

BUITENGEWONE
OFFISIËLE KOERANT
VAN SUIDWES-AFRIKA.
OFFICIAL GAZETTE



UITGAWE OP GESAG.

EXTRAORDINARY
OF SOUTH WEST AFRICA.

PUBLISHED BY AUTHORITY.

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INHOUD

CONTENTS

Bladsy/Page

GOEWERMENSKENNISGEWING:

GOVERNMENT NOTICE:

No. 87 Ordonnansie 1966: Uitvaardiging van Ordinance, 1966: Promulgation of 592

Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

J. J. KLOPPER,
Sekretaris van Suidwes-Afrika.

J. J. KLOPPER,
Secretary for South West Africa.

Kantoor van die Administrateur,
Windhoek.

Administrator's Office,
Windhoek.

No. 87.]

[8 Junie 1966 No. 87.]

[8th June, 1966

ORDONNANSIE, 1966: UITVAARDIGING VAN

ORDINANCE, 1966: PROMULGATION OF

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomstig artikel *twee-en-dertig* van „De Zuidwest-Afrika Konstitusie Wet 1925” (Wet 42 van 1925), aan die volgende Ordonnansie wat hiermee vir algemene inligting gepubliseer word, ooreenkomstig artikel *vier-en-dertig* van gemelde Wet:—

The Administrator has been pleased to assent, in terms of section *thirty-two* of the South West Africa Constitution Act, 1925 (Act 42 of 1925), to the following Ordinance which is hereby published for general information in terms of section *thirty-four* of the said Act:—

No.	Titel	Bladsy	No.	Titel	Page
16	Wysigingsordonnansie op Inkomstebelasting 1966	593	16	Income Tax Amendment Ordinance, 1966 . . .	594

No. 16 van 1966.]

ORDONNANSIE

Ter wysiging van die wet op inkomstebelasting deur die invoeging van 'n nuwe artikel wat voorsiening maak vir aanslae by oordrag van besigheidsonderneming deur buitelandse maatskappy aan Suid-Afrikaanse of Suidwes-Afrikaanse filiaal, ter vervanging van die verwysing na die Magistraatshowe Proklamasie 1935 in artikel 85 (2) en ter bepaling van die datums van inwerkingtreding van die wysigings.

(Goedgekeur 3 Junie 1966)

(Engelse teks deur die Administrateur geteken)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

Invoeging van artikel 16A in Ordonnansie 10 van 1961.

1. (1) Die Inkomstebelastingordonnansie 1961 (Ordonnansie 10 van 1961 — hierna heet dit die hoofordonnansie — word hierby gewysig deur die invoeging van die volgende artikel na artikel 16:—

„Aanslae by oordrag van besigheids-onderneming deur buitelandse maatskappy aan Suid-Afrikaanse of Suidwes-Afrikaanse filiaal.

16 A. As die Kommissaris oortuig is dat die omstandighede 'n toegewing regverdig en daar tot sy bevrediging bewys word —

(a) dat 'n maatskappy (hierna die filiaal genoem)

wat in die Republiek van Suid-Afrika of die Gebied geregistreer, bestuur en beheer is of word, ingevolge 'n reëling met 'n ander maatskappy (hierna die buitelandse maatskappy genoem) wat buite die Republiek van Suid-Afrika of die Gebied geregistreer, bestuur en beheer is of word, al die buitelandse maatskappy se bates verkry en al die buitelandse maatskappy se verpligtinge oorgeneem het in verband met 'n industriële, kommersiële of ander besigheidsonderneming van die buitelandse maatskappy in die Republiek van Suid-Afrika of die Gebied, wat deur die buitelandse maatskappy aan die filiaal as 'n lopende saak oorgedra is; en

(b) dat toe die reëling uitgevoer is al die uitgereikte aandele van die filiaal vir sy eie voordeel besit is deur die buitelandse maatskappy of 'n maatskappy wat buite die Republiek van Suid-Afrika of die Gebied geregistreer, bestuur en beheer was en deur die buitelandse maatskappy beheer was of dit beheer het,

word, onderhewig aan enige voorwaardes deur die Kommissaris opgelê, enige belasbare inkomste deur die buitelandse maatskappy verkry, of enige vasgestelde verlies deur hom gely voordat hy opgehou het om bedoelde onderneming voort te sit, en enige belasbare inkomste deur die filiaal verkry of enige vasgestelde verlies deur hom gely nadat bedoelde onderneming aan hom oorgedra is, ingevolge die bepalings van hierdie ordonnansie vasgestel asof, vir sover die buitelandse maatskappy geraak word, hy nie opgehou het om bedoelde onderneming voort te sit nie, en vir sover die filiaal geraak word, bedoelde onderneming, voordat dit aan hom oorgedra is, aan hom behoort het en deur hom voortgesit is.”

(2) Die wysiging aangebring deur subartikel (1) word geag vir die eerste maal in werking te getree het ten opsigte van aanslae vir die aanslagjaar wat op die 30ste dag

No. 16 of 1966.]

ORDINANCE

To amend the law relating to Income Tax by the insertion of a new section providing for assessments on transfer of business undertaking by foreign company to South African or South West African subsidiary, to substitute the reference to the Magistrates' Courts Proclamation, 1935 in section 85 (2) and to fix the dates of commencement of the amendments.

(Assented to 3rd June, 1966)

(English text signed by the Administrator)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. (1) The Income Tax Ordinance, 1961 (Ordinance 10 of 1961) — hereinafter called the principal Ordinance — is hereby amended by the insertion of the following section after section 16:

Insertion of
Section 16A in
Ordinance 10 of
1961.

16 A. If the Commissioner is satisfied that the circumstances warrant a concession and it is proved to his satisfaction —

“Assessments on transfer of business undertaking by foreign company to South African or South West African subsidiary.

- (a) that any company (hereinafter referred to as the subsidiary) which is registered, managed and controlled in the Republic of South Africa or the Territory has under an arrangement with any other company (hereinafter referred to as the foreign company) which is registered, managed and controlled outside the Republic of South Africa or the Territory acquired all the assets and assumed all the liabilities of the foreign company relating to any industrial, commercial or other business undertaking of the foreign company in the Republic of South Africa or the Territory which has been transferred by the foreign company to the subsidiary as a going concern; and
- (b) that at the time the arrangement was implemented all the issued shares of the subsidiary were held for its own benefit by the foreign company or a company which was registered, managed and controlled outside the Republic of South Africa or the Territory and was controlled by or controlled the foreign company,

any taxable income derived or any assessed loss incurred by the foreign company prior to the discontinuance by it of the said undertaking and any taxable income derived or assessed loss incurred by the subsidiary after the transfer to it of such undertaking shall, subject to any conditions imposed by the Commissioner, be determined in accordance with the provisions of this ordinance as though, so far as the foreign company is concerned, such undertaking had not been discontinued by it and, so far as the subsidiary is concerned, such undertaking had belonged to and had been carried on by it prior to the transfer to it of such undertaking.”

(2) The amendment effected by sub-section (1) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the 30th day of June, 1965.

Wysiging van
artikel 85 van
Ordonnansie 10
van 1961.

2. (1) Artikel 85 (2) van die hoofordonnansie word hierby gewysig deur die woorde „die Magistraatshowe Proklamasie 1935 (Proklamasie 31 van 1935)” te vervang deur die woorde „die Ordonnansie op Landdroshowe 1963 (Ordonnansie 29 van 1963)”.

(2) Die wysiging aangebring deur subartikel (1) word geag in werking te getree het op die eerste dag van Julie 1965.

Kort titel.

3. Hierdie ordonnansie heet die Wysigingsordonnansie op Inkomstebelasting 1966.

2. (1) Section 85 (2) of the principal Ordinance is hereby amended by the substitution of the words "the Magistrate's Courts Ordinance, 1963 (Ordinance 29 of 1963)" for the words "the Magistrates' Courts Proclamation, 1935 (Proclamation 31 of 1935)".

Amendment of
section 85 of
Ordinance 10 of
1961.

(2) The amendment effected by sub-section (1) shall be deemed to have come into operation on the first day of July, 1965.

3. This ordinance shall be called the Income Tax Amendment Ordinance, 1966.

Short title.