
REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

REVENUE LAWS AMENDMENT BILL, 1964.

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CLAUSE ONE.

This clause introduces textual changes to section *one* of the Transfer Duty Act, 1949.

CLAUSE TWO.

This clause, which introduces an amendment to section *two* of the Transfer Duty Act, 1949, provides for a rebate on transfer duty in cases where the value or amount on which duty is payable does not exceed R15,000. After deduction of the rebate (where applicable) transfer duty will be calculated at the following rates:—

<i>Value or amount on which duty is payable:</i>	<i>Rate of transfer duty (after deduction of the rebate where applicable):</i>
Up to R5,000	1 per cent.
From R5,001 to R10,000	1½ per cent.
From R10,001 to R15,000	2 per cent on the first R10,000 of the value or amount on which duty is payable, plus 2½ per cent, on the balance of such value or amount.
Over R15,000 (no rebate applicable)	3 per cent on the first R10,000 of the value or amount on which duty is payable, plus 4 per cent on the balance of such value or amount.

The rebate is applicable in cases where property is acquired on or after 16th March, 1964.

CLAUSE THREE.

Paragraphs (a) and (b) of this clause introduce textual changes to section *nine* of the Transfer Duty Act, 1949, and *paragraph (c)* of this clause adds a new sub-section (8) to that section, in terms of which an exemption from transfer duty may, in the circumstances described in the new sub-section, be granted in respect of property acquired by a wholly-owned South African subsidiary company from its overseas parent company if the property is acquired by the South African subsidiary from the parent company as part of the assets of an industrial or commercial or other business undertaking of the parent company in the Republic.

CLAUSES FOUR, FIVE AND SIX.

The amendments to the Transfer Duty Act, 1949, introduced by these clauses are of a textual nature.

CLAUSE SEVEN.

This clause introduces amendments to section *one* of the Estate Duty Act, 1955.

Paragraph (a) introduces a definition of "child". In terms of this definition persons adopted under the provisions of various laws of the Republic or, in the

circumstances described in paragraph (b) of the definition, under the law of a country other than the Republic, will be regarded as children of a deceased person for estate duty purposes. The rebates applicable under the Estate Duty Act, 1955, in respect of certain children of a deceased person will, in consequence of this amendment, also be applicable in respect of children adopted by him in the circumstances contemplated by the said definition.

Paragraph (b) introduces a textual amendment.

Paragraph (c) inserts a definition of "family company". This definition should be read with the amendments introduced by paragraph (c) of clause *eight*, paragraph (b) of sub-clause (1) of clause *nine* and clause *ten*.

Paragraph (d) inserts definitions of "relative" and "Secretary". The definition of "relative" should be read with the definition of "family company" introduced by paragraph (c) of the said sub-clause. The definition of "Secretary" is introduced for textual purposes.

CLAUSE EIGHT.

This clause introduces amendments to section *three* of the Estate Duty Act, 1955.

Paragraphs (a) and *(b)* introduce textual amendments.

In terms of the amendment introduced by *paragraph (c)* any premium paid by a deceased person for shares issued to him by any family company is for estate duty purposes deemed to be a donation made by the deceased to such company, and as such will, by virtue of the provisions of sub-sections (3) and (4) of section *three* of the said Act, be included in the value of the deceased person's estate. A definition of "family company" is introduced by *paragraph (c)* of clause *seven*.

The amendment introduced by *paragraph (c)* of this clause should also be read with the amendments introduced by *paragraph (b)* of sub-clause (1) of clause *nine* and by clause *ten*.

CLAUSE NINE.

Sub-clause (1) introduces amendments to section *four* of the Estate Duty Act, 1955.

In terms of the amendments introduced by *paragraph (a)* of sub-clause (1) the maximum deduction which may be made for estate duty purposes under paragraphs (k) and (l) of the said section from the value of any estate in respect of certain insurance policies, local registered stock and debentures of the Land and Agricultural Bank of South Africa, is increased from £5,000 (R10,000) to £7,500 (R15,000).

Paragraph (b) of sub-clause (1) adds a new paragraph, numbered (p), to the said section, in terms of which the Secretary is for estate duty purposes empowered to reduce the value of any property which is deemed to be property of a deceased person by virtue of the provisions of sub-section (3) of section *three* of the said Act, by so much of that value as the Secretary is satisfied has been taken into account under the provisions of *paragraph (f)bis* of sub-section (1) of section *five* of that Act in the determination of the value of any company shares included as property in such person's estate. This amendment should be read with the amendment introduced by *paragraph (c)* of clause *eight*.

In terms of *sub-clause (2)* the amendments effected by *paragraph (a)* of sub-clause (1) will apply in respect of the estate of any person dying on or after 16th March, 1964.

CLAUSE TEN.

This clause substitutes a new paragraph for *paragraph (e)* of sub-section (1) of section *five* of the Estate Duty Act, 1955. Where by virtue of the provisions of *paragraph (c)* of sub-section (3), read with *paragraph (d)* of sub-section (4) of that section, a premium paid by a deceased person for shares in a family company is included in the value of the estate of such person, the value of such premium is, in terms of the provisions of the said *paragraph (e)* as now amended,

deemed for estate duty purposes to be not less than the amount required in terms of section 86*quat* of the Companies Act, 1962, to be transferred by the family company concerned to its share premium account in respect of such shares. This clause should be read with the definition of "family company" in paragraph (c) of clause *seven* and with paragraph (c) of clause *eight*.

CLAUSES ELEVEN, TWELVE AND THIRTEEN.

These clauses introduce textual amendments to the Estate Duty Act, 1955.

CLAUSE FOURTEEN.

Sub-clause (1) of this clause introduces amendments to the First Schedule to the Estate Duty Act, 1955. The purpose thereof is to increase the existing estate duty rebate for a child from £5,000 (R10,000) to £6,250 (R12,500).

In terms of *sub-clause* (2) the amendments will apply in respect of the estate of any person dying on or after 16th March, 1964.

CLAUSE FIFTEEN.

This clause introduces textual amendments to the Estate Duty Act, 1955.

CLAUSES SIXTEEN AND SEVENTEEN.

These clauses introduce textual amendments to sections *eleven* and *fourteen* of the Licences Act, 1962.

CLAUSE EIGHTEEN.

This clause substitutes a new Item for Item 2 of the First Schedule to the Licences Act, 1962. The purpose of the amendment is to define liability for the banker's licence required in terms of that Item and to provide for exemptions from such liability.

In terms of *sub-clause* (2) the amendment is deemed to have come into operation on the date of commencement of the Licences Act, 1962. In terms of the proviso to that sub-clause no person will be liable for the payment of any unpaid duty under the said Item in respect of any period prior to 1st January, 1963, if under the existing Item before its amendment by this clause he would not have been liable for the payment of such duty.

CLAUSES NINETEEN AND TWENTY.

These clauses introduce textual amendments to sections *one* and *thirteen* of the Stamp Duties Act, 1962.

CLAUSE TWENTY-ONE.

This clause inserts a new sub-section, numbered (1)*bis*, in section *fourteen* of the Stamp Duties Act, 1962. That section at present provides that for purposes of the stamp duty payable in terms of that Act in respect of the registration of transfer of any marketable security a deed or declaration shall be made between and signed and dated by the parties to the transaction or their respective agents and be stamped for the amount of duty payable. The procedure contemplated by the said section was substantially the same as the procedure formerly followed in the United Kingdom. As from 28th October, 1963, however, the procedure for the transfer of securities in the United Kingdom was radically altered by the Stock Transfer Act, 1963, of that country.

The purpose of the amendment is to permit the use for stamp duty purposes of any instrument completed in the United Kingdom in accordance with the new procedure laid down in the last-mentioned Act, in place of the deed or declaration required under section *fourteen* of the Stamp Duties Act, 1962.

The new sub-section (1)*bis* will be applicable only in the case of transactions in marketable securities taking place in the United Kingdom. There is no change in the existing procedure in respect of transactions in the Republic and in the case of the latter transactions the deed or declaration in use under the present provisions of the Stamp Duties Act, 1962, must continue to be used.

CLAUSE TWENTY-TWO.

This clause introduces an exemption from the stamp duty levied under Item 18 of the First Schedule to the Stamp Duties Act, 1962, on the issue and registration of transfer of marketable securities, in respect of 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.

CLAUSE TWENTY-THREE.

This clause introduces textual amendment to the Stamp Duties Act, 1962.

CLAUSE TWENTY-FOUR.

This clause declares the effect of certain acts of the Commissioner for Inland Revenue.

CLAUSE TWENTY-FIVE.

This clause prescribes the short title.