

BECHUANALAND PROTECTORATE.

No. 31 of 1944.

(Promulgated 1st September, 1944.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

Entitled the Bechuanaland Protectorate Transfer
Duty (Surcharge) Proclamation, 1944.

Whereas it is expedient to provide for the imposition of a war-time surcharge on transfer duty payments in the Bechuanaland Protectorate and for matters incidental thereto:

Now therefore under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. In respect of every payment of transfer duty chargeable under any law relating to the payment of transfer duty in the Territory which has been or is made on or after the first day of August, 1944 (hereinafter referred to as the fixed date), there shall, irrespective of the date on which liability for the payment arose, be paid a tax, to be called the war-time surcharge on transfer duty payments (hereinafter referred to as the surcharge) at the rate specified in section *two*, by the person liable for the payment of the transfer duty in terms of the law applicable.

Imposition
of war-time
surcharge
on transfer
duty pay-
ments.

2. The rate of the surcharge shall be—

Rates of
surcharge.

(a) one per cent. of the amount on which transfer duty is chargeable, if that amount exceeds one thousand pounds but does not exceed two thousand pounds; and

(b) two per cent. of the amount on which transfer duty is chargeable, if that amount exceeds two thousand pounds.

3. (1) If any payment of transfer duty made on or after the fixed date is additional to a payment previously made, the liability for which arose from the same cause as the additional payment, and the total amount on which transfer duty is chargeable (including the portion of that amount on which the previous payment of transfer duty was calculated) exceeds one thousand pounds, the surcharge in respect of the additional payment shall, notwithstanding the provisions of paragraph (a) of sub-section (1) of section *five*, be calculated as provided in sub-sections (2) and (3).

Surcharge
in respect of
additional
payments
of transfer
duty.

(2) Subject to the provisions of sub-section (3), the surcharge in respect of any such additional payment shall be the amount by which the surcharge calculated at the rate referred to in section *two* on the said total amount, exceeds the surcharge paid in respect of the previous payment.

(3) If the liability for the previous payment of transfer duty arose before the fixed date, or, in the case of a payment referred to in paragraph (b) of sub-section (1) of section *five*, before the thirty-first day of December, 1944, no surcharge shall be due in respect of the previous payment, and the surcharge in respect of the additional payment of transfer duty shall be calculated at the rate referred to in section *two* which is applicable in respect of the said total amount.

Surcharge where two or more properties acquired by same transaction or from same owner.

4. (1) If transfer duty in respect of the acquisition of—

(a) two or more properties by the same transaction; or

(b) two or more properties from the same owner or owners by separate transactions, is paid separately in respect of any such property, and the total amount on which transfer duty is chargeable in respect of all the properties concerned exceeds one thousand pounds, the surcharge payable in respect of each such separate payment of transfer duty shall, subject to the provisions of sub-section (2), be calculated at the rate referred to in section *two* which would be applicable if the amount on which the transfer duty is chargeable were the said total amount.

(2) If in any case referred to in paragraph (b) of sub-section (1), the Financial Secretary is satisfied that separate transactions for the acquisition of the properties concerned were not entered into for the purpose of avoiding liability for the surcharge or reducing the amount thereof, the surcharge payable in respect of each separate payment of transfer duty shall be calculated at the rate referred to in section *two* which is applicable in respect of the amount on which the separate payment of transfer duty is made.

(3) In the exercise of his discretion under sub-section (2) the Financial Secretary shall have regard to the period elapsing between the entering into of the separate transactions and to any other facts relating to the acquisition of the properties concerned which may have come to his knowledge.

(4) The parties to every transaction in respect of which payment of transfer duty has been or is tendered on or after the fixed date, shall subscribe to and lodge with the District Commissioner sworn declarations in such form as the District Commissioner may require, disclosing, as far as it may be within the knowledge of the respective parties, full and true particulars of any other property which may have been acquired by, or disposed of to, the person acquiring the property concerned, by the same transaction, or at any time by separate transactions between the same persons.

(5) (a) If the person by whom any property is acquired fails to comply with the provisions of sub-section (4), he shall be liable to pay, in addition to the amount of the surcharge properly chargeable, by way of penalty—

(i) an amount equal to twice the difference between the surcharge properly chargeable in respect of the payment of transfer duty concerned and the amount which would have been chargeable if the surcharge had been calculated according to the declaration subscribed to by him; or

(ii) an amount not exceeding one hundred pounds; or

(iii) an amount equal to the aggregate of the amounts referred to in sub-paragraphs (i) and (ii).

(b) If the person by whom any property is disposed of, fails to comply with the provisions of sub-section (4), he shall be liable to pay, by way of penalty, an amount not exceeding one hundred pounds.

(c) The amount of the penalty to be paid under paragraph (a) or (b) shall be determined by the Financial Secretary and shall be a debt due to the Bechuanaland Protectorate Government and may be recovered by the Financial Secretary in any court of competent jurisdiction.

(6) In this section "property" means any property in respect of the acquisition of which transfer duty would be chargeable.

5. (1) There shall be exempt from the surcharge any payment of transfer duty—

(a) which is chargeable on an amount not exceeding one thousand pounds; or

(b) which is made before the thirty-first day of December, 1944, in respect of the acquisition of property by inheritance, if the liability therefor arose before the fixed date.

(2) For the purposes of paragraph (b) of sub-section (1) any payment of transfer duty made on or after the thirty-first day of December, 1944, out of any deposit for the purposes of that payment made before the said date, shall to the extent to which the payment has been made out of the deposit, be deemed to be a payment made on the date of the deposit.

To whom
and when
payable.

6. The surcharge shall be paid to the District Commissioner to whom payment of the transfer duty in respect of which it is payable, is to be made, and when the said payment is tendered; and no District Commissioner shall accept any payment of transfer duty until the surcharge in respect thereof has been paid.

Refunds.

7. If any person becomes entitled, in terms of any law, or as an act of grace, to the refund of the whole or any portion of any transfer duty in respect of which the surcharge has been paid, the Financial Secretary may refund out of revenue the whole of the surcharge or so much thereof as may be determined by him to be refundable by reason of the refund of transfer duty.

Collection
of the
surcharge
and forms
or declara-
tions.

8. The Financial Secretary shall be responsible for the collection of the surcharge and may prescribe any forms or declarations required for the purpose.

Regu-
lations.

9. The High Commissioner may make regulations as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Proclamation may be achieved.

Short title.

10. This Proclamation may be cited as the Bechuanaland Protectorate Transfer Duty (Surcharge) Proclamation, 1944.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-fifth day of August One thousand Nine hundred and Forty-four.

WALTER C. HUGGARD,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.