

No. 77, 1964.]

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ACT

To amend the Transfer Duty Act, 1949, the Estate Duty Act, 1955, the Licences Act, 1962, and the Stamp Duties Act, 1962, and to declare the effect of certain acts of the Commissioner for Inland Revenue.

(English text signed by the State President.)
(Assented to 19th June, 1964.)

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

1. Section *one* of the Transfer Duty Act, 1949, is hereby amended—
 - (a) by the deletion of the definition of "Commissioner"; and
 - (b) by the insertion after the definition of "registration officer" of the following definition:

"Secretary" means the Secretary for Inland Revenue;"

Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959.

2. The following section is hereby substituted for section *two* of the Transfer Duty Act, 1949, with effect from the sixteenth day of March, 1964:

"Imposition of transfer duty. 2. (1) Subject to the provisions of section *nine*, there shall be levied for the benefit of the Consolidated Revenue Fund a transfer duty (hereinafter referred to as the duty) of four per centum on the value of any property (which value shall be determined in accordance with the provisions of sections *five*, *six*, *seven* and *eight*) acquired by any person on or after the date of commencement of this Act by way of a transaction or in any other manner, or on the amount by which the value of any property is enhanced by the renunciation, on or after the said date, of an interest in or restriction upon the use or disposal of that property: Provided that on so much of the said value or the said amount, as the case may be, as does not exceed ten thousand rand, the duty shall be three per centum.

(2) Where the date of acquisition falls on or after the sixteenth day of March, 1964, there shall be deducted from the amount of duty calculated as provided in sub-section (1)—

 - (a) if the value or amount on which such duty is payable does not exceed five thousand rand, a sum equal to two-thirds of the amount of such duty; or
 - (b) if the said value or amount exceeds five thousand rand but does not exceed ten thousand rand, a sum equal to one-half of the amount of such duty; or
 - (c) if the said value or amount exceeds ten thousand rand but does not exceed fifteen thousand rand, a sum equal to one-third of the amount of such duty."

Substitution of section 2 of Act 40 of 1949, as amended by section 1 of Act 59 of 1951, section 1 of Act 31 of 1953 and section 1 of Act 32 of 1954.

3. (1) Section *nine* of the Transfer Duty Act, 1949, is hereby amended—
 - (a) by the deletion in paragraph (a) of sub-section (1) of the word "Union";
 - (b) by the deletion in sub-section (5) of the words "of the Union"; and
 - (c) by the addition of the following sub-section:

"(8) No duty shall be payable in respect of the acquisition on or after the sixteenth day of March, 1964, of property by any company (hereinafter referred to as the subsidiary company) which is registered, managed and controlled in the Republic from any

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 and section 3 of Act 70 of 1963.

other company (hereinafter referred to as the parent company) which is registered, managed and controlled outside the Republic if it is proved to the satisfaction of the Secretary—

- (a) that at the time of such acquisition the parent company held for its own benefit all the issued shares of the subsidiary company; and
- (b) that the subsidiary company has under an arrangement with the parent company acquired from the parent company all the assets, including the said property, relating to any industrial or commercial or other business undertaking of the parent company in the Republic.”

(2) Paragraph (c) of sub-section (1) shall be deemed to have come into operation on the sixteenth day of March, 1964.

4. Section *fifteen* of the Transfer Duty Act, 1949, is hereby amended by the substitution in sub-section (3) for the words “twenty-five pounds” of the words “fifty rand”. Amendment of section 15 of Act 40 of 1949.

5. Section *seventeen* of the Transfer Duty Act, 1949, is hereby amended by the substitution in sub-section (1) for the words “one hundred pounds” of the words “two hundred rand”. Amendment of section 17 of Act 40 of 1949.

6. The Transfer Duty Act, 1949, is hereby amended by the substitution for the word “Commissioner,” wherever it is used to denote the head of the Department of Inland Revenue, of the word “Secretary”. Substitution of “Secretary” for “Commissioner” in Act 40 of 1949.

7. Section *one* of the Estate Duty Act, 1955, is hereby amended— Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957 and section 1 of Act 65 of 1960.

- (a) by the insertion in sub-section (1) after the definition of “administration and distribution account” of the following definition:
 - “‘child’, in relation to any person, includes any person adopted by him—
 - (a) under the provisions of the Adoption of Children Act, 1923 (Act No. 25 of 1923), or the Children’s Act, 1937 (Act No. 31 of 1937), or the Children’s Act, 1960 (Act No. 33 of 1960); or
 - (b) under the law of any country other than the Republic, provided the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country;”;
- (b) by the deletion in the said sub-section of the definition of “Commissioner”;
- (c) by the insertion in the said sub-section after the definition of “fair market value” of the following definition:
 - “‘family company’, in relation to a deceased person, means any company (other than a company whose shares are quoted on a recognized stock exchange) which at any relevant time was controlled or capable of being controlled directly or indirectly, whether through a majority of the shares thereof or any other interest therein or in any other manner whatsoever, by the deceased or by the deceased and one or more of his relatives;”;
- (d) by the insertion in the said sub-section after the definition of “Master” of the following definitions:
 - “‘relative’, in relation to any person, means the spouse of such person or anybody related to him or his spouse within the third degree of consanguinity, or any spouse of anybody so related, and for the purpose of determining the relationship between any child referred to in the definition of ‘child’ in this sub-section and any other person, such child shall be deemed to be related to its adoptive parent in the first degree of consanguinity;
 - ‘Secretary’ means the Secretary for Inland Revenue;”.

8. Section *three* of the Estate Duty Act, 1955, is hereby amended— Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960.

- (a) by the substitution in sub-paragraph (iii) of paragraph (c) of sub-section (3) for the expression “*fifty-four* *quin* of the Income Tax Act, 1941 (Act No. 31 of 1941)”

of the expression "fifty-seven of the Income Tax Act, 1962 (Act No. 58 of 1962)";

(b) by the substitution in sub-paragraph (bb) of that paragraph for the expression "fifty-four quat of the Income Tax Act, 1941 (Act No. 31 of 1941)" of the expression "fifty-six of the Income Tax Act, 1962 (Act No. 58 of 1962)"; and

(c) by the addition to sub-section (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 issued to him by any family company shall to the extent that it exceeds the nominal value of such shares, be deemed to be property donated by the deceased to such company."

9. (1) Section *four* of the Estate Duty Act, 1955, is hereby amended—

(a) by the substitution for paragraphs (k) and (l) of the following paragraphs:

"(k) so much of the aggregate amount which is deemed to be property of the deceased under paragraph (a) of sub-section (3) of section *three* as does not exceed the sum of seven thousand five hundred pounds;

(l) so much of the aggregate amount of the value or the proceeds of any local registered stock issued in terms of paragraph (a) of sub-section (1) of section *five* of the General Loans Act, 1961 (Act No. 16 of 1961), or any similar provision of any previous Act of Parliament, and 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 seven thousand five hundred pounds and the amount allowed under paragraph (k);"; and

(b) by the addition of the following paragraph:

"(p) so much of the value of any property deemed to be property of the deceased by virtue of the provisions of sub-section (3) of section *three* as has not been deducted under any of the other provisions of this section and as the Secretary is satisfied has been taken into account under the provisions of paragraph (f)bis of sub-section (1) of section *five* in the determination of the value of any company shares included as property in the estate."

(2) The amendments effected by paragraph (a) of sub-section (1) shall apply in respect of the estate of any person who dies or died on or after the sixteenth day of March, 1964.

10. Section *five* of the Estate Duty Act, 1955, is hereby amended by the substitution for paragraph (e) of sub-section (1) of the following paragraph:

"(e) in the case of any property referred to in paragraph (b) or (c) of sub-section (3) of section *three*, an amount determined in the manner prescribed in section *sixty-two* of the Income Tax Act, 1962 (Act No. 58 of 1962): Provided that the value of so much of any consideration as in terms of paragraph (d) of sub-section (4) of section *three* is deemed to be property donated by the deceased to a family company, shall be deemed to be not less than the amount required in terms of section *eighty-six quat* of the Companies Act, 1926 (Act No. 46 of 1926), to be transferred by the family company concerned to its share premium account in respect of the shares issued by it to the deceased;";

11. Section *sixteen* of the Estate Duty Act, 1955, is hereby amended by the substitution in paragraph (b) for the expression "1941 (Act No. 31 of 1941)" of the expression "1962 (Act No. 58 of 1962)".

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 and section 9 of Act 71 of 1961.

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 and section 10 of Act 71 of 1961.

Amendment of section 16 of Act 45 of 1955, as amended by section 5 of Act 65 of 1960.

12. Section *twenty-four* of the Estate Duty Act, 1955, is hereby amended—
- (a) by the substitution in sub-section (4) for the expression “*seventy-nine* of the Income Tax Act, 1941 (Act No. 31 of 1941)” of the expression “*eighty-three* of the Income Tax Act, 1962 (Act No. 58 of 1962)”; and
- (b) by the substitution in sub-section (8) for the expression “(14)*bis*, (15) and (16) of section *seventy-nine*, and of sections *seventy-nine bis*, *seventy-nine ter* and *eighty-one* of the Income Tax Act, 1941” of the expression “(15), (16) and (17) of section *eighty-three*, and of sections *eighty-four*, *eighty-five* and *eighty-six* of the Income Tax Act, 1962”.
Amendment of section 24 of Act 45 of 1955, as substituted by section 15 of Act 77 of 1962.
13. Section *twenty-six* of the Estate Duty Act, 1955, is hereby amended by the substitution in sub-section (2) for the words “Union estate duties” of the words “estate duties of the Republic”.
Amendment of section 26 of Act 45 of 1955.
14. (1) The First Schedule to the Estate Duty Act, 1955, is hereby amended by the substitution for the first proviso of the following proviso:
“Provided that the duty calculated in accordance with this table shall be subject to a rebate of an amount equal to duty so calculated upon a dutiable amount equal to the aggregate of—
- (i) an amount of ten thousand pounds; and
- (ii) an amount of six thousand two hundred and fifty pounds in respect of every child of the deceased who survives him; and
- (iii) an amount of six thousand two hundred and fifty pounds in respect of every child of the deceased who predeceased him and who left issue surviving the deceased or a spouse surviving the deceased who had not remarried on or before the date of death of the deceased; and
- (iv) an amount of ten thousand pounds in any case in which the deceased is survived by his spouse:”.
- (2) The amendments effected by sub-section (1) shall apply in respect of the estate of any person who dies or died on or after the sixteenth day of March, 1964.
Amendment of 1st Schedule to Act 45 of 1955, as amended by section 6 of Act 59 of 1957 and section 12 of Act 71 of 1961.
15. The Estate Duty Act, 1955, is hereby amended—
- (a) by the substitution for the words “Commissioner” and “Commissioner’s”, wherever they are used to denote the head of the Department of Inland Revenue, of the words “Secretary” and “Secretary’s” respectively;
- (b) by the substitution for the word “Governor-General” wherever it occurs of the words “State President”; and
- (c) by the substitution for the expression “the Union” wherever it occurs of the expression “the Republic”.
Substitution of certain words in Act 45 of 1955.
16. Section *eleven* of the Licences Act, 1962, is hereby amended by the substitution for the word “Commissioner” of the word “Secretary”.
Amendment of section 11 of Act 44 of 1962.
17. Section *fourteen* of the Licences Act, 1962, is hereby amended by the substitution for the word “Commissioner” of the word “Secretary”.
Amendment of section 14 of Act 44 of 1962.
18. (1) The following Item is hereby substituted for Item 2 of the First Schedule to the Licences Act, 1962:
“Item 2—*Banker or Banking Institution*.
In respect of each branch . . . R40.
(1) This licence shall be required by every person who carries on the business of accepting deposits of money from the general public and by every association registered as a people’s bank under the Banking Act, 1942 (Act No. 38 of 1942), before the commencement of the Banking Amendment Act, 1964.
(2) For the purposes of this Item any person who advertises or solicits for deposits from the general public shall be deemed to be carrying on the business of accepting deposits from the general public.
Exemptions:
(1) The Post Office Savings Bank.
(2) The Land and Agricultural Bank of South Africa.”
Substitution of Item 2 of 1st Schedule to Act 44 of 1962.

(3) Any body contemplated in paragraph (f) of sub-section (1) of section *eighty-four* of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), and any Bantu co-operative credit society registered under any proclamation issued under Act 29 of 1897 of the Cape of Good Hope, or under the Bantu Administration Act, 1927 (Act No. 38 of 1927): Provided that this exemption shall not apply in respect of any savings department or any savings bank or any similar institution established by or in connection with any local authority.

(4) Any building society registered under the Building Societies Act, 1934 (Act No. 62 of 1934).

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

(2) The amendment effected by sub-section (1) shall be deemed to have come into operation on the date of commencement of the Licences Act, 1962: Provided that no person shall be liable for the payment of licence duty under Item 2 of the First Schedule to that Act in respect of any period prior to the first day of January, 1963, for the payment of which he would, but for the said amendment, not have been liable and which remains unpaid at the date of commencement of this Act.

19. Section *one* of the Stamp Duties Act, 1962, is hereby amended—

(a) by the deletion of the definition of "Commissioner"; and
(b) by the insertion after the definition of "regulation" of the following definition:

"Secretary" means the Secretary for Inland Revenue;".

Amendment of section 1 of Act 59 of 1962.

20. Section *thirteen* of the Stamp Duties Act, 1962, is hereby amended by the substitution in paragraph (b) of the Afrikaans version for the word "Tweede" of the word "Eerste".

Amendment of section 13 of Act 59 of 1962.

21. Section *fourteen* of the Stamp Duties Act, 1962, is hereby amended with effect from the twenty-eighth day of October, 1963, by the insertion after sub-section (1) of the following sub-section:

"(1)*bis* Where any instrument whereby any marketable security is transferable in terms of any law of the United Kingdom, is completed in that country in accordance with such law, such instrument shall, if it discloses sufficient information for the assessment of duty, be deemed to be a deed or declaration referred to in sub-section (1), and if the marketable security is transferred by means of a broker's transfer form as set out in Schedule 2 to the Stock Transfer Act, 1963, of the United Kingdom, the selling broker's signature on such form shall for the purposes of this section be deemed to be the signature of the transferor."

Amendment of section 14 of Act 59 of 1962.

22. Item 18 of the First Schedule to the Stamp Duties Act, 1962, is hereby amended by the addition to the Exemptions at the end thereof of the following paragraph:

"(d) The issue or registration of transfer of any negotiable certificate in respect of any deposit made with any commercial bank as defined in section *one* of the Banking Act, 1942 (Act No. 38 of 1942)."

Amendment of Item 18 of 1st Schedule to Act 59 of 1962.

23. The Stamp Duties Act, 1962, is hereby amended by the substitution for the word "Commissioner", wherever it is used to denote the head of the Department of Inland Revenue, of the word "Secretary".

Substitution of "Secretary" for "Commissioner" in Act 59 of 1962.

24. Anything done by or on behalf of the Commissioner for Inland Revenue in the administration of any law shall be deemed to have been done by or on behalf of the Secretary for Inland Revenue.

Certain acts of Commissioner deemed to be acts of Secretary for Inland Revenue.

25. This Act shall be called the Revenue Laws Amendment Act, 1964.

Short title.