

SECURITIES TRANSFER TAX ACT

[Updated to 20 January 2021]

Act 25 of 2007 (GoN 35, G. 30652),
Act 3 of 2008 (GoN 781, G. 31267 c.i.o 22 July 2008),
Act 60 of 2008 (GoN 14, G. 31781 c.i.o 8 January 2009 unless otherwise indicated),
Act 17 of 2009 (GoN 944, G. 32610, deemed to have commenced on 1 January 2009),
Act 18 of 2009 (GoN 945, G. 32611 c.i.o 30 September 2009),
Act 7 of 2010 (GoN 1024, G. 33726 c.i.o 2 November 2010 unless otherwise indicated),
Act 24 of 2011 (GoN 16, G. 34927 c.i.o 10 January 2012 unless otherwise indicated),
Act 22 of 2012 (GoN 71, G. 36122 c.i.o 1 February 2013 unless otherwise indicated),
Act 31 of 2013 (GoN 1001, G. 37158 c.i.o 12 December 2013 unless otherwise indicated),
Act 39 of 2013 (GoN 14, G. 37236 c.i.o 16 January 2014),
Act 43 of 2014 (GoN 21, G. 37405 c.i.o 20 January 2015 unless otherwise indicated),
Act 25 of 2015 (GoN 22, G. 39588 c.i.o 1 January 2016 unless otherwise indicated),
Act 15 of 2016 (GoN 40, G. 40562, c.i.o 19 January 2017 unless otherwise indicated),
Act 17 of 2017 (GoN 1451, G. 41342, c.i.o 1 January 2018),
Act 34 of 2019 (GoN 21, G. 42951, c.i.o 15 January 2020),
Act 23 of 2020 (GoN 25, G. 44083, c.i.o 20 January 2021).

[Commencement: 1 July 2008]

(English text signed by the President.)

(Assented to 21 December 2007.)

ACT

To provide for the levying of a securities transfer tax in respect of every transfer of any security; and to provide for matters connected therewith.

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

ARRANGEMENT OF SECTIONS

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1. Definitions

In this Act, unless the context indicates otherwise—

“bank restricted stock account” means a bank restricted stock account as defined in the exchange rules;

[“bank restricted stock account” ins by s 153(1)(a) of Act 22 of 2012 wef 1 January 2013.]

“close corporation” means a **“corporation”** as defined in section 1 of the Close Corporation Act, 1984 (Act 69 of 1984);

“closing price” means the closing price, on the date of the transaction or other manner of acquisition of a listed security, at which that security was traded on the exchange on which it is listed, as determined by that exchange on each day on which trade in that security occurs on that exchange: Provided that where the security was not traded on the date of the transaction or other manner of acquisition, the closing price of that security must be regarded as being the closing price on the last business day, preceding the date of the transaction or other manner of acquisition, on which that security was traded on that exchange;

“collateral arrangement” means any arrangement in terms of which—

- (a) a person (hereafter the transferor) transfers a listed share or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to another person (hereafter the

transferee) for the purposes of providing security in respect of an amount owed by the transferor to the transferee;

- (b) the transferor can demonstrate that the arrangement was not entered into for the purposes of the avoidance of tax and was not entered into for the purposes of keeping any position open for more than 24 months;
- (c) that transferee in return contractually agrees in writing to deliver an identical share, as defined in section 1 of the Income Tax Act, or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to that transferor within a period of 24 months from the date of transfer of that listed share or bond from the transferor to the transferee;
- (d) that transferee is contractually required to compensate that transferor for any distributions in respect of the listed share (or any other share that is substituted for that listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements) or a corporate action as contemplated in the listings requirements of any other exchange, licenced under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act, which that transferor would have been entitled to receive during that period had that arrangement not been entered into; and

[\[“collateral arrangement” para \(d\) am by s 76\(a\) of Act 34 of 2019 wef 15 January 2020.\]](#)

- (e) that arrangement does not affect the transferor's benefits or risks arising from fluctuations in the market value of that listed share (or any other share that is substituted for that listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements) or a corporate action as contemplated in the listings requirements of any other exchange, licenced under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act,

[\[“collateral arrangement” para \(e\) am by s 76\(a\) of Act 34 of 2019 wef 15 January 2020.\]](#)

but does not include an arrangement where the transferee has not transferred the identical share or bond contemplated in paragraph (b) to the transferor within the period referred to in that paragraph unless such failure to return such identical share or bond is due to an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements or a corporate action as contemplated in the listings requirements of any other exchange, licenced under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange;

[“collateral arrangement” ins by s 137(1)(a) of Act 25 of 2015 wef 1 January 2016; subs by s 90(1)(a) of Act 15 of 2016 wef 1 January 2017, s 90(1)(a) of Act 17 of 2017 wef 1 January 2018; words following “collateral arrangement” para (e) am by s 76(b) of Act 34 of 2019 wef 15 January 2020.]

“**Commissioner**” means the Commissioner for the South African Revenue Service;

“**company**” means any corporation, or company incorporated, established or formed by or under any law;

“**exchange**” means an “exchange” as defined in section 1 of the Financial Markets Act and licensed under section 9 of that Act;

[“exchange” subs by s 110(1)(a) of Act 43 of 2014 wef 3 June 2013.]

“**exchange rules**” means the exchange rules as defined in section 1 of the Financial Markets Act or an exchange directive contemplated in section 17(2)(z) of that Act;

[“exchange rules” ins by s 153(1)(b) of Act 22 of 2012 wef 1 January 2013; subs by s 110(1)(b) of Act 43 of 2014 wef 3 June 2013.]

“**Financial Markets Act**” means the Financial Markets Act, 2012 (Act 19 of 2012);

[“Financial Markets Act” ins by s 110(1)(c) of Act 43 of 2014 wef 3 June 2013.]

“**general restricted stock account**” means a general restricted stock account as defined in the exchange rules;

[“general restricted stock account” ins by s 153(1)(b) of Act 22 of 2012 wef 1 January 2013.]

“**Income Tax Act**” means the Income Tax Act, 1962 (Act 58 of 1962);

“**lending arrangement**” means any arrangement in terms of which—

- (a) a person (hereinafter referred to as the lender) lends a listed security or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to another person (hereinafter

referred to as the borrower) in order to enable that borrower to effect delivery (other than to any lender in relation to that borrower, unless the borrower can demonstrate that the arrangement was not entered into for the purposes of the avoidance of tax and was not entered into for the purposes of keeping any position open for more than 12 months) of that security or bond within 10 business days after the date of transfer of that security from the lender to the borrower in terms of that arrangement;

(b) that borrower in return contractually agrees in writing to deliver an identical security or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act, as defined in section 1 of the Income Tax Act, to that lender within a period of 12 months from the date of transfer of that listed security or bond from the lender to the borrower;

(c) that borrower is contractually required to compensate that lender for any distributions in respect of the listed security (or any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act which that lender would have been entitled to receive during that period had that arrangement not been entered into; and

[\[“lending arrangement” para \(c\) am by s 67\(a\) of Act 23 of 2020 wef 20 January 2021.\]](#)

(d) that arrangement does not affect the lender’s benefits or risks arising from fluctuations in the market value of the listed security (or any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the Stock Exchange News Service as defined in the JSE Limited Listings Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act,

[\[“lending arrangement” para \(d\) am by s 67\(a\) of Act 23 of 2020 wef 20 January 2021.\]](#)

but does not include an arrangement where the borrower has not—

(i) on-delivered the listed security or bond within the period referred to in paragraph (a); or

(ii) returned the identical security or bond contemplated in paragraph (b) to the lender within the period referred to in that paragraph other than if such failure to return such identical security or bond is due to an arrangement that is announced and released as a corporate action as

contemplated in the JSE Limited Listings Requirements in the Stock Exchange News Service as defined in the JSE Limited Listings Requirements;

[“lending arrangement” am by s 137(1)(b) and (c) of Act 25 of 2015 wef 1 January 2016; subs by s 90(1)(b) of Act 15 of 2016 wef 1 January 2017, s 90(1)(b) of Act 17 of 2017 wef 1 January 2018; “lending arrangement” para (ii) am by s 67(b) of Act 23 of 2020 wef 20 January 2021.]

“listed security” means any security that is listed on an exchange;

“listed share” means any share or depository receipt in a company that is listed on an exchange;

[“listed share” ins by s 137(1)(d) of Act 25 of 2015, wef 8 January 2016.]

“lowest price” means the lowest price, on the date of the transaction or other manner of acquisition of a listed security, at which that security was traded on the exchange on which it is listed, as determined by that exchange on each day on which trade in that security occurs on that exchange: Provided that where that security was not traded on the date of the transaction or other manner of acquisition, the lowest price of that security must be regarded as being the lowest price on the last business day, preceding the date of the transaction or other manner of acquisition, on which that security was traded on that exchange;

“member” means any person who is an “authorised user” as defined in section 1 of the Financial Markets Act providing such security services as the rules of the exchange permit including services in respect of the buying and selling of a listed security;

[“member” subs by s 110(1)(d) of Act 43 of 2014 wef 3 June 2013.]

“Minister” means the Minister of Finance;

“participant” means a person that holds in custody and administers a listed security or an interest in a listed security and that has been authorised in accordance with section 31 of the Financial Markets Act by a central securities depository as a participant in that central securities depository;

[“participant” subs by s 110(1)(e) of Act 43 of 2014 wef 3 June 2013.]

“person” includes—

- (a) any sphere of the Government of the Republic;
- (b) any body of persons (incorporated or unincorporated);
- (c) the estate of any deceased or insolvent person;
- (d) any trust fund; and

- (e) any portfolio comprised in any collective investment scheme in securities contemplated in Part IV of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002);

“prescribed rate”, in relation to any interest payable in terms of the Securities Transfer Tax Administration Act, 2007, means such rate as the Minister may fix from time to time by notice in the *Gazette* in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act 1 of 1999): Provided that where the Minister fixes a new rate in terms of that Act, that new rate applies for the purposes of the Securities Transfer Tax Administration Act, 2007, from the first day of the second month following the date on which that new rate came into operation;

“Republic” means the **“Republic”** as defined in section 1 of the Income Tax Act;

“security” means—

- (a) any share or depository receipt in a company; or
- (b) any member’s interest in a close corporation,
- (c) ...

excluding the debt portion in respect of a share linked to a debenture;

[“security” am by s 145 of Act 24 of 2011 wef 1 April 2012.]

“tax” means the tax payable in terms of this Act;

“transfer” includes the transfer, sale, assignment or cession, or disposal in any other manner, of a security or the cancellation or redemption of that security, but does not include—

- (a) any event that does not result in a change in beneficial ownership;
- (b) any issue of a security; or
- (c) a cancellation or redemption of a security if the company which issued the security is being wound up, liquidated or deregistered or its corporate existence is being finally terminated;

“unlisted security” means any security other than a listed security;

[“unlisted security” am by s 153(1)(c) of Act 22 of 2012 wef 1 January 2013.]

“unrestricted and security restricted stock account” means an unrestricted and security restricted stock account as defined in the exchange rules.

[“unrestricted and security restricted stock account” ins by s 153(1)(d) of Act 22 of 2012 wef 1 January 2013.]

2. Imposition of tax

- (1) There must be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the securities transfer tax, in respect of—
 - (a) every transfer of any security issued by—
 - (i) a close corporation or company incorporated, established or formed inside the Republic; or
 - (ii) a company incorporated, established or formed outside the Republic and listed on an exchange; and
 - (b) any reallocation of securities from a member's bank restricted stock account or a member's unrestricted and security restricted stock account to a member's general restricted stock account,

at the rate of 0,25 per cent of the taxable amount of that security determined in terms of this Act.

[S 2(1) subs by s 154(1) of Act 22 of 2012 wef 1 January 2013.]

- (2) The Minister of Finance may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, 1999 (Act 1 of 1999), that, with effect from the date mentioned in that announcement—
 - (a) the rate of securities transfer tax referred to in subsection (1) is altered to the extent mentioned in the announcement; or
 - (b) there is a change in the provisions of this Act to the effect that the transfer of any security is no longer subjected to securities transfer tax.

[S 2(2) subs by s 91 of Act 15 of 2016 wef 19 January 2017.]

- (3) If the Minister makes an announcement referred to in subsection (2), that alteration comes into effect on the date announced and continues to apply for a period of 12 months from that date, subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.

[S 2(3) subs by s 60 of Act 18 of 2009 wef 30 September 2009; s 91 of Act 15 of 2016 wef 19 January 2017.]

3. Purchase of listed securities through or from member

- (1) The taxable amount in respect of any transfer as a result of every purchase of a listed security through the agency of or from a member is the consideration for which that security is so purchased.

- (2) The member is liable for the tax payable in respect of a transfer of a listed security referred to in this section.

4. Transfer of listed securities effected by participant

- (1) Unless tax is payable on a transfer contemplated in section 3, the taxable amount in respect of any transfer of a listed security effected by a participant is—

(a) where that security is a security referred to in paragraph (a) of the definition of “security”—

(i) the amount of the consideration for that security declared by the person who acquires that security; or

(ii) if no amount of consideration referred to in subparagraph (i) is declared, or if the amount so declared is less than the lowest price of that security, the closing price of that security.

[S 4(1)(a)(ii) am by s 146(a) of Act 24 of 2011 wef 1 April 2012.]

(b) ...

[S 4(1)(b) rep by s 146(b) of Act 24 of 2011 wef 1 April 2012.]

- (2) The participant is liable for the tax payable in respect of the transfer of a security referred to in this section.

5. Other transfers of listed securities

- (1) Unless tax is payable on a transfer contemplated in section 3 or 4, the taxable amount in respect of any transfer of a listed security is—

(a) where that security is a security referred to in paragraph (a) of the definition of “security”—

(i) the amount of the consideration for that security declared by the person who acquires that security; or

(ii) if no amount of consideration referred to in subparagraph (i) is declared, or if the amount so declared is less than the lowest price of the security, the closing price of that security.

[S 5(1)(a)(ii) am by s 147(a) of Act 24 of 2011 wef 1 April 2012.]

(b) ...

[S 5(1)(b) rep by s 147(b) of Act 24 of 2011 wef 1 April 2012.]

- (2) The person to whom the listed security is transferred is liable for the tax payable as referred to in this section.

- (3) Tax payable in terms of subsection (2) must be paid through the member or participant holding the listed 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.

[S 5(3) subs by s 126 of Act 60 of 2008 wef 1 July 2008.]

6. Transfer of unlisted securities

- (1) The taxable amount in respect of every transfer of an unlisted security is—
- (a) the amount or market value of the consideration given or, where no consideration is given or the consideration given is less than the market value of that security, the market value of that security; and
 - (b) in the case of the cancellation or redemption of an unlisted security, the market value of that security immediately prior to the cancellation or redemption: Provided that the market value must be determined as if that security was never cancelled or redeemed.
- (2) The company which issued the unlisted security is liable for the tax payable in respect of any transfer of that unlisted security.

7. Tax 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 tax payable by that member or participant in respect of the transfer of that security from the person—
- (a) to whom that security is transferred; or
 - (b) that cancels or redeems that security.
- (2) In the case of an unlisted security, the company which issued that security may recover the amount of tax payable by that company in respect of the transfer of that security from the person to whom that security is transferred.

8. Exemptions

- (1) The tax is not payable in respect of a transfer of a security—
- (a) if the security is transferred to a person—
 - (i) in terms of an asset-for-share transaction referred to in section 42 of the Income Tax Act;

(iA) in terms of a substitutive share-for-share transaction referred to in section 43 of the Income Tax Act or in terms of paragraph 11(2)(l) of the Eighth Schedule to the Income Tax Act;

[S 8(1)(a)(iA) ins by s 183(1) of Act 31 of 2013 wef 4 July 2013.]

(ii) in terms of an amalgamation transaction referred to in section 44 of the Income Tax Act;

(iii) in terms of an intra-group transaction referred to in section 45 of the Income Tax Act;

(iv) in terms of an unbundling transaction referred to in section 46 of the Income Tax Act;

(v) in terms of a liquidation distribution referred to in section 47 of the Income Tax Act; or

(vi) in terms of any transaction which would have constituted a transaction or distribution referred to—

(A) ...

[S 8(1)(a)(vi)(A) subs by s 73 of Act 3 of 2008 wef 22 July 2008, s 97 of Act 17 of 2009 wef 1 January 2009; rep by s 127 of Act 7 of 2010 wef 1 January 2009.]

(B) in subparagraph (i) or (ii) regardless of the market value of the asset disposed of in exchange for that security; or

[S 8(1)(a)(vi)(B) subs by s 127(a) of Act 60 of 2008 wef 1 January 2009.]

(C) in subparagraphs (i) to (v) regardless of whether or not that person acquired that security as a capital asset or as trading stock,

where the public officer of the relevant company has made a sworn affidavit or solemn declaration that the acquisition of that security complies with the provisions of this paragraph;

(b) if the transfer is from a lender to a borrower, or *vice versa*, in terms of a lending arrangement and the person to whom that security has been transferred has certified to the member or participant that the change is in terms of that lending arrangement;

[S 8(1)(b) subs by s 138(1)(a) of Act 25 of 2015 wef 1 January 2016.]

(c) if the transfer is from a pension fund to another pension fund both of which are registered under the Pension Funds Act, 1956 (Act 24 of 1956), and that change is made in pursuance of a scheme referred to in section 14(1) of that Act;

- (d) if that security is transferred to a public benefit organisation which is exempt from income tax in terms of section 10(1)(cN) of the Income Tax Act, if the tax thereon would be legally payable and borne by that public benefit organisation;
- (e) if that security is transferred to an institution, board or body, which is exempt from income tax in terms of section 10(1)(cA)(i) of the Income Tax Act, and which has as its sole or principal object the carrying on of any public benefit activity referred to in section 30 of that Act, if the tax thereon would be legally payable and borne by that institution, board or body;
- (f) to the extent that that security is a participatory interest in a collective investment scheme regulated in terms of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002);
- (g) if that security is transferred to a beneficiary entitled thereto under a trust created in accordance with a will;
- (h) if the person to whom that security is transferred is an heir or a legatee who has acquired that security *ab intestatio* or by way of testamentary succession or as a result of a redistribution of the assets of a deceased estate in the process of liquidation;
- (i) if the person to whom that security is transferred is a spouse in a marriage in community of property who acquires an undivided half-share in that security by operation of law by virtue of the contraction of such marriage, if that security was acquired by the other spouse prior to the date of that marriage;
- (j) if the person to whom that security is transferred is a surviving or divorced spouse who acquires a security from his or her deceased or divorced spouse where that security is transferred to that surviving or divorced spouse as a result of the death of his or her spouse or dissolution of their marriage or union;
- (k) transferred to any sphere of the Government of the Republic or to any sphere of the government of any other country;
- (l) transferred to any “water services provider” as defined in section 1 of the Income Tax Act;
- (m) ...
[\[S 8\(1\)\(m\) rep by s 148\(a\) of Act 24 of 2011 wef 10 January 2012.\]](#)
- (n) if that security is an unlisted security which in terms of the Transfer Duty Act, 1949 (Act 40 of 1949), constitutes a transaction for the acquisition of property that is subject to transfer duty or constitutes a supply of goods that is subject to value-added tax under the Value-Added Tax Act, 1991 (Act 89 of 1991);
[\[S 8\(1\)\(n\) am by s 77\(a\) of Act 34 of 2019 wef 15 January 2020.\]](#)

(o) ...

[S 8(1)(o) rep by s 77(b) of Act 34 of 2019 wef 15 January 2020.]

(p) transferred to any traditional council as referred to in the Communal Land Rights Act, 2004 (Act 11 of 2004), on or before a date that may be determined by the Minister by notice in the *Gazette*;

[S 8(1)(p) am by s 127(b) of Act 60 of 2008 wef 1 January 2009.]

(q) if the person to whom that security is transferred is a member who acquires that security and allocates it to that member's bank restricted stock account or that member's unrestricted and security restricted stock account; or

[S 8(1)(q) am by s 127 of Act 60 of 2008 wef 1 Jan 2009, subs by s 148 of Act 24 of 2011 wef 1 January 2011, s 155(a) of Act 22 of 2012 wef 1 July 2008, s 155 (b) of Act 22 of 2012 wef 1 January 2013.]

(r) if that security was transferred during a month in respect of which—

(i) in the case of an unlisted security, the company which issued that security; or

(ii) in the case of a listed security, the relevant member, relevant participant or the company that issued that security where that security is not held in custody by either a member or a participant,

would have had to pay tax of less than R100 to the Commissioner;

[S 8(1)(r) ins by s 127(d) of Act 60 of 2008 wef 1 January 2009; am by s 155(1)(c) of Act 22 of 2012, by s 155(4) wef 1 January 2011, s 155(1)(e) of Act 22 of 2012, by s 155(5) wef 1 April 2013.]

(s) if that security constitutes a share in a headquarter company as defined in section 1 of the Income Tax Act, 1962 (Act 58 of 1962); or

[S 8(1)(s) ins by s 155(1)(d) of Act 22 of 2012, by s 155(4) wef 1 January 2011; am by s 155(1)(f) of Act 22 of 2012, by s 155(5) wef 1 April 2013.]

(t) if that security constitutes a share in a REIT as defined in section 1 of the Income Tax Act;

[S 8(1)(t) ins by s 155(1)(g) of Act 22 of 2012, by s 155(5) wef 1 April 2013; am by s 138(1)(b) of Act 25 of 2015 wef 1 January 2016.]

(u) if the transfer is from a transferor to a transferee, or vice versa, in terms of a collateral arrangement and the person to whom that security has been transferred has certified to the member or participant that the change is in terms of that collateral arrangement;

[S 8(1)(u) ins by s 138(1)(c) of Act 25 of 2015 wef 1 January 2016.]

- (v) if that security is transferred to a bank, if that bank is not resident in the Republic and is entrusted by the Government of a territory outside the Republic with the custody of the principal foreign exchange reserves of that territory;

[S 8(1)(v) ins by s 77(c) of Act 34 of 2019 wef 15 January 2020.]

- (w) if that security is transferred to any multinational organisation providing foreign donor funding in terms of an official development assistance agreement that is binding in terms of section 231(3) of the Constitution of the Republic of South Africa Act, 1996, to the extent—

- (i) the security is transferred pursuant to the organisation supplying goods or rendering services in relation to projects that are approved by the Minister; or

- (ii) that agreement provides that the transfer of that security to that organisation must be exempt; or

[S 8(1)(w) ins by s 68 of Act 23 of 2020 wef 20 January 2021.]

- (x) if that security is transferred to—

- (i) the African Development Bank established on 10 September 1964;

- (ii) the World Bank established on 27 December 1945 including the International Bank for Reconstruction and Development and International Development Association;

- (iii) the International Monetary Fund established on 27 December 1945;

- (iv) the African Import and Export Bank established on 8 May 1993;

- (v) the European Investment Bank established on 1 January 1958 under the Treaty of Rome; or

- (vi) the New Development Bank established on 15 July 2014.

[S 8(1)(x) ins by s 68 of Act 23 of 2020 wef 20 January 2021.]

(2) The Commissioner may for the purposes of this section prescribe any declaration to be submitted by any person to the participant in respect of any security referred to in subsection (1).

(3) No exemption referred to in subsection (1) applies in respect of any transfer of the security referred to in that subsection, unless there is lodged with a participant a declaration referred to in subsection (2) in respect of that security.

8A. Sharia compliant financing arrangements

- (1) In the case of any murabaha as defined in section 24JA(1) of the Income Tax Act, 1962 (Act 58 of 1962)—
- (a) the financier shall be deemed not to have acquired any beneficial ownership of the security under the sharia arrangement; and
 - (b) the client shall be deemed to have acquired beneficial ownership of the security from the seller—
 - (i) for an amount equal to the consideration paid by the financier to the seller; and
 - (ii) at such time as the financier acquired the beneficial ownership of the security from the seller by virtue of the transaction between the seller and the financier.

[S 8A ins by s 128 of Act 7 of 2010, by s 162(1) of Act 22 of 2012 wef 1 January 2013; subs by s 149 of Act 24 of 2011, by s 180(1) of Act 22 of 2012 wef 1 January 2013.]

9. Schemes for obtaining undue tax benefits

- (1) Notwithstanding any other provision of this Act, whenever the Commissioner is satisfied that any transaction, operation, scheme or understanding (whether enforceable or not), including all steps by which it is carried into effect—
- (a) has been entered into or carried out which has the effect of any person obtaining a tax benefit;
 - (b) having regard to the substance of the transaction, operation, scheme or understanding—
 - (i) was entered into or carried out in a manner which would not normally be employed for *bona fide* business purposes other than the obtaining of a tax benefit; or
 - (ii) has created rights or obligations which would not normally be created between persons dealing at arm's length; and
 - (c) was entered into or carried out solely or mainly for the purposes of obtaining a tax benefit,

the Commissioner must determine the liability for tax, penalties and interest imposed by this Act and the Securities Transfer Tax Administration Act, 2007, and the amount thereof, as if the transaction, operation, scheme or understanding had not been entered into or carried out, or in the manner that the Commissioner in the circumstances of the case deems appropriate for the prevention or diminution of that tax benefit.

- (2) For the purposes of this section “**tax benefit**” means—

- (a) any reduction in the liability of any person to pay tax;
 - (b) any increase in the entitlement of any person to the refund of tax; or
 - (c) any other avoidance or postponement of liability for the payment of tax.
- (3) Any decision of the Commissioner under subsection (1) is subject to objection and appeal in accordance with Chapter 9 of the Tax Administration Act, 2011 (Act 28 of 2011), and whenever in proceedings relating thereto it is proved that the relevant transaction, operation, scheme or understanding results or would result in a tax benefit, it is presumed, until the contrary is proved, that that scheme was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit.

[S 9(3) subs by s 26 of Act 39 of 2013 wef 16 January 2014.]

10. Effect of certain exemptions from taxes

No provision contained in any other law, other than a provision contained in any international agreement contemplated in section 231 of the Constitution, providing for an exemption from any tax shall be construed as applying or referring to the tax payable in terms of this Act.

[S 10 am by s 69 of Act 23 of 2020 wef 20 January 2021.]

11. Repeal of Act

- (1) The Uncertificated Securities Tax Act, 1998 (Act 31 of 1998), is hereby repealed.
- (2) Notwithstanding subsection (1), the provisions of the Uncertificated Securities Tax Act, 1998 (Act 31 of 1998), continue to apply in respect of any change in beneficial ownership in any security before the date of the repeal of that Act as if that Act had not been so repealed.

12. Short title

This Act is called the Securities Transfer Tax Act, 2007.