

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.



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GOVERNMENT GAZETTE

STAATSKOERANT

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No. 8805

OFFICE OF THE PRIME MINISTER

KANTOOR VAN DIE EERSTE MINISTER

No. 1519.

13 July 1983

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

No. 92 of 1983: Revenue Laws Amendment Act, 1983.

No. 1519.

13 Julie 1983

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 1983: Wysigingswet op Inkomstewette, 1983.

Act No. 92, 1983

REVENUE LAWS AMENDMENT ACT, 1983

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 make provision for the exemption from marketable securities tax of a further class of transaction; to amend the Estate Duty Act, 1955, so as to exclude from property which is deemed to be property of the deceased amounts recoverable under certain policies of insurance; and to include in such property certain annuities which have been commuted; to amend the Diamond Export Duty Act, 1957, so as to empower the Minister of Finance while Parliament is not in session to amend that Act to provide that diamond export duty shall not be levied, or that the rate of that duty may be reduced; to amend the Stamp Duties Act, 1968, so as to make further provision for the payment of stamp duty in connection with the alteration of share capital or shares or the reduction of share capital under certain schemes; to increase the stamp duty payable in respect of certain instruments; to do away with an exemption from stamp duty in respect of the registration of transfer of certain marketable securities; to provide for a further exemption from stamp duty in respect of the transfer of certain debentures; and to effect certain textual amendments; to regulate the late payment of stamp duties in certain circumstances; to provide for an exemption from transfer duty in respect of the transfer of certain property to the Small Business Development Corporation, Limited; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 30 June 1983.)

BE IT ENACTED by the State President and the House of Assembly 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 and section 1 of Act 87 of 1982.

1. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended—
- (a) by the deletion at the end of paragraph (c) of the word “or”; and
- (b) by the addition 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, 10 whether constituting a charge on the assets of the company or not, listed by any recognized stock exchange in the Republic.”

(2) Subsection (1) shall come into operation on 1 July 1983.

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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, 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 and section 10 of Act 106 of 1980.

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

(a) by the insertion after paragraph (i) of the proviso to paragraph (a) of subsection (3) of the following paragraph:

“(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 in a company in which the deceased on that date held any share, 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 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 (ii) of the said proviso for the expression “paragraph (i)” of the expression “paragraph (i) or (iA)”; and

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

“(a)bis so much of any benefit which is due and payable by any fund [(excluding any annuity payable by a pension fund or a retirement annuity fund as respectively defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962))] on or as a result of the death of the deceased as exceeds the aggregate amount of any contributions or consideration proved to the satisfaction of the Commissioner to have been paid by the beneficiary, together with interest at six per cent per annum calculated upon such contributions or consideration from the date of payment to the date of death: Provided that—

(i) this paragraph shall not apply in respect of any annuity payable by a pension fund or a retirement annuity fund as respectively defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);

(ii) this paragraph shall apply in respect of the commutation of any annuity which on or after the date of the death of the deceased is payable or may be payable by a fund referred to in paragraph (i) of this proviso, and that for the purposes of this paragraph any amount payable by way of such a commutation shall be deemed to be a benefit which is due and payable as aforesaid.”

(2) The amendment effected by subsection (1) shall apply in respect of the estate of any person who dies on or after 1 July 1983.

Substitution of section 29 of Act 45 of 1955, as substituted by section 4 of Act 89 of 1972.

3. The following section is hereby substituted for section 29 of the Estate Duty Act, 1955:

“Regulations. 29. The State President may make regulations for the better carrying out of the objects and purposes of this Act, including regulations as to the valuation of annuities or of fiduciary, usufructuary or other limited interests in property and the hearing of an appeal under section 24 [and the payment of fees to executors and other persons required to render returns

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under this Act in respect of property with regard to which no remuneration is payable under the provisions of section 69 of the Administration of Estates Act, 1913 (Act No. 24 of 1913), or section 51 of the Administration of Estates Act, 1965 (Act No. 66 of 1965)].”.

Insertion of section 11A in Act 16 of 1957.

4. The following section is hereby inserted in the Diamond Export Duty Act, 1957, after section 11:

“Amendment of certain sections of this Act. **11A. (1)** While Parliament is not in session the Minister of Finance may by notice in the *Gazette* amend the provisions of section 3 so as to provide that no duty shall be levied on the value of any diamond exported from the Republic on or after a date mentioned in such notice, or the provisions of section 4 so as to reduce the rate of duty in respect of any diamond exported on or after a date so mentioned.

(2) Any amendment made in terms of subsection (1) shall, unless Parliament provides otherwise during the first session commencing after the date on which such amendment was made and during which the Minister of Finance introduces the Appropriation Bill, lapse on the date of prorogation of that session, and as from that date it shall cease to have the force of law.”.

Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 66 of 1973, section 10 of Act 88 of 1974, section 20 of Act 106 of 1980 and section 6 of Act 87 of 1982.

5. (1) Section 23 of the Stamp Duties Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for paragraph (a) of subsection (10) of the following paragraph:

“(a) any alteration of share capital or shares in terms of section 75, or a reduction of share capital in terms of section 83 or 84, of the Companies Act, 1973 (Act No. 61 of 1973);” and

(b) by the substitution for paragraph (ii) of subsection (10) of the following paragraph:

“(ii) such person receives or is to receive any cash or other asset from anybody [other than the company].”

(2) Subsection (1) shall come into operation on 1 July 1983.

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.

6. (1) Section 24 of the principal Act is hereby amended by the substitution in the proviso to paragraph (a) of subsection (4) for the words “ten thousand rand”, wherever they occur, of the expression “R25 000”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

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, section 14 of Act 88 of 1974 and section 13 of Act 114 of 1977.

7. (1) Item 2 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “0 50” of the expression “1 00”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

Amendment of Item 3 of Schedule 1 to Act 77 of 1968.

8. (1) Item 3 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “2 00” of the expression “5 00”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

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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 and section 14 of Act 114 of 1977.

9. (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] 0 05”.

(2) Where—

- (a) stamp duty has been paid in the manner contemplated in paragraph (iii) of the proviso to section 5 (1) of the principal Act in respect of unused cheque forms held by any person on 30 June 1983;
- (b) that duty has been paid at the rate of three cents per 10 cheque form; and
- (c) that person uses the cheque forms after the said date or intends so to use those forms,

the additional duty of two cents per cheque which is in consequence of the amendment effected by subsection (1) chargeable in respect of cheques executed on those forms shall, subject to the provisions of subsection (4), be paid in the manner arranged by the Commissioner and the banker upon whom the cheques are drawable.

(3) In any arrangement by the Commissioner and a banker in terms of 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 that duty to the Commissioner; and
- (b) to request any customer who he has reason to believe may be liable for the payment of the additional duty, to furnish to him such statement or auditor's certificate as to the stock of unused cheque forms held by the customer on 30 June 1983 as may be required for the determination of the amount of the additional duty payable.

(4) Where the Commissioner is satisfied that it would be uneconomical to recover any additional duty referred to in subsection (2) having regard to the amount of that 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 in terms of the principal Act.

(5) Where a person uses a cheque form referred to in subsection (2) on or after 1 December 1983 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, that cheque shall, until the additional duty has been paid, be deemed for the purposes of the principal Act not to be duly stamped.

(6) This section shall come into operation on 1 July 1983.

Amendment of Item 11 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 89 of 1972, section 16 of Act 114 of 1977 and section 7 of Act 102 of 1979.

10. (1) Item 11 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “0 20” of the expression “0 40”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

Amendment of Item 12 of Schedule 1 to Act 77 of 1968, as amended by section 15 of Act 66 of 1973 and section 17 of Act 114 of 1977.

11. (1) Item 12 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “0 20” of the expression “0 40”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

Amendment of Item 13 of Schedule 1 to Act 77 of 1968.

12. (1) Item 13 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “0 05” of the expression “0 10”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

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Substitution of Item 13A of Schedule 1 to Act 77 of 1968, as substituted by section 18 of Act 114 of 1977 and amended by section 8 of Act 99 of 1981.

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

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

[(i) if] where the amount payable under such [agreement or contract] instrument in respect of such goods, wares or merchandise [and the amount of] (including 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]

does not exceed R2 000	1	00
exceeds R 2 000 but does not exceed R 5 000	2	00
" R 5 000 " " " " " R10 000	4	00
" R10 000 " " " " " R15 000	6	00
" R15 000 " " " " " R20 000	8	00
" R20 000	10	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 purposes of this Item be regarded as a hire-purchase agreement or contract executed on the date on which it was signed by such person.

For the purposes of this item—

‘hire-purchase agreement or contract’ includes any agreement whereby goods, wares or merchandise are sold subject to the condition that the ownership therein shall not pass merely by the transfer of the possession thereof, and the purchase price is to be paid in instalments, two or more of which are payable after such transfer; and includes any other agreement which has or agreements which together have the same import, irrespective of the form of such agreement or agreements;

‘financial lease’ means a financial lease contemplated in paragraph 1 of Schedule 4 to the Sales Tax Act, 1978 (Act No. 103 of 1978).”

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 and section 7 of Act 87 of 1982.

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

(a) by the substitution for item (i) of subparagraph (d) of paragraph (3) of the following item:

“(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 or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security transferred 0 10”;

(b) by the deletion of paragraph (o) appearing under the heading “Exemptions from the duty under paragraph (3)” in the said paragraph (3); and

(c) by the addition to the paragraphs appearing under the said heading of the following paragraph:

“(p) Any registration of transfer of any interest-bearing debentures, including debenture stock, debenture bonds and any other securities of a company, whether constituting a charge on the assets of the

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company or not, listed by any recognized stock exchange in the Republic.”

- (2) (a) Subsection (1) (b) shall come into operation on 1 January 1984.
- (b) Subsection (1) (c) shall come into operation on 1 July 1983.

Amendment of Item 17 of Schedule 1 to Act 77 of 1968.

15. (1) Item 17 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “5 00” of the expression “10 00”. 10
 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

Amendment of Item 19 of Schedule 1 to Act 77 of 1968, as amended by section 23 of Act 88 of 1974.

16. (1) Item 19 of Schedule 1 to the principal Act is hereby amended by the substitution in the column under the heading “Amount of Duty” for the expression “0 50” of the expression “1 00”. 15
 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1983.

Amendment of Item 20 of Schedule 1 to Act 77 of 1968, as amended by section 27 of Act 103 of 1969, section 19 of Act 66 of 1973 and section 24 of Act 88 of 1974.

17. (1) Item 20 of Schedule 1 to the principal Act is hereby amended by the substitution for subitems (1) and (2) of the following subitems: 20
 “(1) Where such instrument secures the payment of any money debt and the amount secured is stated in such instrument: For every R100 or part thereof of such amount 0 05 25
 Subject to a maximum duty of [R10] R20.
 (2) Where such instrument secures the payment of any money debt and the amount secured is not stated in such instrument . . . [10 00] 20 00”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1983. 30

Late payment of certain stamp duties.

18. Where in consequence of any amendment effected by this Act to the principal Act, any amount of stamp duty which is required to be denoted on any instrument became payable before the commencement of this Act and that amount would not, but 35 for the amendment, have been chargeable under the principal Act, the instrument may be stamped for that amount within a period of one month after the commencement of this Act, and the provisions of sections 8, 9 and 10 of the principal Act shall in relation to that amount be applied as though any period allowed 40 under those provisions for the stamping of the instrument or the defacing of adhesive stamps affixed to the instrument were that period of one month.

Exemption from transfer duty in respect of transfer of certain property to Small Business Development Corporation, Limited.

19. (1) No transfer duty shall be payable in respect of the transfer of property, as defined in section 1 of the Transfer Duty Act, 1949 (Act No. 40 of 1949), to the Small Business Development Corporation, Limited, from any company which was formerly a wholly-owned subsidiary of— 45
 (a) the Development and Finance Corporation, Limited;
 (b) the Indian Industrial Development Corporation, Limited; or
 (c) the Industrial Development Corporation of South Africa, Limited,
 and which became a wholly-owned subsidiary of the Small Business Development Corporation, Limited, before the 55 commencement of this Act.
 (2) Subsection (1) shall be deemed to have come into operation on 1 December 1981.

Short title.

20. This Act shall be called the Revenue Laws Amendment Act, 1983. 60