act 58 of 1962.

8. Section 62 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (1) for the word “six” of the word “twelve”;
- (b) by the substitution in paragraph (b) of the said subsection for the word “six” of the word “twelve”;
- (c) by the substitution in subparagraphs (i), (ii) and (iii) of paragraph (c) of the said subsection for the word “six” of the word “twelve”; and
- (d) by the substitution in subsection (2) and in paragraph (a) of the proviso to that subsection for the word “six” of the word “twelve”.

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

9. Section 5 of the Stamp Duties Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion in subsection (3) of paragraphs (a), (b) and (c); and
- (b) by the substitution for subsection (4) of the following subsection:

“(4) (a) Payment of the duty on a notarial lease, notarial sub-lease, sectional mortgage bond or other deed referred to in section 11 (7) of the Sectional Titles Act, 1971 (Act No. 66 of 1971), shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.

- (b) Where any endorsement made by a registrar of deeds on a sectional title deed as contemplated in the Sectional Titles Act, 1971, or any certificate of registered sectional title issued by such registrar under that Act is subject to the duty chargeable under Item 21 of Schedule 1 to this Act on a transfer deed relating to immovable property, payment of such duty shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.”

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Amendment of section 6 of Act 77 of 1968.

10. Section 6 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Any instrument stamped as a duplicate original under Item 12 of Schedule 1 shall bear an endorsement by any person executing such instrument or who attests such instrument or certifies it to be a copy or duplicate of the original instrument, as to the amount of duty denoted on the original instrument.”

Amendment of section 22 of Act 77 of 1968, as amended by section 19 of Act 103 of 1969.

11. (1) Section 22 of the principal Act is hereby amended by the addition to subsection (4) of the following paragraph:

“(c) Where any lease of movable property executed on or before 31 March 1977 is continued, renewed or extended by an instrument executed after that date, any period for which such lease or any continuance, renewal or extension thereof was not required to be stamped shall, for the purposes of paragraphs (a) and (b), not be taken into account, and such instrument shall be chargeable with the duty payable in respect of a lease for a period equal to the total period in respect of which the continuance, renewal or extension executed after such date requires to be stamped, less the sum of the amounts of stamp duty previously payable in respect of any earlier continuations, renewals or extensions thereof.”

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of section 24 of Act 77 of 1968, as amended by section 21 of Act 103 of 1969, section 11 of Act 88 of 1974 and section 4 of Act 70 of 1975.

12. (1) Section 24 of the principal Act is hereby amended by the substitution for the proviso to paragraph (a) of subsection (4) of the following proviso:

“Provided that where the aggregate of the premiums on any aforesaid policy, certificate of insurance or renewal thereof and any additional premiums payable in terms of any endorsements to such policy, certificate or renewal in respect of the same period of insurance exceeds ten thousand rand, the amount by which such aggregate exceeds ten thousand rand shall be disregarded in the determination of such dutiable premiums; and”

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of Item 2 of Schedule 1 to Act 77 of 1968, as amended by section 8 of Act 72 of 1970, section 11 of Act 66 of 1973 and section 14 of Act 88 of 1974.

13. (1) Item 2 of Schedule 1 to the principal Act is hereby amended by the substitution in the column “Amount of Duty” for the amount “0 30” of the amount “0 50”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of Item 5 of Schedule 1 to Act 77 of 1968, as amended by section 24 of Act 103 of 1969 and section 16 of Act 88 of 1974.

14. (1) Item 5 of Schedule 1 to the principal Act is hereby amended by the substitution for paragraph (1) of the following paragraph:

“(1) Cheque 0 03”.

(2) Where—

(a) Stamp duty has been paid in the manner contemplated in paragraph (iii) of the proviso to section 5 (1) of the Stamp Duties Act, 1968, in respect of unused cheque forms held by any person on 30 June 1977;

(b) such duty has been paid at the rate of two cents per cheque form; and

(c) the said person uses such cheque forms after the said date or intends so to use such forms,

the additional duty of one cent per cheque which is in consequence of the amendment effected by subsection (1) chargeable in respect of cheques executed on the said forms, shall,

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subject to the provisions of subsection (4), be paid in such manner as may be arranged by the Secretary and the banker upon whom the cheques are drawable.

(3) In any arrangement made by the Secretary and a banker under subsection (2), the banker may be authorized—

- (a) to receive payment of the additional duty from the person concerned, so as to enable the banker to pay such duty to the Secretary; and
- (b) to request any customer whom he has reason to believe may be liable for the payment of the additional duty, to furnish to the banker such statement or auditor's certificate as to the stock of unused cheque forms held by the customer on 30 June 1977 as may be required for the determination of the amount of the additional duty payable.

(4) Where the Secretary is satisfied that the cost of recovering any additional duty under subsection (2) would be uneconomic in relation to the amount of such duty, he may inform the banker concerned that such amount need not be recovered, in which event the additional duty shall be deemed not to be chargeable under the Stamp Duties Act, 1968.

(5) Where any person on or after 1 October 1977 uses any cheque form referred to in subsection (2) for the execution of a cheque in respect of which the additional duty referred to in that subsection is chargeable and has not been paid, such cheque shall, until such additional duty has been paid, be deemed for the purposes of the Stamp Duties Act, 1968, not to be duly stamped.

(6) This section shall come into operation on 1 July 1977.

Amendment of Item 7 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 66 of 1973 and section 18 of Act 88 of 1974.

15. Item 7 of Schedule 1 to the principal Act is hereby amended by the addition to the Exemptions of the following paragraph:

“(d) Cession of any bond to any company (in this paragraph referred to as the subsidiary company), which has been incorporated in the Republic and is managed and controlled in the Republic by any other company (in this paragraph referred to as the foreign company), which has been incorporated, and is managed and controlled, outside the Republic, if it is proved to the satisfaction of the Secretary—

- (i) that at the time of such cession all the issued shares of the subsidiary company were held for its own benefit by the foreign company or a company which was incorporated, managed and controlled outside the Republic and was controlled by, or which controlled, the foreign company; and
- (ii) that the subsidiary company has under an arrangement with the foreign company acquired from the foreign company all the assets, including the said bond, relating to any industrial, commercial or other business undertaking of the foreign company in the Republic:

Provided that the Secretary has given a certificate to the effect that this exemption is applicable.”

Amendment of Item 11 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 89 of 1972.

16. (1) Item 11 of Schedule 1 to the principal Act is hereby amended by the substitution in the column “Amount of Duty” for the amount “0 10” of the amount “0 20”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of Item 12 of Schedule 1 to Act 77 of 1968, as amended by section 15 of Act 66 of 1973.

17. (1) Item 12 of Schedule 1 to the principal Act is hereby amended by the substitution in the column “Amount of Duty” for the amount “0 10” of the amount “0 20”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

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Amendment of
Item 13A of
Schedule 1 to
Act 77 of 1968,
as inserted by
section 9 of
Act 72 of 1970.

18. (1) The following Item is hereby substituted for Item 13A of Schedule 1 to the principal Act:

"13A. *Hire-purchase agreement or contract* in respect of goods, wares or merchandise (other than livestock or agricultural produce):

- (i) if the amount payable under such agreement or contract in respect of such goods, wares or merchandise and the amount of any interest and finance or other charges do not in the aggregate exceed R1 000, a duty of 0 50
- (ii) in any other case, a duty of 1 00

Notwithstanding anything to the contrary in this Act contained, an instrument which is signed by a person in connection with the sale or disposal to him of any goods, wares or merchandise (other than livestock or agricultural produce) and which, if signed by the other party to the transaction, would be a hire-purchase agreement or contract in respect of such goods, wares or merchandise, shall for the purpose of this Item be regarded as a hire-purchase agreement or contract executed on the date on which it was signed by such person."

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of
Item 14 of
Schedule 1 to
Act 77 of 1968.

19. (1) Item 14 of Schedule 1 to the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (1) of the following words:

"*Lease or agreement of lease* (including any instrument intended or operating as a lease or sub-lease or as an agreement to let or sub-let) whereby movable or immovable property is let, whether with or without other assets or rights, provided transfer duty is not chargeable in respect of such lease or agreement:"

(b) by the substitution for the proviso to paragraph (1) of the following proviso:

"Provided that if in any case it is shown to the satisfaction of the Secretary that an amount of rent and any other consideration payable under any such lease or agreement of lease is payable in respect of immovable property and that the total amount thereof exceeds the full selling value of such property, duty shall be payable on the amount of such full selling value plus the aggregate amount of rent and any other consideration payable under such lease or agreement as in the opinion of the Secretary relates to movable property."; and

(c) by the addition after paragraph (3) of the following:

"Notwithstanding anything to the contrary in this Act contained, for the purposes of this Item an instrument which, if signed by the parties thereto, would constitute a lease or agreement of lease as aforesaid or a continuance, renewal or extension thereof, shall, if signed by the lessee, be deemed to have been executed on the date on which it was so signed by the lessee, unless such instrument has within three months after that date also been signed by the lessor.

Exemptions:

(a) Lease or agreement of lease, or any continuance, renewal or extension thereof, if the only property let consists of movable property and such lease, agreement, continuance, renewal or extension, as the case may be, was signed by the lessee on or before 31 March 1977.

(b) Lease or agreement of lease under which the only property let consists of—

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- (i) any patent, design, trade mark, copyright, model, pattern, plan, formula or process or any other property or right of a similar nature; or
- (ii) any motion picture film, or any film or video tape or disc for use in connection with television, or any advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc, or any sound recording, or any continuance, renewal or extension of such lease or agreement.
- (c) Lease or agreement of lease if the only property let consists of movable property which is let by the hour, day or week, or part thereof, without any stipulation as to the period of such lease or agreement or, where a period is stipulated, the property is let for a period which, together with any period for which the lease or agreement may be continued, renewed or extended, does not exceed six months, or any continuance, renewal or extension of any such lease or agreement, provided the entire period for which such property is let under such lease or agreement and under any continuances, renewals or extensions thereof does not exceed six months."

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

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 and section 3 of Act 104 of 1976.

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

- (a) by the substitution in paragraph (3) (b) for the words preceding subparagraph (i) of the following words:

"if the marketable security was sold or disposed of after 26 March 1969 but not later than 31 March 1977 and the date of the sale or disposal is noted on the relevant instrument of transfer referred to in section 23 of this Act by the transferee or his agent and such note is signed by the transferee or his agent:"

- (b) by the addition to paragraph (3) of the following subparagraph:

"(c) in any other case:

- (i) if transfer is registered before the expiry of a period of six months from the date of execution of the relevant instrument of transfer referred to in section 23 of this Act: for every R10 or part thereof of the amount or value of the consideration given, or where no consideration is given, of the value of the marketable security transferred ... 0 15
- (ii) if transfer is registered after the expiry of the said period ... Three times

the duty which would have been payable under (c) (i) if transfer had been registered before the expiry of the said period of six months."

- (c) by the deletion in subparagraphs (i) and (ii) of paragraph (j) of "Exemptions from the duty under paragraph (3)" of the words "or sale";

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- (d) by the substitution in paragraph (4) in the column "Amount of Duty" for the amount "0 10" of the amount "0 15"; and
- (e) by the substitution for subparagraphs (i) and (ii) of paragraph (5) of the following subparagraphs:
 - "(i) if the date of acquisition of such marketable security falls on or after 1 August 1972 but not later than 31 March 1977 and the relevant deed or declaration referred to in section 23 (15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10 or part thereof of the amount or value of the consideration given, or where no consideration is given, of the value of the marketable security 0 10
 - (ii) if the date of acquisition of such marketable security falls on or after 1 April 1977 and if the relevant deed or declaration referred to in section 23 (15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10 or part thereof of the amount or value of the consideration given, or where no consideration is given, of the value of the marketable security 0 15
 - (iii) if the relevant deed or declaration is not duly stamped within the period of six months referred to in subparagraph (i) or (ii), as the case may be. Three times the duty which would have been payable under (i) or (ii), whichever is applicable, if the deed or declaration had been duly stamped within the period of six months referred to in subparagraph (i) or (ii), as the case may be."

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of section 173 of Act 61 of 1973, as amended by section 13 of Act 111 of 1976.

21. (1) Section 173 of the Companies Act, 1973, is hereby amended by the insertion after paragraph (h) of subsection (1) of the following paragraph:
 "(hA) the amount of any undistributable reserve fund of the company, to the extent that it consists of an amount transferred from its share premium account;"

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of section 174 of Act 61 of 1973, as amended by

22. (1) Section 174 of the Companies Act, 1973, is hereby amended by the substitution for subsection (2) of the following subsection:

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section 10 of
Act 76 of 1974.

- “(2) The rate of the annual duty shall be—
- (a) in the case of a company having a nominal share capital, four rand per each ten thousand rand or part thereof of its issued share capital plus the amount of its share premium account and the amount of any undistributable reserve fund of the company, to the extent that it consists of an amount transferred from its share premium account;
 - (b) in the case of a company having shares of no par value, four rand per each ten thousand rand or part thereof of the amount of its stated capital account;
 - (c) in the case of a company having both shares of par value and shares of no par value, the aggregate of the amounts calculated on the bases laid down in paragraphs (a) and (b); and
 - (d) in the case of the payment of annual duty on the commencement of business of a company, four rand per each ten thousand rand or part thereof of the amount of the issued share capital or stated capital, in the case of shares of no par value, of the company as at the date of the issue of the certificate to commence business:

Provided that the minimum annual duty payable in respect of each company shall be eighty rand.”

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Amendment of
section 175 of
Act 61 of 1973,
as amended by
section 14 of
Act 111 of 1976.

23. (1) Section 175 of the Companies Act, 1973, is hereby amended by the substitution in the first proviso to subsection (1) for the word “fifty” of the word “eighty”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Late payment of
certain taxes
and duties.

24. (1) Where in consequence of any amendment effected by this Act to any other Act of Parliament any amount of tax or duty has become payable on a date prior to the date of promulgation of this Act and such amount would not, but for such amendment, have been chargeable under such other Act, that amount may be paid without penalty within a period of one month after the date of promulgation of this Act.

(2) Where such amount consists of stamp duty the payment of which is in terms of the Stamp Duties Act, 1968 (Act No. 77 of 1968), required to be denoted on any instrument, such instrument may be stamped for such amount within the period referred to in subsection (1) and the provisions of sections 8, 9 and 10 of the said Act shall in relation to such amount be applied as though any period allowed under those provisions for the stamping of such instrument or the defacement of adhesive stamps affixed to such instrument were the period referred to in subsection (1).

Short title.

25. This Act shall be called the Revenue Laws Amendment Act, 1977.