

SECURITIES TRANSFER TAX ADMINISTRATION ACT 26 OF 2007

(English text signed by the President)

[Assented to: 21 December 2007]

[Commencement date: 1 July 2008]

as amended by:

Taxation Laws Second Amendment Act 4 of 2008

Revenue Laws Second Amendment Act 61 of 2008

Tax Administration Act 28 of 2011

[Proc. 51 / GG 35687 / 20120914 w.e.f. 1 October 2012 - except for any provisions relating to interest]

Tax Administration Laws Amendment Act 44 of 2014

ACT

To provide for the administration of a securities transfer tax; and to provide for matters connected therewith.

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

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CHAPTER 1

ADMINISTRATION AND INTERPRETATION

1. Administration and interpretation of Act

- (1) The Commissioner must administer this Act and the Securities Transfer Tax Act, 2007, in accordance with the provisions of the Tax Administration Act, 2011.

[Subs. (1) substituted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (1A) Administrative requirements and procedures for purposes of the performance of any duty, power or obligation or the exercise of any right in terms of this Act are, to the extent not regulated in this Act, regulated by the Tax Administration Act, 2011.

[Subs. (1A) inserted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (2) Unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Tax Administration Act, 2011, and any word or expression to which a meaning has been assigned in the Securities Transfer Tax Act, 2007, bears the meaning so assigned for the purposes of this Act.

[Subs. (2) substituted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (3)

[Subs. (3) deleted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

2. Notification requirement

Any person to whom an unlisted security is transferred must inform the company which issued that security of the transfer within a period of 30 days as from the date of that transfer.

3. Payments

- (1) The tax referred to in -

- (a) [section 3](#) or [4](#) of the Securities Transfer Tax Act, 2007, which becomes payable during any month in respect of any transfer, must be paid by the member or participant to the Commissioner by the 14th day of the following month;
- (b) [section 5](#) of the Securities Transfer Tax Act, 2007, which becomes payable during a month in respect of any transfer, must be paid by the member or participant holding that security in custody or, in the case where the listed security is not held in custody by either a member or participant, through the company that issued the listed security to the Commissioner by the 14th day of the following month; and

[Para. (b) substituted by s. 49 of Act 61/2008 w.e.f. 1 Jul 2008]

- (c) [section 6](#) of the Securities Transfer Tax Act, 2007 (Act No.25 of 2007), which becomes payable during a month in respect of any transfer of an unlisted security, must be paid by the company, which issued that security, to the Commissioner within two months from the end of that month.

[Para. (c) substituted by s. 27 of Act 4/2008]

- (2) Any person who has the obligation in terms of [section 3](#) of the Securities Transfer Tax Act, 2007, to pay the tax must by the date referred to in subsection (1) submit a declaration electronically, in the form and manner as the Commissioner may determine and containing the information prescribed by the Commissioner, stating the amount of tax (if any) payable by that person.

[Subs. (2) substituted by s. 49 of Act 61/2008 w.e.f. 1 Jul 2008]

- (3) The Commissioner may, if he or she deems it necessary, declare the person to whom a security was transferred liable for the tax payable in terms of [section 3](#), [4](#), [5](#) or [6](#) of the Securities Transfer Tax Act, 2007.

- (4)

[Subs. (4) deleted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (5) The payment of any tax, interest or penalty in respect of the transfer of a security must be made by way of an electronic payment.

4. Refunds

- (1) The Commissioner must refund the amount of any overpayment of tax or of any interest or penalty properly chargeable in respect of the transfer of any security, in accordance with sections 190 and 191 of the Tax Administration Act, 2011.

[Subs. (1) substituted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (2)

[Subs. (2) deleted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

- (3) The Commissioner must refund the amount of tax if the Commissioner is satisfied that the transfer in respect of which that tax became payable has been cancelled, or has been set aside or declared void by any court of law.

- (4)

[Subs. (4) deleted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

5. Interest on overdue payments

If the tax is not paid in full within the period for payment prescribed by [section 3](#), interest must be paid at the prescribed rate on the balance of such tax outstanding reckoned from the day following the last date for payment referred to in [section 3](#) to the date of payment to the Commissioner.

6.

[S. 6 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

6A. Penalty on default

If any tax remains unpaid after the relevant date for payment referred to in [section 3](#) the Commissioner must, under [Chapter 15](#) of the Tax Administration Act, 2011, impose a penalty of 10 per cent of the unpaid tax but the Commissioner may remit the penalty or any portion thereof in accordance with the provisions of Chapter 15 of the Tax Administration Act, 2011.

[S. 6A inserted by s. 36 of Act 44/2014 w.e.f. 20 January 2015]

7.

[S. 7 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

8. Interest on overdue payments and penalty on default recoverable from person to whom security is transferred

- (1) In the case of a listed security, a member or participant may recover the amount of interest or penalty payable by that member or participant under the Tax Administration Act from the person-
- (a) to whom a listed security is transferred; or
 - (b) who cancels or redeems a listed security,
- to the extent that the action or inaction of that person resulted in the interest or penalty.
- (2) In the case of an unlisted security, the company which issued that security may recover the amount of interest or penalty payable by that company under the Tax Administration Act from the person to whom that security was transferred, to the extent that the action or inaction of that person resulted in the interest or penalty.

[S. 8 substituted by s. 271 of Act 28/2011 with effect from 1 October 2012 except to the extent related to interest in respect of which the wording prior to the amendment applies.]

Wording prior to amendment by s. 271 of Act 28/2011

8. Interest on overdue payments and penalty on default recoverable from person to whom security is transferred

- (1) In the case of a listed security, a member or participant may recover the amount of the interest referred to in [section 5](#), penalty on default referred to in [section 6](#) or the penalty in the case of evasion referred to in [section 7](#) payable by that member or participant in terms of this Act from the person -
- (a) to whom a listed security is transferred; or
 - (b) who cancels or redeems a listed security,
- to the extent that the action or inaction of that person resulted in the interest or penalty.
- (2) In the case of an unlisted security, the company which issued that security may recover the amount of the interest referred to in [section 5](#), penalty on default referred to in [section 6](#) or the penalty in the case of evasion referred to in [section 7](#) payable by that company in terms of this Act from the person to whom that security was transferred, to the extent that the action or inaction of that person resulted in the interest or penalty.

CHAPTER 2

RECOVERY OF TAX

9.

[S. 9 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

10.

[S. 10 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

11.

[S. 11 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

CHAPTER 3

GENERAL PROVISIONS

12.

[S. 12 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

13. Records

- (1) Any member, participant or person to whom a listed security is transferred must keep, for a period of five years, such record of every transfer which has been effected by the member, participant or person to whom the security has been transferred as may be required to enable the member, participant or person to whom the security has been transferred, as the case may be, to observe the requirements of this Act and to enable the Commissioner to be satisfied that those requirements have been observed.
- (2) The company referred to in [section 3\(1\)\(c\)](#) must keep, for a period of five years, such records of every transfer of an unlisted security issued by it as may be required to enable the company to observe the requirements of this Act and to enable the Commissioner to be satisfied that those requirements have been observed.

14.

[S. 14 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

15.

[S. 15 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

16.

[S. 16 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

17.

[S. 17 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

18.

[S. 18 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

19.

[S. 19 repealed by s. 271 of Act 28/2011 w.e.f 1 Oct 2012]

20. Offences

In addition to the offences contained in [sections 235](#) and [236](#) of the Tax Administration Act, 2011, any person who acquires an unlisted security and fails to inform the company of the transfer within the period referred to in [section 2](#), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

[S. 20 substituted by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

21.

[S. 21 repealed by s. 271 of Act 28/2011 w.e.f. 1 Oct 2012]

22. Short title and commencement

This Act is called the Securities Transfer Tax Administration Act, 2007, and comes into operation on 1 July 2008.