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THE PRESIDENCY

No. 1171

10 December 2007

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 15 of 2007: Diamond Export Levy Act, 2007.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 2 December 2007.)*

ACT

To provide for the imposition of an export levy on unpolished diamonds (but not including synthetic diamonds) and allow for offsets with respect to that levy.

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

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Part I

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*Interpretation***Definitions**

1. (1) In this Act, unless the context indicates otherwise—

“**Administration Act**” means the Diamond Export Levy (Administration) Act, 2007; 10

“**bill of entry for export**” means a bill of entry delivered in terms of section 38(3)(a) of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“**Diamonds Act**” means the Diamonds Act, 1986 (Act No. 56 of 1986);

“**levy**” means any levy payable as described in section 2(1);

“**person**” includes an insolvent estate, the estate of a deceased person and any trust; 15

“**producer**” means—

(i) a producer as defined in the Diamonds Act; or

(ii) any company (other than a producer described in paragraph (i)) that—

(a) is incorporated in or outside of the Republic and forms part of the same group for financial reporting purposes pursuant to International Financial Reporting Standards or Generally Accepted Accounting Practice as that producer; and 20

(b) sells unpolished diamonds purchased from (or on behalf of) that producer; and 25

“**unpolished diamond**” means an unpolished diamond as defined in section 1 of the Diamonds Act, but does not include a synthetic diamond as defined in section 1 of that Act.

- (2) Unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Diamonds Act or the Administration Act bears the meaning so assigned for purposes of this Act. 30

*Part II***Basic levy regime****Charging provision**

2. (1) Any person is liable for the levy whenever that person delivers (or should have delivered) a bill of entry for export in respect of any unpolished diamond. 35

(2) The levy in respect of an unpolished diamond equals the levy rate multiplied by the value of that diamond as released for export in terms of section 69 of the Diamonds Act.

- (3) Any amount payable in terms of this Act must be paid for the benefit of the National Revenue Fund. 40

Rates

3. The levy applies at a 5 per cent rate.

Part III**General relief measures****Import credit**

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4. (1) Any person registered under section 2 of the Administration Act is entitled to receive a credit in respect of any unpolished diamond imported into the Republic on the date a registering officer releases that diamond for import as described in section 69B of the Diamonds Act.

- (2) The credit described in subsection (1) equals—

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- (a) the levy rate; multiplied by
(b) the value in respect of that diamond as released for import in terms of section 69B of the Diamonds Act.

(3) All credits described in subsection (2) arising during an assessment period apply as an offset against the levy paid or payable in respect of that assessment period.

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(4) To the extent credits remain after the offset described in subsection (3), those credits will be deemed to arise in the immediately succeeding assessment period.

(5) A person is not entitled to receive any credits described in this section in respect of any unpolished diamond if that diamond was previously exported under—

- (a) the cover of a temporary exemption certificate described in section 5; or
(b) the cover of an election described in section 6.

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(6) A person is not entitled to receive credits described in this section in respect of any unpolished diamond imported during any assessment period in which that person qualifies for relief in terms of Part IV.

Relief for temporary exports

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5. Notwithstanding section 2(1), the levy does not apply to any unpolished diamond covered by a temporary exemption certificate described in section 64 of the Diamonds Act.

Relief for election purchases

6. Notwithstanding section 2(1), any person that purchases an unpolished diamond at a diamond exchange and export centre in respect of which an election described in section 8(1) of the Administration Act applies is not subject to the levy in respect of that diamond if that person—

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- (a) delivers a bill of entry for export in respect of that diamond within 10 business days after that purchase; and
(b) provides a copy of that election with the bill of entry for export.

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Part IV**Producer and diamond beneficiator relief measures****Exemption for large producers**

7. (1) Notwithstanding section 2(1), if during any assessment period—
(a) the sum of a producer's gross sales to diamond beneficiators described in section 11(1)(a) for that assessment period and the immediately preceding assessment period equal at least 40 per cent of the sum of that producer's total

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