UITENGEWONE *EXTRAORDINARY*

STAATSKOERANT

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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER.

No. 1162.] [5th July, 1968.

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

No. 77, 1968.]

ACT

To consolidate and amend the law relating to stamp duties; and to amend the Marketable Securities Tax Act, 1948.

(*Afrikaans text signed by the State President.*)
(*Assented to 20th June,* 1968.)

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

PRELIMINARY.

Definitions.

1. In this Act, unless the context otherwise indicates—

(i) "authorized revenue officer" means—

(*a*) the Secretary, any receiver of revenue and any magistrate in an area in which there is not an office of a receiver of revenue;

(*b*) any officer in the public service authorized by the Minister by notice in the *Gazette* to act as an authorized revenue officer for the purposes of this Act, either in respect of all instruments generally or in respect of such classes of instruments as may be specified in the notice; and

(*c*) the registrar of any division of the Supreme Court, any registrar of deeds, registrar of mining titles, master of the Supreme Court or clerk of an inferior court, in respect of instruments relating to matters with which he is or may be officially concerned; (iii)

(ii) "banker" means a banking institution which is registered under the Banks Act, 1965 (Act No. 23 of 1965), and includes the South African Reserve Bank; (i)

(iii) "bill of exchange" includes any unconditional order in writing, addressed by one person to another, signed by the person giving the order, and requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum of money to a specified person or his order or to bearer, and an order to pay shall for the purposes of this definition be deemed to be an unconditional order even though coupled with—

(*a*) an indication of a particular fund out of which the drawee is to reimburse himself or of a particular account to be debited with the amount;

(*b*) a statement of the transaction which gives rise to the bill;

(*c*) a statement in the bill that it is drawn against specified documents attached thereto for delivery on acceptance or on payment of the bill, as the case may be; or (*d*) a statement on the bill that it is drawn under or against a specified letter of credit or other similar authority; (xxiii)

(iv) "broker's note" means the note required to be sent by any broker or agent to his principal under section 19 advising the sale or purchase of any marketable security or of any movable property; (vii)

(v) "cheque" means a bill of exchange drawn on a bank or banker and payable on demand, and for the purposes of this definition any such bill payable at sight or on presentation shall be deemed to be payable on demand; (xix)

(vi) "die" means any plate, type, tool or implement whatever which is used for expressing or denoting any duty or rate of duty or the fact that any duty or rate of duty or penalty has been paid or that an instrument is duly stamped or is not chargeable with duty, and includes any part of any such plate, type, tool or implement; (xvi)

(vii) "duly stamped" in relation to any instrument requiring to be stamped under this Act, means that such instrument has been stamped as required by this Act for the proper amount of duty and the amount of any penalty incurred under section 9 (1) (*a*) and, where adhesive stamps have been used, that such stamps have been defaced as required by this Act; (ii)

(viii) "duty" means any duty imposed by this Act; (xiii)

(ix) "executed", when used in relation to an instrument, means executed as is required by law or as is accepted as sufficient in law; (xxii)

(x) "fixed deposit" means a deposit of money for a definite period and includes a deposit of money for an indefinite period which is withdrawable after the expiration of a period of notice equal to at least eighty-nine days; (xxi)

(xi) "forge" or "forged" includes counterfeit or counterfeited; (xx)

(xii) "instrument" includes any written document or writing; (xviii)

(xiii) "marketable security" means any security, stock, debenture, share or other interest capable of being sold in a sharemarket or exchange or otherwise, and, where the context so requires, includes the scrip, certificate, warrant or other instrument by which the ownership of or title to any such security, stock, debenture, share or other interest is represented; (iv)

(xiv) "material" includes material of every description upon which words or figures can be expressed; (xvii)

(xv) "Minister" means the Minister of Finance; (viii)

(xvi) "policy of life insurance" means a policy upon any life or lives or upon any event or contingency relating to or depending upon any life or lives, and includes a policy of funeral insurance but excludes a policy of insurance against accident to a person or in respect of any injury, incapacity, sickness or the like or a policy whereby a sum to cover any compensation or damage due under a law relating to workmen's compensation or employer's liability or the common law is payable in respect of the death or illness of or injury to an employee; (vi)

(xvii) "promissory note" means any unconditional promise in writing made by one person to another, signed by the maker, and engaging to pay on demand or at a fixed or determinable future time a sum of money to or to the order of such other person or any other specified person or to bearer, but does not include a bank note; (x)

(xviii) "public officer" means a person in the employ of the Government or a provincial administration and includes an authorized revenue officer; (ix)

(xix) "public revenue" means the revenue of the State (including a provincial administration and the Railway Administration) received or accrued by way of any tax, fee, levy, duty or rate; (xv)

(xx) "regulation" means any regulation in force under this Act; (xi)

(xxi) "Secretary" means the Secretary for Inland Revenue; (xiv)

(xxii) "stamp"—

(*a*) when used as a noun, means an adhesive stamp approved by the Minister for use under this Act or an impression made by means of a die approved by the Secretary; and

(*b*) when used as a verb, means affix a stamp to, or impress a stamp on, an instrument,

and "stamped" and "stamping" shall be construed accordingly; (xii)

(xxiii) "this Act" includes any regulation in force thereunder. (v)

CHAPTER I.

Administration of Act.

Duties and responsibilities of Secretary.

2. (1) The Secretary shall be responsible for carrying out the provisions of this Act, and may in the exercise of his powers or the performance of his duties act personally or through officers in the public service acting under his authority.

(2) The Secretary shall make such arrangements for the supply of stamps to public offices and the sale and distribution of stamps at public offices or at any other premises as may be necessary for the convenience of the public.

(3) The Secretary may make use of such forms as he may from time to time think necessary or convenient for the better carrying out of the provisions of this Act.

CHAPTER II.

Imposition of Stamp Duties.

Stamp duty to be charged in accordance with Schedule 1.

3. (1) Every instrument described in Schedule 1, not being an instrument in respect of which exemption is provided for in this Act or in that Schedule, shall be subject to the duties prescribed in that Schedule in respect of such instrument, if the instrument is executed in the Republic on or after the date of commencement of this Act or if the instrument is executed outside the Republic on or after the said date and relates to the transfer or hypothecation of any property situated in the Republic or to any matter or thing to be performed or done therein.

(2) Schedule 1 shall be deemed to be part of this Act and shall be construed and applied accordingly.

General exemptions.

4. (1) Duty shall not be chargeable in respect of—

(*a*) any instrument if the duty thereon would be legally payable and borne by the Government (including any provincial administration and the Railway Administration) or by the government of any other country;

(*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 Evaton Bantu Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959;

(*c*) any instrument used or intended for use in or in connection with criminal proceedings, or in connection with any charge of a criminal offence, or in connection with bail;

(*d*) any instrument used or intended for use in or in connection with legal proceedings arising out of commissions rogatoire or letters of request received from foreign countries;

(*e*) any instrument, other than an instrument referred to in Item 15 of Schedule 1, executed in the territory of South-West Africa and relating to the transfer or hypothecation of any property in the Republic or to any matter or thing to be performed or done in the Republic, if such instrument at the time of its introduction into the Republic is duly stamped under the laws of the said territory, or is exempt from duty under those laws;

(*f*) any instrument which is executed by or on behalf of an ecclesiastical, charitable or educational institution of a public character if the duty thereon would be legally payable and borne by such institution.

(2) Any instrument specially exempted from stamp duty under any other law shall not be chargeable with duty by reason of the provisions of this Act.

CHAPTER III.

GENERAL PROVISIONS RELATING TO THE STAMPING OF INSTRUMENTS.

Use of stamps in payment of duty.

5. (1) The payment of any duty or of any penalty incurred under section 9 shall, save as is otherwise specially provided in this Act, be denoted by means of adhesive revenue stamps for the amount of such duty or adhesive penalty stamps for the amount of such penalty, and such stamps shall be affixed to the instrument chargeable with the duty or penalty and be defaced as prescribed by this Act: Provided that—

(i) subject to such conditions as the Secretary may impose, payment of duty on any class of instrument to which he may from time to time apply this proviso, may be denoted by means of impressed stamps;

(ii) the Secretary may in his discretion, in lieu of the requirement that adhesive stamps be affixed to any such instrument, authorize the issue of a special receipt for the duty paid in respect of such instrument, and upon the issue of such receipt the person by whom or under whose supervision the said receipt is issued, shall endorse upon the instrument concerned a certificate of the due payment of the said duty;

(iii) where the Secretary is satisfied that any person or class of persons cannot conveniently denote the duty in respect of cheques or the original issue of marketable securities by means of stamps affixed to such cheques or marketable securities, he may, subject to such conditions as he may impose and subject to the exercise of such control as he considers necessary, agree that payment of such duty may be acknowledged by means of the issue of a special receipt, and any such cheque or marketable security which bears on its face the words "duty paid", shall for the purposes of this Act be deemed to be duly stamped.

(2) Any certificate under proviso (ii) to subsection (1) shall contain a reference to the number and date of the receipt to which that certificate relates and shall set forth the amount of duty paid, and the instrument on which such certificate has been so endorsed shall for purposes of this Act be deemed to be stamped to the amount of the duty paid and set forth in the certificate.

(3) (*a*) The duty on any instrument which is notarially executed and is required to be filed in any public office in the Republic shall be denoted on the notarial