

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.



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 559

Cape Town

10 January 2012

No. 34927

THE PRESIDENCY

No. 16

10 January 2012

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

No. 24 of 2012: Taxation Laws Amendment Act, 2011.



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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 28 December 2011)

ACT

To—

- amend the Transfer Duty Act, 1949, so as to amend and delete certain definitions; to modify rates and thresholds; to make new provision; and to effect textual and consequential amendments;
 - amend the Income Tax Act, 1962, so as to fix the rates of normal tax and amend monetary amounts; to amend, delete and insert certain definitions; to effect technical corrections; to repeal certain provisions; to amend certain provisions; to make new provision; and to effect textual and consequential amendments;
 - amend the Customs and Excise Act, 1964, so as to amend the air passenger tax; to amend rates of duty in Schedule 1; and to make provision for continuations;
 - amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to make new provision; to amend certain provisions; to amend a Schedule; and to effect textual and consequential amendments;
 - amend the Unemployment Insurance Contributions Act, 2002, so as to extend an exemption;
 - amend the Securities Transfer Tax Act, 2007, so as to amend a definition; to amend a provision; and to effect consequential amendments;
 - amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend certain provisions; and to amend a Schedule;
 - amend the Revenue Laws Amendment Act, 2008, so as to amend certain commencement provisions;
 - amend the Taxation Laws Amendment Act, 2009, so as to repeal certain provisions;
 - amend the Taxation Laws Amendment Act, 2010, so as to amend certain commencement provisions; to amend certain provisions; and to repeal certain provisions;
 - make provision for special zero-rating in respect of goods and services supplied by Cricket South Africa;
- and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959, section 1 of Act 77 of 1964, section 5 of Act 103 of 1969, section 4 of Act 106 of 1980, section 1 of Act 86 of 1987, section 2 of Act 87 of 1988, Proclamation R.11 of 1994, section 8 of Act 37 of 1996, section 34 of Act 34 of 1997, section 1 of Act 5 of 2001, section 2 of Act 74 of 2002, section 1 of Act 45 of 2003, section 1 of Act 17 of 2009 and section 1 of Act 7 of 2010

1. Section 1 of the Transfer Duty Act, 1949 (Act No. 40 of 1949), is hereby amended—

(a) by the substitution for the definition of “deeds registry” of the following definition:

“**‘deeds registry’** includes the [office of the Registrar of Mining Titles and the Office of the Rand Townships Registrar] Mineral and Petroleum Titles Registration Office established by section 2 of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967);”;

(b) by the substitution in the definition of “fair value” for paragraphs (a) and (d) of the following paragraphs:

“(a) in relation to property as defined in paragraphs (a)[, (b)] and (c) of the definition of ‘property’, means the fair market value of that property as at the date of acquisition thereof;

(d) in relation to a share in a company as contemplated in paragraph (g) of the definition of ‘property’, means so much of the fair market value, as at the date of acquisition of that share, of any property held by that company which constitutes property as contemplated in paragraphs (a)[, (b)] and (c) of that definition (without taking into account any lease agreement or any liability in respect of any loan in relation to that residential property) as is attributable to that share”;

(c) by the substitution in the definition of “property” for paragraph (a) of the following paragraph:

“(a) any real right in land but excluding any right under a mortgage bond or a lease of property other than a lease referred to in paragraph [(b) or] (c);”;

(d) by the deletion in the definition of “property” of paragraph (b); and

(e) by the substitution in the definition of “transaction” for paragraph (a) of the following paragraph:

“(a) in relation to paragraphs (a)[, (b)] and (c) of the definition of ‘property’, an agreement whereby one party thereto agrees to sell, grant, waive, donate, cede, exchange, lease or otherwise dispose of property to another person or any act whereby any person renounces any right in or restriction in his or her favour upon the use or disposal of property; or”.

Amendment 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, section 1 of Act 32 of 1954, section 2 of Act 77 of 1964, section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992, section 3 of Act 97 of 1993, section 1 of Act 37 of 1995, section 9 of Act 37 of 1996, section 2 of Act 32 of 1999, section 2 of Act 30 of 2002, section 31 of Act 12 of 2003, section 1 of Act 16 of 2004, section 1 of Act 9 of 2005, section 1 of Act 31 of 2005, section 14 of Act 9 of 2006 and section 2 of Act 18 of 2009

2. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended—

(a) by the deletion in subsection (1) of paragraph (a);

(b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) subject to subsection (5)—

- (i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R500 000]** R600 000;
 - (ii) **[5]** 3 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R500 000]** R600 000 but does not exceed R1 million; **[and]**
 - (iii) **[8]** 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds R1 million but does not exceed R1,5 million; and
 - (iv) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds R1,5 million **[,**
if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person].”;
- (c) by the substitution in subsection (5) for the words preceding the formula of the following words:
- “Where a **[natural]** person acquires any property consisting of or including an undivided share in any property (hereinafter in this subsection referred to as the joint property), the duty payable in respect of such acquisition shall be calculated in accordance with the formula”;
- and
- (d) by the deletion of subsection (8).
- (2) Subsection (1) is deemed to have come into operation on 23 February 2011 and applies in respect of property acquired or interest or restriction in any property renounced on or after that date.

Amendment of section 3A of Act 40 of 1949, as inserted by section 2 of Act 7 of 2010

3. (1) Section 3A of the Transfer Duty Act, 1949, is hereby amended—
- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs:
- “(a) the **[bank]** financier shall be deemed not to have acquired any property under the sharia arrangement; and
- (b) the client shall be deemed to have acquired property from the seller—
- (i) for an amount equal to the consideration paid by the **[bank]** financier to the seller; and
 - (ii) at such time as the **[bank]** financier acquired the property from the seller by virtue of the transaction between the seller and the **[bank]** financier.”; and
- (b) by the addition after subsection (2) of the following subsection:
- “(3) For the purpose of the payment of duty in respect of any *sukuk* as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962), the trust shall be deemed not to have acquired the asset from the government of the Republic.”.
- (2) Subsection (1) comes into operation on a date determined by the Minister of Finance by notice in the *Gazette*.

Amendment of section 5 of Act 40 of 1949, as amended by section 6 of Act 103 of 1969, section 2 of Act 86 of 1987, section 3 of Act 136 of 1992, section 2 of Act 20 of 1994, section 2 of Act 45 of 2003 and section 15 of Act 9 of 2006

4. Section 5 of the Transfer Duty Act, 1949, is hereby amended—
- (a) by the substitution for subsection (5) of the following subsection:
- “(5) In the case of the cession of a lease or sub-lease referred to in paragraph **[(b) or]** (c) of the definition of ‘property’ in section one, the value on which duty shall be payable shall be the amount of the consideration payable by the cessionary to the cedent in respect of the cession or, if no consideration is so payable, the declared value of the property acquired under the cession.”;

- (b) by the substitution in subsection (7) for paragraph (d) of the following paragraph:
“(d) any valuation made by the **[Government Mining Engineer]** Director-General: Mineral Resources or by any other competent and disinterested person appointed by the Commissioner.”; and 5
- (c) by the substitution in subsection (8) for paragraph (a) of the following paragraph:
“(a) exceeds the amount of the consideration payable in respect of that property, or the declared value, as the case may be, by not less than one-third of the consideration payable or the declared value, as the case may be, the costs of any valuation made by a person referred to in paragraph (d) of subsection (7) (other than the **[Government Mining Engineer]** Director-General: Mineral Resources) shall be paid by the person liable for the payment of the duty;”.

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, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995, section 4 of Act 126 of 1998, section 3 of Act 32 of 1999, section 3 of Act 30 of 2000, section 2 of Act 5 of 2001, section 8 of Act 60 of 2001, section 3 of Act 30 of 2002, section 4 of Act 74 of 2002, section 3 of Act 45 of 2003, section 2 of Act 16 of 2004, section 2 of Act 32 of 2004, section 2 of Act 31 of 2005, section 16 of Act 9 of 2006, section 1 of Act 20 of 2006, section 2 of Act 35 of 2007, section 1 of Act 60 of 2008, section 3 of Act 17 of 2009 and section 3 of Act 7 of 2010

5. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended by the insertion in subsection (1)(l) after subparagraph (i) of the following subparagraph:
“(iA) an asset-for-share transaction contemplated in section 42 of that Act;”.
- (2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of property acquired or interest or restriction in any property renounced on or after that date.

Fixing of rates of normal tax and amendment of certain amounts for the purposes of Act 58 of 1962

6. (1) The rates of tax fixed by Parliament in terms of section 5(2) of the Income Tax Act, 1962, are set out in paragraphs 1, 3, 4, 5, 6 and 8 of Appendix I to this Act.
- (2) The rate of tax fixed by Parliament in terms of section 48B(1) of the Income Tax Act, 1962, is set out in paragraph 7 of Appendix I to this Act.
- (3) The Income Tax Act, 1962, is hereby amended by the substitution for the amounts in section 6(2)(a) and (b) respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act.
- (4) For the purposes of Appendix I to this Act any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned unless the context otherwise indicates.
- (5) Subject to subsection (6), the rates of tax referred to in subsection (1) and the amounts referred to in subsection (3) apply in respect of—
- (a) any person (other than a company or a trust other than a special trust) for the year of assessment commencing on or after 1 March 2011;
- (b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2012; and
- (c) any trust (other than a special trust) for any year of assessment commencing on 1 March 2011 or ending on 29 February 2012.