

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.



# STAATSKOERANT

## VAN DIE REPUBLIEK VAN SUID-AFRIKA

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### REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KAAPSTAD, 16 JULIE 1971.  
CAPE TOWN, 16TH JULY, 1971.

[No. 3208.]

DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 1227.

16 Julie 1971.

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

No. 92 van 1971: Wysigingswet op Inkomstewette, 1971.

No. 1227.

16th July, 1971.

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

No. 92 of 1971: Revenue Laws Amendment Act, 1971.

Act No. 92, 1971

REVENUE LAWS AMENDMENT ACT, 1971.

**ACT**

To amend the definition of "stockbroker" in section 1 of the Marketable Securities Tax Act, 1948; to amend the provisions of section 12 of the Transfer Duty Act, 1949, relating to the production to a registration officer of proof of payment of transfer duty; to amend the Estate Duty Act, 1955, so as to effect textual changes in sections 1 and 17 of that Act, and to amend the provisions of that Act relating to amounts due and recoverable under certain insurance policies, the consideration paid or given in respect of shares in a family company, the determination of the dutiable amount of an estate, the maximum deduction permitted in respect of local registered stock, local bonds and debentures issued by the Land and Agricultural Bank of South Africa, the right of an executor to recover estate duty from the person liable therefor, and the rates of estate duty; to amend the provisions of section 8 of the Diamond Export Duty Act, 1957, relating to the manner in which a diamond may be removed or exported from the Republic; to amend the Licences Act, 1962, so as to effect textual changes in the First Schedule and the Second Schedule thereto; to amend the provisions of the Stamp Duties Act, 1968, relating to the stamp duty payable in respect of the registration of transfer of marketable securities; and to provide for incidental matters.

(Afrikaans text signed by the State President.)  
(Assented to 18th June, 1971.)

**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 1 of Act 32 of 1948, as amended by section 35 of Act 77 of 1968.

1. (1) Section 1 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the definition of "stockbroker" of the following definition:

"'stockbroker' means any person who carries on the business of buying and selling marketable securities on behalf of other persons, and includes any merchant bank registered as such under the Banks Act, 1965 (Act No. 23 of 1965)."

(2) Subsection (1) shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Amendment of section 12 of Act 40 of 1949, as substituted by section 8 of Act 103 of 1969 and amended by section 2 of Act 72 of 1970.

2. Section 12 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No registration officer shall make any record in his deeds registry of an acquisition of property unless there has been produced to him proof, other than a receipt for a deposit on account of duty—

(a) that any duty payable under this Act or any other law has been paid in respect of the acquisition in question; and

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- (b) where the property is in terms of section 11 of the Sale of Land on Instalments Act, 1971, to be transferred from the registered owner direct to a person who acquired the property under a cession of a purchaser's right to claim transfer of the property from a seller thereof, that any duty payable under this Act or any other law has been paid in respect of the acquisition of the property by the purchaser from the seller, and in respect of each subsequent acquisition of the property by any person under such a cession."

Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957, section 1 of Act 65 of 1960 and section 7 of Act 77 of 1964.

## 3. Section 1 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the deletion in subsection (1) of the definition of "administration and distribution account";
- (b) by the substitution in the said subsection for the definition of "duty" of the following definition:  
"duty" means estate duty payable under this Act;";
- (c) by the substitution in the said subsection for the definition of "executor" of the following definition:  
"executor" means any person to whom letters of administration or of executorship have been granted by a Master in respect of the estate of a deceased person under any law relating to the administration of estates, or whose appointment as assumed executor of such an estate has been endorsed by a Master under such law, or who liquidates or distributes such an estate in pursuance of a direction of a Master, and includes a person acting or authorized to act under letters of administration or of executorship granted outside the Republic but signed and sealed by a Master for use within the Republic and, in any case where the estate is not required to be administered under the supervision of the Master, the person administering the estate;";
- (d) by the insertion in the said subsection after the definition of "family company" of the following definition:  
"liquidation and distribution account" means the account required to be rendered by an executor to a Master in accordance with section 35 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or where the provisions of section 68 of the Administration of Estates Act, 1913 (Act No. 24 of 1913), apply, the account required to be rendered by an executor to a Master in accordance with the last-mentioned section;";
- (e) by the substitution in the definition of "Master" in the said subsection for the expression "1913" of the expression "1965";
- (f) by the substitution in the Afrikaans text of subsection (2) for the word "magistraat" wherever it occurs of the word "landdros"; and
- (g) by the substitution for subparagraph (iii) of paragraph (b) of subsection (2) of the following subparagraph:  
"(iii) Fees and travelling expenses shall be paid by the estate of the deceased to any such valuator in accordance with the tariffs applicable to the valuations of property by appraisers appointed under the Administration of Estates Act, 1965."

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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 and section 2 of Act 81 of 1965.

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

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

“(a) so much of any amount due and recoverable under any policy of insurance which is a ‘domestic policy’ as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), upon the life of the deceased as exceeds the aggregate amount of any premiums or consideration proved to the satisfaction of the Secretary to have been paid by any person who is entitled to the amount due under the policy, together with interest at six per cent per annum calculated upon such premiums or consideration from the date of payment to the date of death: Provided that the foregoing provisions of this paragraph shall not apply in respect of any amount due and recoverable under a policy of insurance, if—

(i) the amount due under such policy is recoverable by the surviving spouse or child of the deceased under a duly registered ante-nuptial or post-nuptial contract; or

(ii) except where the provisions of paragraph (i) of this proviso apply, the Secretary is satisfied and remains satisfied that such policy was not effected by or at the instance of the deceased, that no premium on such policy was paid or borne by the deceased, that no amount due or recoverable under such policy has been or will be paid into the estate of the deceased and that no such amount has been or will be paid to, or utilized for the benefit of, any relative of the deceased or any person who was wholly or partly dependent for his maintenance upon the deceased or any company which was at any time a family company in relation to the deceased;” and

(b) by the substitution for paragraph (d) of subsection (4) of the following paragraph:

“(d) any consideration, whether in cash or otherwise and whether or not described as a premium, paid or given by the deceased in respect of shares allotted or issued to him by any company which immediately prior to or at the time of the allotment or issue of such shares, or at any time thereafter, was or became a family company in relation to the deceased, shall to the extent that such consideration exceeds the nominal value of such shares, be deemed to be property donated by the deceased to such company.”

(2) The amendments effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April, 1971.

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

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

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

“Net value of an estate.

4. The net value of any estate shall be determined by making the following deductions from the total value of all

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Act 71 of 1961,  
section 9 of  
Act 77 of 1964,  
section 3 of  
Act 81 of 1965  
and section 2 of  
Act 94 of 1967.

property included therein in accordance with section 3, that is to say—"; and

(b) by the substitution for paragraph (l) of the following paragraph:

"(l) so much of the aggregate amount of the value or the proceeds—

(i) of any local registered stock issued in terms of section 5 (1) (a) of the General Loans Act, 1961 (Act No. 16 of 1961), or any similar provision of any previous Act of Parliament;

(ii) of any local bonds (excluding bonds the interest on which is exempt from income tax in terms of section 10 of the Income Tax Act, 1962 (Act No. 58 of 1962)) issued in the Republic in terms of paragraph (d) of section 5 (1) of the General Loans Act, 1961, and of any local debentures issued in the Republic in terms of that paragraph; and

(iii) of any debentures issued by the Land and Agricultural Bank of South Africa, included as property of the deceased, as does not exceed the difference between the sum of fifty thousand rand and the amount allowed under paragraph (k);".

(2) The amendments effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April, 1971.

Insertion of  
section 4A in  
Act 45 of 1955.

6. (1) The following section is hereby inserted in the Estate Duty Act, 1955, after section 4:

"Dutiable  
amount of  
an estate.

4A. The dutiable amount of any estate shall be determined by making the following deductions from the net value of the estate as determined in accordance with section 4, that is to say—

(a) an amount of twenty-five thousand rand;

(b) an amount of twenty-five thousand rand in respect of every child of the deceased who survives him;

(c) an amount of twenty-five thousand rand in respect of every child of the deceased who predeceased him and left any descendant by blood (other than a descendant who is an adopted child of the deceased as contemplated in the definition of 'child' in section 1) surviving the deceased or a spouse surviving the deceased who had not remarried on or before the date of death of the deceased; and

(d) an amount of twenty-five thousand rand in any case in which the deceased is survived by his spouse."

(2) The amendment effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April, 1971.

Amendment of  
section 13 of  
Act 45 of 1955.

7. (1) Section 13 of the Estate Duty Act, 1955, is hereby amended—

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

"(1) Every executor who is required to pay duty in respect of any property referred to in paragraph (a) (i), or in the proviso to paragraph (b) (i) or (b) (iA), or in paragraph (b) (ii), of section 11, shall be entitled to

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recover from the person liable therefor the duty attributable to such property.”; and  
(b) by the substitution for subsection (2) of the following subsection:

“(2) The duty attributable to any such property shall be a sum which bears to the full duty payable in respect of the estate (before the deduction in accordance with the provisions of section 16 of any amount in respect of transfer duty or donations tax) the same ratio as that portion of the net value of the estate (as determined under section 4) which is attributable to the inclusion in the estate of the value of the said property, bears to the net value of the estate as so determined, reduced, in any case in which there is, in accordance with the said section 16, deducted from the duty payable in respect of the estate, any amount of transfer duty or donations tax paid in respect of any property included in the estate which has accrued to the person liable for the duty attributable to that property, by the amount of the transfer duty or donations tax so paid.”.

(2) The amendments effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April, 1971.

Amendment of section 17 of Act 45 of 1955.

8. Section 17 of the Estate Duty Act, 1955, is hereby amended by the substitution for the word “administration” of the word “liquidation”.

Substitution of First Schedule to Act 45 of 1955, as substituted by section 8 of Act 81 of 1965 and amended by section 1 of Act 75 of 1968.

9. (1) The following Schedule is hereby substituted for the First Schedule to the Estate Duty Act, 1955:

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## "First Schedule.

## RATES OF ESTATE DUTY.

Dutiable Amount of Estate	Rate of Duty
Where the dutiable amount— does not exceed R10 000 . . . . .	10 per cent on the dutiable amount;
exceeds R10 000 but does not exceed R25 000	R1 000 plus 15 per cent on the amount by which the dutiable amount exceeds R10 000;
„ R25 000 „ „ „ „ R50 000	R3 250 plus 17½ per cent on the amount by which the dutiable amount exceeds R25 000;
„ R50 000 „ „ „ „ R75 000	R7 625 plus 20 per cent on the amount by which the dutiable amount exceeds R50 000;
„ R75 000 „ „ „ „ R100 000	R12 625 plus 22½ per cent on the amount by which the dutiable amount exceeds R75 000;
„ R100 000 „ „ „ „ R150 000	R18 250 plus 25 per cent on the amount by which the dutiable amount exceeds R100 000;
„ R150 000 „ „ „ „ R200 000	R30 750 plus 27½ per cent on the amount by which the dutiable amount exceeds R150 000;
„ R200 000 „ „ „ „ R250 000	R44 500 plus 30 per cent on the amount by which the dutiable amount exceeds R200 000;
„ R250 000 „ „ „ „ R300 000	R59 500 plus 32½ per cent on the amount by which the dutiable amount exceeds R250 000;
„ R300 000 . . . . .	R75 750 plus 35 per cent on the amount by which the dutiable amount exceeds R300 000:

Provided that where duty becomes payable upon the value of any movable or immovable property or on a value determined by reference to the value of any movable or immovable property, and duty has, upon the death of any person (hereinafter referred to as the first-dying person), who died within ten years prior to the death of the deceased, become payable upon the value of that movable or immovable property or upon a value determined by reference to the value of that movable or immovable property (or any movable or immovable property for which the Secretary is satisfied that that movable or immovable property has been substituted), the duty attributable to the value of that movable or immovable property or, as the case may be, the value determined by reference to the value of that movable or immovable property, but not exceeding (in either case) an amount equal to the value on which duty has become payable on the death of the first-dying person, shall be reduced by a percentage according to the following scale—

if the deceased dies within two years of the death of the first-dying person . . . . .	100 per cent
if the deceased dies more than two years, but not more than four years after the death of the first-dying person . . . . .	80 per cent
if the deceased dies more than four years, but not more than six years after the death of the first-dying person . . . . .	60 per cent
if the deceased dies more than six years, but not more than eight years after the death of the first-dying person . . . . .	40 per cent
if the deceased dies more than eight years, but not more than ten years after the death of the first-dying person . . . . .	20 per cent

subject to a maximum reduction equal to so much of the duty previously payable upon the death of the first-dying person as is attributable to the value of that movable or immovable property or, as the case may be, to an amount equal to the value determined by reference to the value of that movable or immovable property, and as is proved to the satisfaction of the Secretary to have been borne by the deceased.”

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(2) The amendment effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April, 1971.

Amendment of section 8 of Act 16 of 1957, as amended by section 20 of Act 77 of 1962.

10. Section 8 of the Diamond Export Duty Act, 1957, is hereby amended by the addition to paragraph (b) of subsection (1) of the following proviso:

“Provided that the Commissioner of the South African Police may, if he is satisfied that exceptional circumstances exist with regard to the intended removal or export from the Republic of any diamond, authorize the removal or export of such diamond from the Republic in such other manner as he may deem fit.”

Amendment of Item 2 of First Schedule to Act 44 of 1962, as substituted by section 18 of Act 77 of 1964.

11. Item 2 of the First Schedule to the Licences Act, 1962, is hereby amended by the substitution for paragraph (5) of the Exemptions of the following paragraph:

“(5) Any board of executors or trust company licensed under the provisions of Item 6 of Part II of the Second Schedule to this Act.”

Amendment of Item 14 of Part I of Second Schedule to Act 44 of 1962.

12. Item 14 of Part I of the Second Schedule to the Licences Act, 1962, is hereby amended by the substitution for the word “kaffircorn” of the words “grain sorghum.”

Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969.

13. Section 23 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution in subsection (1) for the definition of “deed” and “declaration” of the following definition:

“‘deed’ or ‘declaration’ means a deed or declaration made, signed and dated with the true date of each signature by the parties to a transaction for the sale or disposal of any marketable security or by their respective agents, setting forth such particulars of the transaction as may be required for the determination of liability for duty and full and true particulars of such marketable security and of any consideration passing or, if there is no consideration passing, of the market value of the marketable security on the date of the transaction or, in any case to which the provisions of subsection (1A) apply, on the date referred to in that subsection;” and

(b) by the insertion after the said subsection of the following subsection:

“(1A) Where any marketable security devolves upon any person under the will of a deceased person or by intestate succession, or where any person becomes entitled to any marketable security by virtue of a re-distribution of the assets of the estate of a deceased person during the course of the liquidation of such estate, such marketable security shall, for the purposes of duty payable under Item 15 (3) of Schedule 1 in respect of the registration of transfer of such marketable security from the estate of the deceased person to the person upon whom the marketable security so devolves or who becomes entitled thereto as aforesaid, be deemed to have been disposed of to the last-mentioned person upon the date of death of the deceased person.”

Short title.

14. This Act shall be called the Revenue Laws Amendment Act, 1971.