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GOVERNMENT GAZETTE

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[No. 2869.]

KAAPSTAD, 9 OKTOBER 1970.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1700.

9th October, 1970.

No. 1700.

9 Oktober 1970.

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. 72 of 1970: Revenue Laws Amendment Act, 1970.

No. 72 van 1970: Wysigingswet op Inkomstewette, 1970.

REVENUE LAWS AMENDMENT ACT, 1970.

Act No. 72, 1970

ACT

To amend the provisions of the Transfer Duty Act, 1949, relating to the method of calculating the penalty or interest on late payments of transfer duty, and to delete the requirement that a dispute as to the amount of transfer duty payable shall be referred to the Secretary for Inland Revenue; to amend the Cinematograph Films Tax Act, 1960, so as to enable the Secretary for Inland Revenue to prescribe a form of declaration otherwise than by notice in the *Gazette*; to amend the Stamp Duties Act, 1968, so as to include the Rand Water Board in the provisions as to general exemptions to pay duty on instruments, to provide that a person who in certain manner makes use of an instrument which has not been duly stamped, shall be liable for any unpaid duty and any unpaid penalty in respect of the instrument, and to provide for the production to an authorized officer of any instrument in the possession, custody or keeping of any person; to amend the provisions of Schedule 1 to that Act relating to hire-purchase agreements and the stamp duty payable in respect of the registration of transfer of any marketable security and the cancellation of certain company shares; to amend section 29 of the Revenue Laws Amendment Act, 1969, so as to provide that transfer duty in respect of the acquisition of property sold before the first day of October, 1969, under the land settlement laws of the territory of South-West Africa, shall be chargeable under the Transfer Duty Ordinance, 1951, of the said territory, and not under the Transfer Duty Act, 1949; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 28th September, 1970.)

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

1. Section 4 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If any duty remains unpaid after the date of the expiration of the period referred to in section 3, there shall, subject to the provisions of subsection (3), in addition to the unpaid duty, be payable a penalty, at the rate of seven and a half per centum per annum on the amount of the unpaid duty, calculated in respect of each completed month in the period from that date to the date of payment: Provided that if in any case the period referred to in section 3 ended before the nineteenth day of March, 1963, and the duty was not paid before the twentieth day of March, 1963, the penalty shall be calculated—

Amendment of section 4 of Act 40 of 1949, as amended by section 2 of Act 70 of 1963.

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- (i) in respect of each day in the period from the date of expiration of the period referred to in section 3 up to and including the nineteenth day of March, 1963, at the rate of twelve per centum per annum on the amount of the unpaid duty; and
- (ii) in respect of each completed month in the period from the twentieth day of March, 1963, to the date of payment of the duty, at the rate of seven and a half per centum per annum on the amount of the unpaid duty.”.

2. Section 12 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (3) of the following subsection:

Amendment of section 12 of Act 40 of 1949, as substituted by section 8 of Act 103 of 1969.

“(3) Any dispute as to any person’s right to exemption from the payment of duty shall be referred by the registration officer to the Secretary.”.

3. Section 21 of the Transfer Duty Act, 1949, is hereby amended by the substitution for the second proviso of the following proviso:

Amendment of section 21 of Act 40 of 1949, as amended by section 4 of Act 70 of 1963.

“Provided further that if any such duty was not paid before the twentieth day of March, 1963, any interest payable in respect of such duty under any such law for the period from that date to the date of payment of the duty, shall be calculated at the rate of seven and a half per centum per annum in respect of each completed month in that period.”.

4. Section 6 of the Cinematograph Films Tax Act, 1960, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 6 of Act 56 of 1960.

“(2) Every payment under subsection (1) shall be accompanied by a declaration in such form as may be prescribed by the Secretary, containing particulars of all amounts received by way of admission charges by or on behalf of the exhibitor concerned during the week in respect of which the payment is made.”.

5. Section 4 of the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969.

“(b) any instrument if the duty thereon would be legally payable and borne by any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board, health committee or other committee of a similar nature, or any district council or any local or general council established or deemed to have been established under the Bantu Affairs Act, 1959 (Act No. 55 of 1959), or the Rand Water Board, or the Evaton Bantu Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959, or the body established under section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;”.

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6. The following section is hereby inserted in the Stamp Duties Act, 1968, after section 12:

Insertion of section 12A in Act 77 of 1968.

"Person making use of instrument not duly stamped to be liable for unpaid duty and penalty thereon.

12A. (1) Any person who for any purpose in connection with a business conducted by him keeps or retains, or who in any manner other than a manner contemplated in section 12 makes use of, an instrument which is required to be stamped under this Act but has not been duly stamped, shall be liable for the unpaid duty in respect of such instrument and any unpaid penalty incurred in respect of such instrument under section 9 (1).

(2) The provisions of subsection (1) shall not be construed as relieving any person who under any other provision of this Act is liable for the duty or any penalty in respect of any instrument, from his liability to pay any unpaid amount of such duty or penalty."

7. Section 31 of the Stamp Duties Act, 1968, is hereby amended—

Amendment of section 31 of Act 77 of 1968.

(a) by the substitution in subsection (2) for the words preceding paragraph (a) and that paragraph of the following words and paragraph:

"(2) Any officer who has been authorized thereto by the Secretary in writing or by telegram may—

(a) without previous notice, at any time during the day enter any premises whatsoever, or any premises specified in the authority or any premises belonging to a class of premises so specified, and search such premises for any instruments;"

(b) by the insertion after paragraph (b) of that subsection of the following paragraph:

"(bA) without previous notice, at any time during the day demand from any person, or from any person specified in the authority or from any person belonging to a class of persons so specified, the production to such officer of any instrument or all instruments in the possession, custody or keeping of such person;"

(c) by the insertion after that subsection of the following subsection:

"(2A) Any person who without lawful excuse (the proof whereof shall lie upon him) fails to comply with a demand made by an authorized officer in terms of subsection (2) (bA), shall be guilty of an offence and liable on conviction to the penalty prescribed by section 26."; and

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

"(4) The person from whose premises or from whose possession, custody or keeping any instruments have been seized, shall be entitled to examine and make extracts from them during office hours under such supervision as the Secretary may determine."

8. Item 2 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (a) of the Exemptions of the following paragraph:

Amendment of Item 2 of Schedule 1 to Act 77 of 1968.

"(a) Agreements or contracts (other than agreements or contracts of lease) which relate to the sale, supply or delivery of goods, wares or merchandise, including livestock and agricultural produce."

9. The following Item is hereby inserted in Schedule 1 of the Stamp Duties Act, 1968, after Item 13:

Insertion of Item 13A in Schedule 1 to Act 77 of 1968.

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“13A. *Hire-purchase agreement or contract* in respect of goods, wares or merchandise (other than livestock or agricultural produce) 0 30

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.”.

10. Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as amended by section 25 of Act 103 of 1969.

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

“(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 R c 0 10”; and

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

“(4) In respect of the cancellation of any company shares which any person is in terms of section 23 (10) of this Act deemed to have disposed of: for every R10 or part thereof of the value of the consideration referred to in the said section 23 (10) R c 0 10”.

11. (1) Section 29 of the Revenue Laws Amendment Act, 1969, is hereby amended by the addition of the following proviso: Amendment of section 29 of Act 103 of 1969.

“Provided further that where property has before the said date been sold to a purchaser under the land settlement laws of the said territory, transfer duty in respect of the acquisition of such property by the purchaser under the sale or in respect of any acquisition by any person of such property by virtue of a cession to him of the purchaser’s rights before a deed of grant is issued by the State in respect of such property, whether such cession was made before, on or after the said date, shall be chargeable under the provisions of the Transfer Duty Ordinance, 1951 (Ordinance No. 12 of 1951), of the said territory, as though that Ordinance was not repealed, and not under the provisions of the Transfer Duty Act, 1949 (Act No. 40 of 1949).”.

(2) Subsection (1) shall be deemed to have come into operation on the first day of October, 1969.

12. This Act shall be called the Revenue Laws Amendment Act, 1970. Short title.