

REVENUE

Petroleum (Taxation) Act 3 of 1991

Summary: This Act ([GG 179](#)) provides for the levying and collection of a petroleum income tax and additional profits tax in respect of certain income received or accrued in connection with petroleum exploration, development or production operations. It came into force on 30 September 1992, in terms of section 25 as amended by the Petroleum Matters (Amendment and Validation) Act 27 of 1992 ([GG 489](#)).

Amendments: The Act is amended by the Petroleum Matters (Amendment and Validation) Act 27 of 1992 ([GG 489](#)) (section 25) and the Petroleum Laws Amendment Act 24 of 1998 ([GG 1954](#)), which was brought into force on 1 April 1999 by GN 44/1999 ([GG 2075](#)) (sections 1, 6, 8, 9, 10, 14, 16, 19, 21, 22 and insertion of a new Part IIIA).

Application of law: The administration of this Act is affected by the Namibia Revenue Agency Act 12 of 2017 ([GG 6486](#)).

Regulations: The Act makes no provision for regulations.

Amortization Fund Repeal Act 7 of 1992

Summary: This Act ([GG 391](#)) repeals the Amortization Fund of South West Africa Act 11 of 1987 and provides that all moneys in the Amortization Fund be transferred to the State Revenue Fund. It has no other ongoing effect.

Moratorium on the Payment of Stamp Duty or Transfer Duty in Respect of Rationalisation Schemes Act 13 of 1993

Summary: This Act ([GG 696](#)) provides that certain acquisitions of marketable securities or property or the transfer of certain rights or obligations under mortgage bonds under a scheme for the rationalization of a group of companies shall be exempt from stamp duty and transfer duty. It also provides for the assessment of companies in any such group for income tax purposes in certain circumstances. It was brought into force on 1 September 1993 by GN 97/1993 ([GG 707](#)).

Amendments: Act 26/1994 ([GG 968](#)), which is deemed to have come into force on 1 September 1993, amends sections 1 and 2.

Transfer Duty Act 14 of 1993

Summary: This Act ([GG 697](#)) consolidates and amends the laws relating to transfer duty. It was brought into force on 1 September 1993 by GN 96/1993 ([GG 707](#)). It repeals the *Transfer Duty Act 40 of 1949*.

Amendments: Act 20/2003 ([GG 3119](#)) substitutes section 2 and amends section 9 of the Act; this amendment came into force on the first day of the month following the month of its

publication in the *Government Gazette*, which made it effective as of 1 January 2004.

Act 3/2010 ([GG 4472](#)) amends section 2; this amendment came into force one month after the date of its publication in the *Government Gazette*, which made it effective from 29 May 2010.

Act 8/2010 ([GG 4494](#)) amends section 2 and came into force on the date of promulgation (1 June 2010).

Act 6/2013 ([GG 5208](#)) amends section 2 and came into force on the first day of the month following the month of its publication in the *Government Gazette*, which made it effective as of 1 June 2013.

Application of law: Export Processing Zones are exempted from transfer duties by section 5 of the Export Processing Zones Act 9 of 1995 ([GG 1069](#)).

The administration of this Act is affected by the Namibia Revenue Agency Act 12 of 2017 ([GG 6486](#)).

Regulations: The Act makes no provision for regulations.

Cases: *Permanent Secretary of Finance & Another v Shelfco Fifty-One (Pty) Ltd* 2007 (2) NR 774 (SC); *Ellis & Others NNO v Noabeb* 2015(2) NR 325 (HC) (simulated transaction intended to evade transfer duty is *in fraudem legis* of the Act and therefore void; analysed in John Balero and Phillipus Balhao, "The application of trust law in *Ellis v Noabeb*: Did the court raise the correct issue?", *Namibia Law Journal*, Volume 11, Issue 1, 2019).

Stamp Duties Act 15 of 1993

Summary: This Act ([GG 698](#)) consolidates and amends the laws relating to stamp duties, replacing the *Stamp Duties Act 77 of 1968*. It was brought into force on 1 September 1993 by GN 98/1993 ([GG 707](#)).

Amendments: Act 12/1994 ([GG 924](#)) amends section 5 and Schedule 1, with retroactive effect from 1 September 1993.

Act 12/2011 ([GG 4861](#)) substitutes Item 16 in Schedule I. This amendment came into force on the first day of the month following its publication in the *Government Gazette*, making it effective from 1 January 2012. (See section 2 of Act 12/2011.)

Note that Act 12/2011 erroneously refers throughout to Schedule I. The principal Act does not contain a Schedule I.

Act 7/2013 ([GG 5209](#)) substitutes Item 16 in Schedule 1 and came into force on the first day of the month following the month of its publication in the *Government Gazette*, making it effective as of 1 June 2013.

Note that the heading of section 1 of the amending Act erroneously refers to Schedule I. The text of section 1 of the amending Act, however, correctly refers to Schedule 1. The principal Act does not contain a Schedule I.

Application of law: The administration of this Act is affected by the Namibia Revenue Agency Act 12 of 2017 ([GG 6486](#)).

Regulations: Regulations and notices made under the repealed Act survive in terms of section 36(2). Pre-independence regulations have not been researched.

Regulations are authorised by section 33 of this Act. No post-independence regulations have been promulgated.

Notices: Notices made under the repealed Act survive in terms of section 36(2). Since independence, a notice under the previous Act was issued in GN 12/1990 ([GG 33](#)) (new issue of stamps) and regulations concerning the demonetization and withdrawal of stamps were issued in GN 13/1990 ([GG 33](#)).

Exemptions: Export Processing Zones are exempted from stamp duties by section 5 of the Export Processing Zones Act 9 of 1995 ([GG 1069](#)).

Value-Added Tax Act 10 of 2000

Summary: This Act ([GG 2337](#)) replaces sales tax with VAT. It repeals the Sales Tax Act 5 of 1992 ([GG 386](#)) and the Additional Sales Levy Act 11 of 1993 ([GG 694](#)). It was brought into force on 27 November 2000 by GN 220/2000 ([GG 2402](#)).

Amendments: Act 34/2000 ([GG 2465](#)) amends the Act and the Schedules to the Act substantially. It is deemed to have come into force on the date of commencement of the primary Act. (See section 34 of Act 34/2000.)

Tariff changes were made to Schedule II by GN 54/2002 ([GG 2717](#)), under the authority of paragraph 3 of that Schedule, but Schedule II was subsequently repealed by Act 6 of 2002.

The primary Act is substantially amended by Act 6/2002 ([GG 2818](#)), which came into force on 1 November 2002. (See section 15 of Act 6/2002, which provides that the amending Act shall come into force on the first day of the month following the month in which it is published in the *Gazette*.)

Act 12/2004 ([GG 3282](#)) amends the Act and the Schedules to the Act substantially. This amending act came into force on the first day of the month following the month of publication, which made it effective on 1 October 2004 – except for sections 1 and 2 which are deemed to have come into force on 1 October 2002, section 4 which is deemed to have come into force on 28 November 2002, and section 10 to the extent that it relates to subparagraph (o) of paragraph 2 of Schedule V, which is deemed to have come into force on 1 April 2004. (See section 11 of Act 12/2004 regarding commencement dates.)

Act 2/2007 ([GG 3874](#)) – which came into force the first day of the month following the month of publication, making it effective as of 1 August 2007 (with the exception of section 2, which is deemed to have commenced on 27 November 2000) – amends sections 1, 18, 19, 27 and Schedule IV, and inserts section 46A. (See section 7 of Act 2/2007 regarding commencement dates.)

Act 4/2008 ([GG 4084](#)) amends Schedule III. It came into force on the first day of the month following the month of publication, which made it effective on 1 August 2008. (See section 2 of Act 4/2008.)

Act 4/2010 ([GG 4474](#)) amends sections 3, 7, 8, 18, 46A, Schedule III and Schedule IV. It came into force on the first day of the month following the month of publication, which made it effective on 1 May 2010. (See section 8 of Act 4/2010.)

Act 11/2011 ([GG 4860](#)) amends sections 23, 28, Schedule III and Schedule IV. It came into

force on the first day of the month following the month of publication, which made it effective on 1 January 2012. (See section 5 of Act 11/2011.)

Act 12/2015 ([GG 5911](#)) amends sections 14-17, 23, 61 and Schedule IV, and inserts sections 37A and 84A. It came into force on the first day of the month following the month of publication, which made it effective on 1 January 2016. (See section 5 of Act 11/2011.)

Application of law: See General Notice 279/2002 ([GG 2823](#)) with respect to the implementation by Telecom Namibia of the amendments to section 1 of this Act by Act 34 of 2000.

The administration of this Act is affected by the Namibia Revenue Agency Act 12 of 2017 ([GG 6486](#)).

Regulations: Regulations are authorised by section 84 of the Act, but none have yet been promulgated.

Notices: A special court for hearing value added tax appeals is constituted in GN 321/2017 ([GG 6490](#)).

Cases: *Commissioner of Inland Revenue v Namsoy Fishing Enterprises (Pty) Ltd* 2008 (1) NR 89 (SC); *Moolman & Another v Jeandre Development CC* 2016 (2) NR 322 (SC) (discussion of meaning of “taxable supply”).

***Namibia Revenue Agency Act 12 of 2017**

Summary: This Act ([GG 6486](#)) establishes the Namibia Revenue Agency and gives it authority over the administration of seven different revenue laws:

- Customs and Excise Act 20 of 1998
- Export Levy Act 2 of 2016
- Income Tax Act 24 of 1981
- Petroleum (Taxation) Act 3 of 1991
- Stamp Duties Act 15 of 1993
- Transfer Duty Act 14 of 1993
- Value-Added Tax Act 10 of 2000.

It will be brought into force on a date set by the Minister by notice in the *Government Gazette*.

See also **CUSTOMS AND EXCISE**.

See also **FINANCE AND DEVELOPMENT**.

See also **IMPORT AND EXPORT**.

See also **INCOME TAX**.

See also Petroleum Products and Energy Act 13 of 1990 (fuel levies) (**FUEL AND ENERGY**).

See also **REGIONAL AND LOCAL GOVERNMENT**.