national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

**THE DIAMOND EXPORT LEVY BILL, 2007**

**NATIONAL ASSEMBLY DEBATE**

**MINISTER OF FINANCE, MP**

**23 AUGUST 2007**

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**Introduction**

Madam Speaker, the imposition of an export levy on rough diamonds is currently contained in the Diamonds Act of 1986. However, given our new Constitutional dispensation, amendments to the Diamonds Act of 1986 during 2005 have resulted in the need for amendments to provisions relating to the export levy on rough diamonds, hence the need for a separate Money Bill.

## Beneficiation

The intent of the export levy on rough diamonds is to facilitate adequate and regular supplies of rough diamonds to local cutters and polishers (diamond beneficiators). The Diamonds Act of 1986 was only partially successful in this regard. The Department of Minerals and Energy accordingly amended the Diamonds Act in 2005 to improve the regulatory provisions. The revised export levy on rough diamonds is intended to complement these regulatory provisions.

## Revised levy rate

The export levy on rough diamonds in the Diamonds Act of 1986 is currently set at 15 per cent. However, this Act provided for relatively generous and open-ended exemptions. The proposed Diamond Levy Bill, 2007 reduce the export levy on rough diamonds to 5% but tighten the relief provisions, thereby laying a foundation for increased effectiveness.

**Relief measures / exemptions**

The proposed relief measures ensure that the local supply of rough diamonds is commensurate with local demand. No reason exists to force diamonds onto the local market beyond local capacity. The core element of these incentives is to encourage producers to supply the local market with rough diamonds; the remainder can be exported tax free.

**(1) Relief for large producers**

As a general rule, the Diamonds Act of 1986, as amended in 2005, requires that all rough diamonds intended for export must be offered via a tender process at a Diamond Export and Exchange Centre (DEEC) for sale. However, in the case of large producers (annual sales in excess of R3 billion), the Minister of Minerals and Energy may waive the requirement to offer all rough diamonds on the DEEC. In addition, the Diamond Export Levy Bill provides a large producer with an exemption from the diamond export levy provided it has met certain conditions, which are essentially similar to those required by the Minister of Minerals and Energy.

### (2) Relief for medium producers

A medium size producer (annual sales between R20 million and R3 billion) can obtain relief from the diamond export levy if 15% of that producer's total annual gross sales is to local diamond beneficiators.

### (3) Exemption for small producers

In order for this exemption to apply, a producer's total annual sales must not exceed R20 million. Anti-avoidance measures exist to prevent producers from splitting sales across several controlled companies for purposes of qualifying as small producers, and thereby avoiding the levy.

### (4) Relief for diamond beneficiators

It is not always possible for a diamond beneficiator to cut and polish 100 per cent of the diamonds purchased. The Regulator may accordingly grant a beneficiator permission to export rough diamonds if the local beneficiator will cut and polish at least 80% of the diamonds purchased. Once this permit is issued, the diamond beneficiator is exempt from the export levy in respect of the 20 per cent remainder (off-cuts) that might be exported.

## Summary

Whilst the purpose of the export levy is primarily regulatory in nature (i.e., not primarily intended to raise revenue), the import credit and exemptions may be limited in order to raise revenue if deemed necessary (*e.g. to fund the activities of the Regulator).* However, at this time we see no need for this limitation because the new Regulator and all related administrative expenses are being fully funded on budget.

Secondly, given the historical context of the local diamond industry and the nature of how the local diamond market players operate there is a higher local benficiation requirements on large producers. In addition to the requirement to sell a certain percentage of their output to the State Diamond Trader (about 10%), large producers have a 40% local sales requirement; whereas, medium producers face a 15% requirement and small producers must merely offer their diamonds on the DEEC before it is exported.

Lastly, the diamond export levy will not be deductible for Income Tax purposes. It is clear that the export levy can by avoided in full if producers meet the necessary requirements to supply local beneficiators. Hence, the levy effectively acts as a penalty where a producer fails to meet these local supply requirements. It is therefore reasonable to argue that, given its penalty nature, this levy should not be considered as being deductible expenses for Income Tax purposes.

I would like to take this opportunity, Madam Speaker, to thank the Deputy Minister Jabu Moleketi, the Director-General of National Treasury, Lesetja Kganyago, and his team. Lastly I would like to thank the Portfolio Committee on Finance, under the chairpersonship of Mr Nhlanhla Nene and the Portfolio Committee on Minerals and Energy under the chairpersonship of Mr Nkosinathi Mthethwa for their input in finalising this bill.

Madam Speaker, I hereby request that the House pass the Diamond Export Levy Bill, 2007.

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