

**BASUTOLAND, BECHUANALAND  
PROTECTORATE, SWAZILAND  
HIGH COMMISSIONER'S NOTICE  
No. 139 of 1944.**

The subjoined Agreement which has been concluded between the High Commissioner and the Officer Administering the Government of the Union of South Africa in terms of section *one* of Proclamation No. 66 of 1941, section *thirty-seven* of Proclamation No. 58 of 1941 and section *thirty-seven* of Proclamation No. 15 of 1942 for the prevention of the levying of death duties under the laws of the Union of South Africa and of the Territories of Basutoland, the Bechuanaland Protectorate and Swaziland in respect of the same assets is hereby published for general information.

By Command of His Excellency  
the High Commissioner.

H. E. PRIESTMAN,  
Administrative Secretary.

High Commissioner's Office,  
Pretoria, 5th August, 1944.

**AGREEMENT**

BETWEEN THE OFFICER ADMINISTERING THE GOVERNMENT OF THE UNION OF SOUTH AFRICA AND THE HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND FOR THE PREVENTION OF THE LEVYING OF DEATH DUTIES UNDER THE LAWS OF THE UNION OF SOUTH AFRICA AND OF THE TERRITORIES OF BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND IN RESPECT OF THE SAME ASSETS.

The Officer Administering the Government of the Union of South Africa (the Union of South Africa hereinafter referred to as "the Union") and the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland (Basutoland, the Bechuanaland Protectorate and Swaziland being hereinafter referred to as "the Territories"), being desirous of concluding an agreement for the prevention of the levying of death duties under the laws of the Union and of the Territories in respect of the same assets, have agreed as follows:—

**ARTICLE 1.**

The High Commissioner for the Territories undertakes that, so long as the exemption specified in Article 2 hereof remains effective, there shall be exempted from death duties chargeable in the Territories any movable property of any person who, at the date of his death, was ordinarily resident in the Union, if that property was, at that date, physically situated in any of the Territories.

#### ARTICLE 2.

The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in Article 1 hereof remains effective, there shall be exempted from death duties chargeable in the Union any movable property of any person who, at the date of his death, was ordinarily resident in any of the Territories, if that property was at that date, physically situated in the Union.

#### ARTICLE 3.

(1) In the case of any debt which, at the date of death of any deceased person, is secured upon immovable property by bonds registered both in the Union and in any of the Territories—

(a) The High Commissioner for the Territories undertakes that, so long as the exemption specified in paragraph (b) hereof remains effective, there shall be exempted from death duties chargeable in the Territories such amount as bears the same proportion to the total debt so secured as the value of the property or properties situated in the Union and mortgaged in security of such debt bears to the aggregate value of the properties situated in both the Union and any of the Territories and mortgaged in security of such debt.

(b) The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in paragraph (a) hereof remains effective, there shall be exempted from death duties chargeable in the Union such amount as bears the same proportion to the total debt so secured as the value of the property or properties situated in any of the Territories and mortgaged in security of such debt bears to the aggregate value of the properties situated in both the Union and any of the Territories and mortgaged in security of such debt.

(2) The value of the properties for the purpose of determining the proportion of any debt to be exempted from duties in terms of this Article shall be the value of such properties at the date of death of the deceased person concerned, calculated in a common standard of currency.

#### ARTICLE 4.

In the case of any debt which, at the date of death of any deceased person, is secured upon immovable property by a bond registered either in the Union or in any of the Territories and is recoverable both in the courts of the Union and the courts of any of the Territories—

(1) The High Commissioner for the Territories undertakes that, so long as the exemption specified in paragraph (2) hereof remains effective, there shall be exempted from death duties

chargeable in the Territories any such debt, if the bond by which it is secured is registered in the Union.

(2) The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in paragraph (1) hereof remains effective, there shall be exempted from death duties chargeable in the Union any such debt, if the bond by which it is secured is registered in the Territories.

#### ARTICLE 5.

In the case of any debt recoverable or right of action enforceable, at the date of death of any deceased person, both in the courts of the Union and the courts of any of the Territories (other than a debt secured upon a bond registered either in the Union or any of the Territories, or both in the Union and any of the Territories)—

(1) The High Commissioner for the Territories undertakes that, so long as the exemption specified in paragraph (2) hereof remains effective, there shall be exempted from death duties chargeable in the Territories any such debt or right of action if the person entitled to recover such debt or enforce such right of action was, at the date of his death, ordinarily resident in the Union.

(2) The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in paragraph (1) hereof remains effective, there shall be exempted from death duties chargeable in the Union any such debt or right of action, if the person entitled to recover such debt or enforce such right of action was at the date of his death ordinarily resident in any of the Territories.

#### ARTICLE 6.

The High Commissioner for the Territories undertakes that, so long as the exemption specified in Article 7 hereof remains effective, there shall be exempted from death duties chargeable in the Territories any stocks or shares in any Company carrying on business or having an office or place of business in any of the Territories, if any transfer whereby ownership of such stocks or shares is recorded is required to be registered in any of the Territories, provided such stocks or shares were the property, at the date of his death, of any person who, at that date, was ordinarily resident in the Union.

#### ARTICLE 7.

The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in Article 6 hereof remains effective, there shall be exempted from death duties chargeable in the Union any stocks or shares in any Company

carrying on business or having an office or place of business in the Union, if any transfer whereby ownership of such stocks or shares is recorded is required to be registered in the Union, provided such stocks or shares were the property, at the date of his death, of any person who, at that date, was ordinarily resident in any of the Territories.

ARTICLE 8.

In the case of any policy of insurance effected upon the life of any person which may be sued upon either in the courts of the Union or the courts of any of the Territories, at the option of the person entitled to sue upon it—

(1) The High Commissioner for the Territories undertakes that, so long as the exemption specified in paragraph (2) hereof remains effective, there shall be exempted from death duties any amounts due and receivable under any such policy which was effected upon the life of any person who, at the date of his death, was ordinarily resident in the Union.

(2) The Officer Administering the Government of the Union undertakes that, so long as the exemption specified in paragraph (1) hereof remains effective, there shall be exempted from death duties any amount due and receivable under any such policy which was effected upon the life of any person who, at the date of his death, was ordinarily resident in any of the Territories.

ARTICLE 9.

For the purposes of this Agreement the expression "death duties" includes both estate duty and succession duty.

ARTICLE 10.

This Agreement shall apply in respect of the estate of every person who dies on or after the first day of August, 1944.

ARTICLE 11.

This Agreement may be denounced at any time upon six months' notice being given by the one Contracting Party to the other.

Done at Pretoria in duplicate, in the English and Afrikaans languages, on the First day of August Nineteen hundred and Forty-four.

(Signed) WALTER C. HUGGARD,  
High Commissioner for Basutoland, the  
Bechuanaland Protectorate and Swazi-  
land.

(Signed) JAN H. HOFMEYR,  
on behalf of the Officer Administering  
the Government of the Union of South  
Africa.