

New tax law propels property ownership by citizens: Jonathan Hore

The enactment of the Capital Transfer Tax Amendment Act 2019 (Amendment Act) with effect from 28 August 2019 will certainly propel property ownership, mainly by citizens. This law was enacted on the same day with the Transfer Duty Amendment Act 2019, another piece of legislation which makes property ownership by citizens significantly easier. Whilst the Capital Transfer Tax Act mainly concerns itself with taxing donations and inheritances, the amendments contained in the new law seek to exempt certain property transactions from Capital Transfer Tax when they are donated to or inherited by citizens. In fact, the Amendment Act borrows a lot from exemptions stipulated in section 20 of the Transfer Duty Act.

THE NEW EXEMPTIONS

The new Amendment Act brings with it the following changes:

- **No tax on heirs:** Currently, any heir to an estate (save for surviving spouses) is subject to inheritance tax on so much of the value of the property in excess of P 100 000 that devolves to them on inheritance. Technically, if a parent passes on and a child inherits a house, the child is expected to pay inheritance tax on transfer of the property. This has been causing a lot of challenges in inheritances as most heirs failed to inherit property as they did not have money with which to pay the tax. The new amendment will lessen the financial burden that heirs faced on such inheritances, which will facilitate smooth transfer of immovable property on inheritances.
- **First time home owners:** First time home owners will also be exempted from the tax when immovable property devolves to them, usually through donations from parents and well-wishers. This applies to both residential property and undeveloped land and this will enhance estate planning through tax-free donations of immovable property by parents/well-wishers to the first time home owners.
- **The under-privileged:** Currently, transfers of property to the destitute or disabled, orphans under the age of 18, as well as to institutions taking care of the above-mentioned classes of persons is subject to donations tax. This has been abolished by the said Amendment Act in recognition of the fact that such entities are not profit-oriented and in fact, they predominantly survive on donations.

CONSEQUENCES

These changes obviously make property transfers by citizens much easier. This law compliments the generous exemptions brought about by the new Transfer Duty Amendment Act 2018. However, whilst the law is an obvious welcome development, it still levies donations tax on all NGOs such as religious and charitable institutions. This means that such organisations are still required to pay donations tax on any donations they receive. The most common example of this are churches which are subject to donations tax on all their tithes and offerings, an arrangement which seems not to recognise the fact that such entities literally survive on donations.