

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

---

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

Selling price • Verkoopprijs  
(GST excluded/AVB uitgesluit)  
Local **45c** Plaaslik  
Other countries 60c Buitelands  
Post free • Posvry

---

VOL. 241

CAPE TOWN, 24 JULY 1985

No. 9851

KAAPSTAD, 24 JULIE 1985

---

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1619.

24 July 1985

No. 1619.

24 Julie 1985

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

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

No. 81 of 1985: Revenue Laws Amendment Act, 1985.

No. 81 van 1985: Wysigingswet op Inkomstewette, 1985.

Act No. 81, 1985

REVENUE LAWS AMENDMENT ACT, 1985

**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 provide for a further exemption from the payment of marketable securities tax; to amend the Transfer Duty Act, 1949, so as to further provide for the valuation of consideration payable otherwise than in cash; and to provide for a further exemption from the payment of transfer duty; to amend the Estate Duty Act, 1955, so as to effect a textual amendment; to exclude from property deemed to be property of a deceased certain amounts donated by the deceased to his spouse in certain circumstances; to include in such property any claim in respect of an accrual acquired by the estate of the deceased under the provisions of the Matrimonial Property Act, 1984; to allow as a deduction in the determination of the net value of an estate any bequest by a deceased to his surviving spouse and any claim in respect of an accrual acquired by such spouse in terms of the provisions of the Matrimonial Property Act, 1984; to provide for the valuation of shares in certain companies or members' interests in certain close corporations; to do away with certain prohibitions on the registration of transfer of stocks or shares and property; and to effect a textual amendment; to amend the Stamp Duties Act, 1968, so as to provide for further exemptions from the payment of stamp duty; to impose a levy on long-term insurers; to impose a levy on banking institutions; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)  
(Assented to 10 July 1985.)*

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

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, section 1 of Act 92 of 1983 and section 1 of Act 118 of 1984.

1. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion at the end of subparagraph (xiii) of paragraph (c) of the word "or", by the addition after subparagraph (xiv) of paragraph (c) of the word "or", and by the addition to paragraph (c) of the following subparagraph:
- “(xv) the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984);”
- (2) Subsection (1) is deemed to have come into operation on 1 January 1985.

5

10

## Act No. 81, 1985

## REVENUE LAWS AMENDMENT ACT, 1985

Amendment of section 8 of Act 40 of 1949.

2. (1) Section 8 of the Transfer Duty Act, 1949, is hereby amended by the addition of the following paragraph:

“(d) where the consideration is in the form of a member’s interest in a close corporation, whether already registered or still to be registered, such value which the Commissioner considers fair in the circumstances.” 5

(2) Subsection (1) is deemed to have come into operation on 1 January 1985.

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, 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, section 2 of Act 99 of 1981 and section 2 of Act 118 of 1984.

3. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended by the addition to paragraph (b) of subsection (1) of the following words:

“or the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984);”.

(2) Subsection (1) is deemed to have come into operation on 1 January 1985. 15

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980 and section 2 of Act 92 of 1983.

4. (1) Section 3 of the Estate Duty Act, 1955, is hereby amended—

(a) by the substitution for subparagraph (iA) of paragraph (a) of subsection (3) of the following subparagraph: 20

“(iA) the Commissioner is satisfied that the policy was taken out or acquired by a person who on the date of death of the deceased was a partner of the deceased, or held any share or like interest in a company in which the deceased on that date held any share or like interest, for the purpose of enabling that person to acquire the whole or part of—

(aa) the deceased’s interest in the partnership concerned; or

(bb) the deceased’s share or like interest in that company and any claim by the deceased against that company, and that no premium on the policy was paid or borne by the deceased; or”;

(b) by the substitution in paragraph (c) of subsection (3) for the words preceding subparagraph (i) of the following words— 35

“any property donated under a donation (other than a donation to a spouse under a duly registered ante-nuptial or post-nuptial contract, or a no-tarial contract entered into under section 21 of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), or a donatio mortis causa or, in the case of 40

## Act No. 81, 1985

## REVENUE LAWS AMENDMENT ACT, 1985

the estate of any person who died or dies on or after 1 November 1984, a donation contemplated in section 56 (1) (b) of the Income Tax Act, 1962), made—"; and

- (c) by the insertion after the said paragraph (c) of the following paragraph:

"(cA) the amount of any claim acquired by the estate of the deceased under section 3 of the Matrimonial Property Act, 1984, against the deceased's spouse or the estate of his deceased spouse, in respect of any accrual contemplated in that section;"

- (2) (a) Subsection (1) (a) is deemed to have come into operation on 1 January 1985.  
 (b) Subsection (1) (b) and (c) is deemed to have come into operation on 1 November 1984 and applies in respect of the estate of any person who died or dies on or after that date.

Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980 and section 3 of Act 99 of 1981.

5. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the insertion after paragraph (l) of the following paragraph:

"(lA) the amount of any claim against the estate acquired under section 3 of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), by the surviving spouse of the deceased or by the estate of his deceased spouse, in respect of an accrual contemplated in that section;"; and

- (b) by the addition of the following paragraph:

"(q) so much of the amount of any property included in the estate which has not been allowed as a deduction under the foregoing provisions of this section, as accrues to the surviving spouse of the deceased."

- (2) Subsection (1) is deemed to have come into operation on 1 November 1984 and applies in respect of the estate of any person who died or dies on or after that date.

Amendment of section 4A of Act 45 of 1955, as inserted by section 6 of Act 92 of 1971 and amended by section 3 of Act 95 of 1978, section 5 of Act 102 of 1979, section 12 of Act 106 of 1980 and section 4 of Act 99 of 1981.

6. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) [an amount of R50 000] in any case in which the deceased is survived by his spouse, an amount of R50 000 less the amount (not exceeding R50 000) of any deduction made in terms of section 4 (q) in the determination of the said net value."

- (2) Subsection (1) is deemed to have come into operation on 1 November 1984 and applies in respect of the estate of any person who died or dies on or after that date.

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, section 2 of Act 56 of 1966 and section 7 of Act 114 of 1977.

7. (1) Section 5 of the Estate Duty Act, 1955, is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) Where any company referred to in paragraph (f)bis of subsection (1) owns immovable property on which bona fide farming operations are being carried on in the Republic, the value of such immovable property shall, in so far as it is relevant for the purposes of determining in terms of that subsection the value of any shares in such company, be determined in the manner prescribed in the definition of 'fair market value' in section 1."

- (2) Subsection (1) is deemed to have come into operation on 1 April 1982 and applies in respect of the estate of any person who died or dies on or after that date.

## Act No. 81, 1985

## REVENUE LAWS AMENDMENT ACT, 1985

Repeal of sections 21 and 22 of Act 45 of 1955.

8. Sections 21 and 22 of the Estate Duty Act, 1955, are hereby repealed.

Amendment of section 28 of Act 45 of 1955, as amended by section 17 of Act 77 of 1962 and section 7 of Act 81 of 1965.

9. Section 28 of the Estate Duty Act, 1955, is hereby amended by the deletion of paragraph (a) of subsection (2).

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, section 4 of Act 87 of 1982 and section 4 of Act 118 of 1984.

10. (1) Section 4 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the addition at the end of subparagraph (vii) of paragraph (b) of subsection (1) of the word "or"; and  
 (b) by the addition to the said paragraph (b) of the following subparagraph: 10  
 "(viii) the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984);"

(2) Subsection (1) is deemed to have come into operation on 15  
 January 1985.

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, section 14 of Act 92 of 1983 and section 11 of Act 118 of 1984.

11. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the deletion at the end of subparagraph (xii) of the word "or", and by the addition of the following subparagraph:

"(xiv) the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984);" 20

(2) Subsection (1) is deemed to have come into operation on 1  
 January 1985.

Levy on long-term insurers.

12. (1) For the purposes of this section— 25

"Act" means the Income Tax Act, 1962 (Act No. 58 of 1962);

"Commissioner" means the Commissioner for Inland Revenue;

"long-term insurance business" means long-term insurance 30  
 business as defined in section 28 (4) of the Act;

"year of assessment" means a year of assessment as defined  
 in section 1 of the Act.

(2) Subject to the provisions of subsection (3), there shall be paid for the benefit of the State Revenue Fund by every person 35  
 carrying on long-term insurance business in the Republic, a levy (called the levy on long-term insurers), calculated at the rate of 7,5 per cent of the sum of the gross amounts derived by such person as contemplated in section 28 (1) of the Act (other than any such amounts derived from the carrying on of home service 40

## Act No. 81, 1985

## REVENUE LAWS AMENDMENT ACT, 1985

business as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943)), during the year of assessment of such person ended or ending during the period of 12 months ending on 31 March 1986.

(3) Where the year of assessment referred to in subsection (2) is a period of less than or more than 12 months, the levy on long-term insurers shall be calculated on an amount which bears to the gross amount contemplated in that subsection the same ratio as the said period bears to 12 months.

(4) The levy on long-term insurers shall be paid to the Commissioner within a period of 70 days after the end of the year of assessment referred to in subsection (2), or within such further period as the Commissioner may allow, and the payment of such levy shall be accompanied by a return in such form as the Commissioner may prescribe.

(5) If any amount of levy on long-term insurers is not paid in full within the period of 70 days prescribed in subsection (4), interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the person liable to pay the amount in question at the rate of 15 per cent 20 per annum on so much of such amount as remains unpaid in respect of the period (reckoned from the end of the said period of 70 days) during which the amount not paid remains unpaid.

(6) Any amount of levy on long-term insurers, and any amount of interest payable in terms of subsection (5), shall when it becomes due or is payable be a debt due to the State and may be recovered by the Commissioner in the manner prescribed in section 91 of the Act as if it were tax and interest due or payable under the Act.

Levy on banking institutions.

13. (1) For the purposes of this section— 30

“average deposits”, in relation to any banking institution, means an amount equal to the aggregate of all deposits held by such banking institution on the last day of each quarter of the calendar year ended on 31 December 1984 or, if such banking institution was not carrying on 35 business on the last day of one or more of such quarters, on the last day of any such quarters on which it was carrying on business, divided by the number of such quarters on the last day of which it was so carrying on business; 40

“banking institution” means a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965), but excluding a discount house as defined in section 1 of that Act;

“Commissioner” means the Commissioner for Inland Revenue; 45

“deposit” means any amount paid by any person to a banking institution and which is to be repaid by the banking institution on demand or at a time or under circumstances agreed between such person and the banking 50 institution, but excluding any such amount paid to the banking institution by any company (being itself a banking institution) in the course of such company’s banking business, if—

(a) such company is a subsidiary of the banking institution; 55

(b) the banking institution is a subsidiary of such company; or

(c) such company and the banking institution are subsidiaries of the same company; 60

“subsidiary” means a subsidiary company or subsidiary as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973).

(2) There shall be paid for the benefit of the State Revenue Fund by every banking institution, a levy (called the levy on 65



## Act No. 81, 1985

## REVENUE LAWS AMENDMENT ACT, 1985

banking institutions) calculated at the rate of 0,25 per cent of the average deposits held in the Republic by such banking institution.

(3) Every banking institution which is liable for the payment of the levy on banking institutions shall not later than 13 December 1985 submit to the Commissioner in respect of such levy a return in such form as the Commissioner may prescribe.

(4) The levy on banking institutions shall be paid to the Commissioner in the following manner, namely—

(a) not later than 13 December 1985, one-half of the full 10 amount payable; and

(b) not later than 14 March 1986, the full amount payable less any amount paid under paragraph (a),

or, in either case, within such further period as the Commissioner may allow.

(5) If any amount of levy on banking institutions is not paid in full on or before the date for payment contemplated in subsection (4) (a) or (b), interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the banking institution liable to pay the amount in question at the rate of 15 per cent per annum on so much of such amount as remains unpaid in respect of the period (reckoned from the day after the said date) during which the amount not paid remains unpaid.

(6) Where two or more banking institutions which were carrying on business during any portion of the calendar year ended on 31 December 1984 have been amalgamated into one banking institution, such banking institutions shall for the purposes of this section be deemed to be and to have been one and the same banking institution.

(7) Notwithstanding anything to the contrary contained in the Income Tax Act, 1962 (Act No. 58 of 1962), any amount of levy on banking institutions which has become payable by any banking institution shall be deemed to be an amount of expenditure incurred by such banking institution on the date on which such amount became payable and which is allowable as a deduction in the determination of the taxable income of such banking institution under the provisions of section 11 (a) of that Act: Provided that such banking institution shall not be entitled to take any such amount into account in making any estimate of its taxable income for the purposes of any payment of provisional tax due by it on or before 31 March 1986 under the provisions of the Fourth Schedule to that Act.

(8) Any amount of levy on banking institutions, and any amount of interest payable in terms of subsection (5), shall, when it becomes due or is payable, be a debt due to the State and may be recovered by the Commissioner in the manner prescribed in section 91 of the Income Tax Act, 1962, as if it were tax and interest due or payable under that Act.

Short title.

14. This Act is called the Revenue Laws Amendment Act, 1985.