

TAXATION LAWS AMENDMENT ACT

PRESIDENT'S OFFICE

No. 1052. 19 July 1995

NO. 37 OF 1995: TAXATION LAWS AMENDMENT ACT, 1995.

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

GENERAL EXPLANATORY NOTE:

Words in ***bold italics*** indicate omissions from existing enactments.

Words in *italics* indicate insertions in existing enactments.

ACT

To amend the Transfer Duty Act, 1949, so as to further regulate the imposition of, and exemption from, transfer duty; to amend the Estate Duty Act, 1955, so as to effect certain consequential amendments; to amend the Regional Services Councils Act, 1985, so as to substitute an obsolete expression; to amend the KwaZulu and Natal Joint Services Act, 1990, so as to substitute an obsolete expression; to amend the Income Tax Act, 1993, so as to substitute a date referred to in the provisions relating to unbundling transactions; to amend the Taxation Laws Amendment Act, 1994, so as to widen the ambit of the provisions providing for the rationalisation of groups of companies; and to further regulate the repeal of certain laws; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 10 July 1995.)

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

Amendment of section 2 of Act 40 of 1949, as substituted by section 2 of Act 77 of 1964 and amended by 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 and section 3 of Act 97 of 1993

1. Section 2 of the Transfer Duty Act, 1949, is hereby amended by the deletion of subsection (7).

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 and section 5 of Act 97 of 1993

2. Section 9 of the Transfer Duty Act, 1949, is hereby amended-

(a) by the substitution in subsection (1) for the words preceding the proviso to paragraph (c) of the following words:

"a religious, charitable or educational institution of a public character <<which is exempt from tax in terms of section 10 (1) (f) of the Income Tax Act, 1962 (Act No. 58 of 1962)>>, in respect of property acquired for religious, charitable or educational purposes exclusively"; and

(b) by the substitution for paragraphs (a) and (b) of subsection (12B) of the following paragraphs, respectively:

(a) any property consisting of land and any dwelling-house thereon or of a residential apartment and an undivided share in common property held under a sectional title deed contemplated in the Sectional Titles Act, 1986, if the value of such property, determined in accordance with the provisions of sections 5 (<<excluding the provisions of section 5(11)>>), 6, 7 and 8, does not exceed R60 000; or

(b) any unimproved land acquired for the purpose of erecting a dwelling-house thereon, if the value of such land, determined in accordance with the provisions of sections 5 (*excluding the provisions of section 5(11)*), 6, 7 and 8, does not exceed R24 000. "

Amendment of section 11 of Act 45 of 1955, as amended by section 3 of Act 56 of 1966 and section 13 of Act 87 of 1988

3. Section 11 of the Estate Duty Act, 1955, is hereby amended by the substitution for subparagraphs (ii) and (iii) of paragraph (b) of the following subparagraphs, respectively:

"(ii) as to any property referred to in paragraph (b) *or (cB)* of that subsection, the donee;

(iii) as to any property referred to in paragraph (*cA*) *or* (d) of that subsection, the executor."

Substitution of section 15 of Act 109 of 1985, as substituted by section 9 of Act 78 of 1986

4. The following section is hereby substituted for section 15 of the Regional Services Councils Act, 1985:

"Furnishing of information

15. Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section **4 of the Sales Tax Act, 1978 (Act No. 103 of 1978)** 6 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), the Commissioner for Inland Revenue or any person designated by him, may furnish to a council such information as in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy."

Substitution of section 21 of Act 84 of 1990

5. The following section is hereby substituted for section 21 of the KwaZulu and Natal Joint Services Act, 1990:

"Furnishing of information

21. Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section **4 of the Sales Tax Act, 1978 (Act No. 103 of 1978)** 6 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), the Commissioner for Inland Revenue of the Republic or any person designated by him, may

furnish to a board such information as in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy."

Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993, section 4 of Act 168 of 1993 and section 34 of Act 20 of 1994

6. Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution for the expression "4 November 1994", wherever it occurs, of the expression "19 June 1995".

Amendment of section 39 of Act 20 of 1994

7. Section 39 of the Taxation Laws Amendment Act, 1994, is hereby amended-

(a) by the substitution in paragraph (a) of the definition of "controlling company" in subsection (1) for the expression "4 November 1994" of the expression "19 June 1995";

(b) by the addition to the definition of "controlling company" in subsection

(1) of the following proviso:

" : Provided that for the purposes of a scheme contemplated in paragraph (a) (iii) of the definition of 'rationalisation scheme' in this subsection, the company may also be a company other than a listed company;";

(c) by the insertion after the definition of "controlling company" in subsection (1) of the following definition:

" 'former state' means the former Republic of Transkei, Bophu- thatswana, Venda or Ciskei;";

(d) by the substitution in the words preceding paragraph (a) of the definition of "rationalisation scheme" in subsection (1) for the expression "4 November 1994" of the expression "19 June 1995";

(e) by the addition to paragraph (a) of the definition of "rationalisation scheme" in subsection (1) of the following subparagraph:

"(iii) to enable any company in the group in question which is incorporated under a law of a former state, to dispose of the whole or a part of its business undertaking to any other company in the group in question which is incorporated under a law of the Republic as it existed prior to the commencement of the Constitution; or";

(f) by the substitution for the definitions of "stamp duty" and "transfer duty" in subsection (1) of the following definitions, respectively:

" 'stamp duty' means the stamp duty leviable under Item 15(3) of Schedule 1 to the Stamp Duties Act in respect of the registration of transfer of any marketable security or the stamp duty leviable under Item 7(3), (4) or (5) of the said Schedule in respect of the cession of a mortgage bond or the substitution of a debtor in respect of such bond and includes any similar duty leviable in terms of a law of a former state;

'transfer duty' means the duty leviable under the Transfer Duty Act and includes any similar duty leviable in terms of a law of a former state;";

(g) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) such disposal, transfer, cession or substitution of any market- able security, property or bond, as the case may be, where it gave rise to the distribution of a dividend, such dividend shall be deemed not to be a dividend for the purposes of-

(i) Parts III and VII of Chapter II of the Income Tax Act; *or*

(ii) *the provisions of a law of a former state imposing a tax similar to the tax imposed in terms of the provisions of the Parts referred to in subparagraph (i);"*

(h) by the substitution in the words preceding paragraph (a) of subsection (6) for the expression "4 November 1994" of the expression "19 June 1995";

(i) by the substitution for paragraph (d) of subsection (6) of the following paragraph:

(d) where any sale or disposal of any trading stock, asset or business undertaking or part thereof contemplated in paragraph (a), (b) or (c) gives rise to the distribution of a dividend, such distribution shall be deemed not to be a dividend for the purposes of-

(i) Parts III and VII of Chapter II of the Income Tax Act; *or*

(ii) *the provisions of a law of a former state imposing a tax similar to the tax imposed in terms of the provisions of the Parts referred to in subparagraph (i)."*; and

(j) by the insertion of the following subsection after subsection (7):

"(7A) In the case of a rationalisation scheme devised solely or mainly to enable a company incorporated under a law of a former state, to dispose of the whole or a part of its business undertaking to any other company in the same group which is incorporated under a law of the Republic as it existed prior to the commencement of the Constitution, subsections (2) and (6) shall apply only in relation to transactions entered into to give effect to the objective of the scheme. "

Amendment of Part 2 of Schedule 2 to Act 20 of 1994

8. (1) Schedule 2 to the Taxation Laws Amendment Act, 1994, is hereby amended by the substitution for Part 2 of the following Part:

"Part 2

LAWS REPEALED (section 41(6))

Laws of the former Republic of Transkei

Number and year	Short title	Extent of repeal of law
Decree No. 16 of 1991	Decree No. 16 (Value-Added Tax) of 1991	Sections 1 to 78
Decree No. 15 of 1991	Decree No. 15 [Validation of Decree No. 16 (Value-Added Tax) of 1991]	The whole
Decree No. 2 of 1994	Decree No. 2 [Further Amendment of Decree	The whole <i>except</i>

No.16 (Value-Added Tax) of 1991 of 1994

sections 79 to 84

Laws of the former Republic of Bophuthatswana

Number and year	Short title	Extent of repeal of law
Act No. 25 of 1991	Value-Added Tax Act, 1991	The whole, except sections 79 to 84
Act No. 34 of 1992	Taxation Laws Amendment Act, 1992	Sections 21 to 52
Act No. 34 of 1993	Value-Added Tax Amendment Act, 1993	The whole

Laws of the former Republic of Venda

Number and year	Short title	Extent of repeal of law
Proclamation No. 32 of 1991	Value-Added Tax Proclamation, 1991	The whole, <i>except section 85 of 'Annexure A' thereto</i>
Proclamation No. 10 of 1992	Value-Added Tax Amendment Proclamation, 1992	The whole
Proclamation No. 03 of 1993	Value-Added Tax Amendment Proclamation, 1993	The whole
Proclamation No. 08 of 1993	Value-Added Tax Second Amendment Proclamation, 1993	The whole

Laws of the former Republic of Ciskei

Number and year	Short title	Extent of repeal of law
Decree No. 17 of 1991	Value-Added Tax Decree, 1991	The whole, <i>except section 78</i>
Decree No. 19 of 1992	Value-Added Tax Amendment Decree, 1992	The whole
Decree No. 25 of 1992	Value-Added Tax Second Amendment Decree, 1992	The whole
Decree No. 8 of	Value-Added Tax Amendment Decree, 1994	The whole

(2) Subsection (1) shall be deemed to have come into operation on 25 November 1994.

Short title

9. This Act shall be called the Taxation Laws Amendment Act, 1995.