



MEDIA STATEMENT

Diamond Export Levy Bill

The Diamond Export Levy Bill is required to give effect to certain provisions of the Diamonds Act, 1986, as amended. Section 73(2) of the Constitution requires that only the Minister of Finance may introduce money bills in Parliament, and it also has to be a separate bill from the primary legislation (ie Diamond Act).

The Diamond Export Levy Bill's main objective is to support the local beneficiation of rough diamonds. The beneficiation of rough diamonds is seen as important to encourage the development of the local economy, skills and employment creation. The Bill proposes a 5 per cent export levy on rough diamonds that should contribute towards local beneficiation, but is low enough so as not to unduly encourage smuggling.

Tax rate and base

The export levy of 5 per cent replaces the current 15 per cent export levy as provided for in the Diamonds Act, 1986. The 5 per cent levy applies to all rough (natural unpolished) diamonds that are exported. Synthetic - human made - diamonds are exempted from this tax. The levy amount will be equal to 5 per cent of the value of a rough diamond exported, as specified on a return described in Section 61 of the Diamonds Act, 1986 or of the value as assessed by the Diamond and Precious Metals Regulator described in section 65 of the Diamonds Act, 1986.

Relief measures

The Bill contains relief measures that may offset the 5 per cent levy in full or in part. These relief measures are designed to deal with weaknesses previously arising from similar relief measures in the Diamonds Act and at the same time minimize eliminate any potential distortions and / or unintended negative consequences of the export levy.

Only producers (or dealers who form part of the holding company of a producer) may take advantage of the relief measures. Independent dealers, cutters, and polishers will not be able to access the relief measures.

An import credit

A producer is entitled to receive a credit for imported rough diamonds. The credit will offset (in full or in part) a producer's export duty liabilities. The credit is calculated on the same basis as the export duty; 5 per cent of the value of rough diamonds imported. The Commissioner of SARS may, in determining the value of any imported rough diamond, adjust the value to reflect an arm's length price with respect to that diamond, after consultation with the Diamond and Precious Metals Regulator.

Ministerial exemption in terms of the Diamonds Act

The Minister of Minerals and Energy has the power to exempt a producer from the requirement to offer its rough diamonds intended for export, for sale at the Diamond Exchange and Export Centre. The granting of such an exemption by the Minister of Minerals and Energy will be accompanied by an automatic exemption from the 5 per cent export levy. An objective set of criteria for granting an exemption to offer rough diamonds intended for export at the Diamond Exchange and Export Centre by the Minister of Minerals and Energy will be spelled out in regulations issued in terms of the Diamonds Act.

Ministerial exemption at the Diamond Exchange and Export Centre

The Minister of Minerals and Energy may also exempt a producer from the 5 per cent export levy if:

- (1) A producer's activities are supportive of local diamond beneficiation, or
- (2) the producer has a annual turnover of less than R10 million, a small miner, and such a producer has offered his or her rough diamonds for sale at the Diamond Exchange and Export Centre but there were no local buyers.

However, the diamonds must subsequently be sold for an amount at least equal to the reserve price at which such diamonds were offered at the centre. These conditions preserve South African's "right of first refusal" with respect to bidding on any rough diamond intended for export.

Administration

The Bill provides for two sets of levy payers – producers (diamond miners, including a dealer that forms part of the same group) and non-producers (dealers, cutters and polishers). Producers must register with the South African Revenue Service and pay their export levies twice per year (every 6 months) and non-producers must pay the full levy when exporting rough diamonds. Producer-level registration is critical because most diamond smuggling stems from record defects at the local producer-level.

The definition of producer (contained in section 1 of the Bill) extends beyond holders of mining rights to reflect the economic reality of group operations, which often separate mining from sales.

Public Comments and Tabling of Bill

The comment period for the Bill closes on 31 October 2006. The Bill will be submitted to Parliament for tabling by 2 November 2006.

The bill is available for public comment on www.treasury.gov.za and comments should be sent to will.bautista@treasury.gov.za

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