CHAPTER 374

THE TAX RESERVE CERTIFICATES ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

CHAPTER 374

THE TAX RESERVE CERTIFICATES ACT

An Act to provide for the issue of Tax Reserve Certificates and for the satisfaction of liability for tax and for related matters.

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Ords. Nos.

17 of 1956

36 of 1956

21 of 1958

[R.L. Cap. 374]

Act No. 16 of 1983

[PCh374s1]1. Short title

This Act may be cited as the Tax Reserve Certificates Act.

[PCh374s2]2. Interpretation Act No. 16 of 1963 s. 56

In this Act–

"Accountant-General", in relation to any power or duty to be exercised or performed under this Act, includes any person to whom that power or duty has been delegated under section 13;

"Act" means the Income Tax Act *;

"Commissioner" means the Commissioner for Income Tax appointed under section 129 of the Act;

"Minister" means the Minister responsible for finance;

"prescribed" means prescribed by regulations under section 17;

"registered holder" means the person registered as the holder of a certificate pursuant to section 5;

"tax" means income tax and surtax charged under the Act.

[PCh374s3]3. Issue of certificates Act No. 16 of 1983 s. 57

The Minister may issue, and may regulate the issue of, tax reserve certificates in any form and of the denominations and subject to any conditions which he may prescribe.

[PCh374s4]4. Purchase of certificates

Any person, on making application in the prescribed manner to the Accountant-General and on paying an amount equal to its face value, shall be entitled to purchase certificates.

[PCh374s5]5. Registration of purchase and transfer

The purchaser and, in the case of a transfer, the transferee, of a certificate shall be registered by the Accountant-General as its registered holder in the prescribed manner.

[PCh374s6]6. Satisfaction of tax by certificates

It shall be lawful for the registered holder to transfer in the prescribed manner to the Commissioner, and for the Commissioner to accept, any certificates at their face value in payment of the whole or, as the case may be, of part, of any amount due or payable in respect of any tax.

[PCh374s7]7. Interest Ord. No. 21 of 1958 s. 2; Act No. 16 of 1983 s. 57

(1) Subject to the provisions of section 10 there shall be paid on the face value of any certificate interest at the prescribed rate for every completed month commencing on the first day of the month next following the date of its purchase and ending on the last day of the month–

(a) immediately preceding that in which it is transferred in payment of tax pursuant to section 6; or

(b) immediately preceding that in which it is surrendered pursuant to subsection (2) of section 10; or

(c) which completes a period of three years after the first day of the month next following the date of its purchase,

whichever is the earlier.

(2) Interest payable under the provisions of subsection (1) of this section shall be paid by the Accountant-General–

(a) in the case of a transfer to the Commissioner pursuant to section 6, to the registered holder who so transfers it, on receipt by the Accountant-General of notification in the prescribed manner of the transfer; and

(b) in the case of a surrender to the Accountant-General pursuant to section 10 (where the Minister has authorised the payment of interest), to the registered holder who surrenders it, on its surrender.

(3) Where a certificate is transferred in payment of tax on or before the due date for payment (within the meaning of the Act) that certificate shall, for the purposes of paragraph (a) of subsection (1) of this section, be deemed to have been transferred on the day following that due date for payment.

[PCh374s8]8. Certificates not normally transferable Ord. No. 36 of 1956 s. 2

(1) Save as is provided in section 6, a certificate may not be transferred to any person unless the Accountant-General, being satisfied that the transfer is necessary for the avoidance of undue hardship to any person or is in the public interest, has given his prior consent in writing:

Provided that nothing in this section shall prevent the transfer or transmission of a certificate by operation of law or the attachment or sale of any certificate in execution of any decree.

(2) On the transfer or transmission of a certificate pursuant to the provisions of this Act or by operation of law or on the sale of any certificate which has been attached in execution of any decree, the transferee shall notify the Accountant-General of the transfer in the prescribed manner.

(3) On the transfer or transmission of a certificate, otherwise than to the Commissioner pursuant to section 6, the transferee shall pay the prescribed fee to the Accountant-General.

[PCh374s9]9. Maximum holdings Act No. 16 of 1983 s. 57

(1) Save with the prior written approval of the Minister, no person may, at any one time, hold a certificate or several certificates of, or adding up to a value of more than fifty million shillings.

(2) Where a person wishes to purchase a certificate of a value exceeding fifty million shillings, or a certificate which if bought in addition to the other certificate or certificates he

already holds would render him a holder of certificates of a value exceeding fifty million shillings, he shall apply in writing in that behalf to the Minister.

(3) An application made to the Accountant-General under section 4, pointing out the fact the certificate applied for if granted would render the applicant a holder of certificates of a value exceeding fifty million shillings, shall be deemed to be a proper application to the Minister for the purposes of this section.

(4) Where it appears to the Accountant-General that an application made for the purposes of section 4 does not comply with subsection (3) of this section and would, if granted contravene the provisions of subsection (1) he shall forthwith refer the matter to the Minister whose decision on it shall be final and shall be complied with by the applicant as well as the Accountant-General.

(5) A decision by the Minister upon an application made under subsection (2) of this section shall be final, and shall be complied with by the applicant as well as the Accountant-General.

[PCh374s10]10. Redemption by registered holder Act No. 16 of 1983 s. 57

(1) The registered holder of a certificate may at any time after the expiration of three years after the first day of the month next following the date of purchase, on giving not less than three months' notice in writing to the Accountant-General, surrender the certificate to the Accountant-General in the prescribed manner and, on so surrendering the certificate, shall be entitled to be paid an amount equivalent to its face value.

(2) In the event of the death of the registered holder, or in any other special circumstances, the Accountant-General may permit the surrender of a certificate before the expiration of the period of three years specified in subsection (1) of this section.

(3) No interest shall be payable in respect of any certificate surrendered under the provisions of this section unless, in the opinion of the Minister, the circumstances in which the certificate is surrendered justify the payment of interest and he authorises the payment of interest accordingly.

[PCh374s11]11. Redemption by Commissioner

The Commissioner may at any time surrender a certificate to the Accountant-General by delivery and on so surrendering the certificate shall be entitled to be paid an amount equivalent to its face value.

[PCh374s12]12. Issue of duplicate certificates

(1) Subject to the provisions of subsection (2) of this section a duplicate of any certificate lost, destroyed or mutilated may, on application in the prescribed manner and on payment of the prescribed fee, be obtained by the registered holder from the Accountant-General.

(2) In the case of a lost certificate, no duplicate may be issued until the loss has been advertised in the Gazette at the expense of the registered holder.

(3) On the issue of a duplicate, the certificate which it replaces shall immediately for all purposes cease to be operative and become null and void.

(4) On the issue of a duplicate, the certificate which it replaces shall immediately become the property of the Accountant-General and shall be immediately returned to him by any person into whose possession, custody or control it comes.

[PCh374s13]13. Devolution of powers and duties of Accountant-General

The Minister may, by notice published in the Gazette, order that all or any of the powers and duties of the Accountant-General under this Act shall be exercisable and performed by any person specified in the notice and the powers and duties so delegated shall accordingly be exercisable and performed by the person so specified.

[PCh374s14]14. Surrender for certificates of less value Ord. No. 36 of 1956 s. 3

(1) The registered holder may at any time on application in the prescribed manner surrender a certificate to the Accountant-General in exchange for two or more certificates of a face value less than, but in the aggregate equivalent to, the face value of the certificate so surrendered.

(2) Every certificate issued in exchange for a certificate surrendered under the provisions of subsection (1) of this section shall, for the purposes of section 7, be deemed to have been purchased on the date on which the surrendered certificate was purchased or deemed to be purchased.

[PCh374s15]15. Proceeds of certificates to form part of general revenue

The moneys received for the purchase of any certificate shall be paid into and form part of the general revenues and other funds of the United Republic and any amount required for the redemption of any certificate and for the payment of any interest omit shall be paid by the Accountant-General from the general revenues and other funds of the United Republic which are hereby charged with such payments for that purpose.

[PCh374s16]16. Certificates to be deemed a cheque under Cap. 16

For the purposes of Chapter XXXV of the Penal Code a certificate shall be deemed to be a cheque.

[PCh374s17]17. Regulations

The Minister may make regulations for the better carrying out of the purposes and provisions of this Act and for prescribing anything which is or may be prescribed.

[PCh374s18]18. No derogation from Act

Nothing in this Act shall derogate from the provisions of the Act.