

GOVERNMENT OF ZAMBIA

# ACT

No. 12 of 1984

Date of Assent: 29th March, 1984

An Act to provide for the charging and collection of a tax based on the value realised from the transfer of certain property in the Republic; and to provide for matters connected with or incidental to the foregoing.

[30th March, 1984

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Property Transfer Tax Act, 1984, and shall be deemed to have come into operation on the 1st April, 1984.

Short title  
and  
commence-  
ment

2. (1) In this Act, unless the context otherwise requires—

Interpre-  
tation

“Commissioner” means the Commissioner of Taxes appointed under the Income Tax Act;

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“immediate family” means a spouse, child, duly adopted child or step-child;

“land” includes any building, structure or other improvement thereon;

“person” includes a partnership;

“property” means—

(a) any land in the Republic;

(b) any share issued by a company incorporated in the Republic;

“realised value” means the value, as calculated in accordance with the provisions of section five, of any property liable to tax;

“Registrar” shall have the meaning assigned thereto in the Lands and Deeds Registry Act;

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“share” includes any stock or any certificate or warrant relating to any share or stock;

"tax" means the property transfer tax charged under this Act;

"transfer"—

(a) in relation to land, excludes—

(i) letting or sub-letting;

(ii) leasing, under-letting or sub-letting, for a period of less than five years;

(b) in relation to a share, excludes the allocation of the same by the company to the member in whose name it is first registered.

(2) Unless the context otherwise requires, words and expressions not defined in this Act but defined in the Income Tax Act shall, in this Act, have the meaning assigned thereto in the Income Tax Act.

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Functions  
and powers  
of Commis-  
sioner.  
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3. (1) The Commissioner shall, subject to the direction of the Minister, be responsible for giving effect to the provisions of this Act, and shall for that purpose have all the powers conferred on the Commissioner by the Income Tax Act.

(2) The Commissioner may, by writing under his hand and subject to such conditions as he may specify, delegate to a Deputy Commissioner or to any officer in the Department of Taxes any power conferred, or any duty imposed, on him by this section.

Property  
transfer tax

4. (1) Whenever any property is transferred, there shall be charged upon, and collected from, the person transferring such property a property transfer tax in accordance with the provisions of this Act.

(2) The rate of tax shall be two and one-half per centum of the realised value of the property.

Realised  
value

5. (1) Where the property to be valued is land, the realised value shall be the price at which it could, at the time of its transfer, reasonably have been sold on the open market as determined by the Commissioner.

(2) Where the property to be valued is a share, the realised value shall be the price at which it could, at the time of its transfer, reasonably have been sold on the open market as determined by the Commissioner or its nominal value, whichever is the greater.

(3) Where the Commissioner determines that there has been unreasonable delay between the date on which the property is sold and the date on which it is transferred, and that as a result of such delay the value of the property is different at the two dates, the realised value of such property shall be the greater of the two values.

(4) Where a person transfers his property to a member of his immediate family, the realised value of such property shall be the actual price, if any, received therefor by such person.

(5) Where, within a group of companies, a company transfers property to another company (other than a company which is not resident in the Republic) within the same group and the Commissioner is satisfied that such transfer was carried out for the purpose of effecting internal organisation of that group, he may determine that such transfer shall have no realised value.

6. (1) The following shall be exempt from the provisions of this Act:

Exemptions

- (a) the Government;
- (b) any foreign government;
- (c) such international organisation, foundation or agency as the Minister may approve for the purpose;
- (d) any charitable organisation or trust registered as such under the Income Tax Act;
- (e) any co-operative society registered under the Co-operative Societies Act;
- (f) the various organisations listed in paragraph 5 (1) of the Second Schedule to the Income Tax Act.

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(2) Where property held in trust or constructive trust is transferred to another person to hold in trust or constructive trust for the same beneficiaries, such transfer shall not be liable to tax.

(3) Where property is settled in trust for the benefit of a member of the immediate family of the settlor, the transfer of such property to the trustees or the transfer by the trustees to such beneficiary shall not be liable to tax.

(4) Where property devolves upon death, the resulting transfer of such property shall not be liable to tax if the transferee is a member of the immediate family of the deceased; nor shall any intermediate transfer to or by an executor, administrator, personal representative or other person acting in similar capacity be liable to tax if such intermediate transfer is carried out to give effect to such devolution.

(5) The Minister may, by statutory order, exempt from tax any person, transfer or property, or any class thereof.

7. (1) Any transfer of property to a person in his capacity as a liquidator shall not be liable to tax.

Liquidators,  
receivers,  
trustees in  
bankruptcy  
etc.

(2) Where a person in his capacity as a liquidator holds any property belonging to a debtor, any transfer of such property by him to any person other than the debtor shall be

liable to tax and the amount of such tax shall be recoverable from the liquidator.

(3) In this section—

“debtor” includes a bankrupt or other person whose property has been placed in the hands of a liquidator for the purpose of settling the affairs or debts of such debtor, and in the case of a company, for the purpose of winding up such company;

“liquidator” includes receiver, trustee in bankruptcy, assignee in bankruptcy or under a deed of arrangement, or any other person acting in a similar capacity.

Transfer by  
agents,  
mortgagees,  
etc.

8. (1) Where a mortgagee transfers any mortgaged property to enforce his rights under a mortgage, the mortgagee shall be deemed to be an agent of the mortgagor and sub-section (2) shall apply.

(2) Where an agent, attorney, sheriff, or other person acting in the name of the owner or holder of any property transfers such property, the owner or holder of such property and such agent, attorney, sheriff or other person, as the case may be shall both be jointly and severally liable for tax in respect of such transfer.

(3) In this section “mortgagee” includes any person entitled to security in any property, or to the benefit of a charge, encumbrance or other similar liability over any property, of another, and “mortgage”, “mortgagor” and “mortgaged property” shall be construed accordingly.

Returns,  
notices, etc.

9. (1) Every person who transfers any property, whether such property was transferred on his own behalf or on behalf of another, shall render a provisional return of tax in such form and giving therein such details of the property and the transaction as may be prescribed by the Commissioner.

(2) The provisional return referred to in subsection (1) shall be submitted—

(a) in the case of land, to the Commissioner of Lands together with the application for consent to transfer such property;

(b) in all other cases, to the Commissioner within thirty days of the transfer.

(3) The Commissioner of Lands shall satisfy himself that the details given in the provisional return received by him under sub-section (2) are correct and shall thereafter forward it to the Commissioner.

(4) The Registrar shall not register any transfer of property unless he is satisfied that any tax due under this Act in respect of such transfer has been paid.

(5) Without prejudice to the other provisions of this Act, sections *forty-five, forty-six, forty-seven, forty-eight, fifty-seven, fifty-eight, sixty-six, sixty-nine and seventy* of the Income Tax Act shall apply, *mutatis mutandis*, in relation to the tax under this Act as they apply in relation to the tax under the Income Tax Act.

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(6) An assessment shall be made in respect of every person liable to tax under this Act, and sections *sixty-three to sixty-nine* (inclusive) of the Income Tax Act shall apply, *mutatis mutandis*, in relation to the assessments under this Act as they apply in relation to the assessments under the Income Tax Act.

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10. Any determination or assessment made under this Act may be objected to or appealed against by the person affected thereby; and without prejudice to the other provisions of this Act, the provisions of Part XI of the Income Tax Act relating to objections and appeals shall apply, *mutatis mutandis*, in relation to objections and appeals under this Act as they apply in relation to objections and appeals under the Income Tax Act.

Objections  
and appeals

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11. (1) The tax shall become due and payable within fourteen days of the date of issue of the assessment in respect thereof.

Payment of  
of tax and  
penalty for  
late pay-  
ment

(2) Where any amount of tax is not paid within the period specified in subsection (1), a penalty equal to five per centum of the unpaid amount shall be charged for each month or part thereof for which the tax remains unpaid; and for the purposes of recovery and collection such penalty shall be deemed to be part of the tax.

12. Subject to the provisions of this Act, sections *seventy-nine, seventy-nine A, seventy-nine B, seventy-nine C and seventy-nine D* of the Income Tax Act shall apply, *mutatis mutandis*, to the recovery of tax under this Act as they apply to the recovery of tax under the Income Tax Act.

Recovery of  
tax

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13. The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

Regulations

