



SWAZILAND GOVERNMENT GAZETTE

VOL. XLIII]

MBABANE, Friday, OCTOBER 22nd., 2004

[No. 118

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PUBLISHED BY AUTHORITY

1354

NOTICE

Notice is hereby given that I, Mpumelelo J. Dlamini of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mavimbela after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Hhohho Region and in the government Gazette.

The reason I want to assume the surname is because Mavimbela is my natural surname.

Any person or persons likely to object to my assuming the surname Mavimbela should lodge their objections in writing with me at the address given below and with the Regional Secretary for Hhohho Region.

P.O. Box 1452
Mbabane

F1794 4x05-11-2004

NOTICE

Notice is hereby given that I, Nhlanhla Caswell Sikhondze of Lubombo Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Nhlabathi after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Lubombo Region and in the government Gazette.

The reason I want to assume the surname is because Nhlabathi is my natural surname.

Any person or persons likely to object to my assuming the surname Nhlabathi should lodge their objections in writing with me at the address given below and with the Regional Secretary for Lubombo Region.

P.O. Box 283
Big Bend
Swaziland

F1680 4x22-10-2004

NOTICE

ESTATE LATE: PHILLIPINA COSHIWE MAGONGO ESTATE NO. EH182/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BOY T. DLAMINI
P.O. Box 1164
Manzini

F1822 22-10-2004

1355

NOTICE

Notice is hereby given that I, Michael S. Nkambule of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Dlamini after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Hhohho Region and in the government Gazette.

The reason I want to assume the surname is because Dlamini is my natural surname.

Any person or persons likely to object to my assuming the surname Dlamini should lodge their objections in writing with me at the address given below and with the Regional Secretary for Hhohho Region.

P.O. Box 13
Msahweni

F1723 4x29-10-2004

NOTICE

Notice is hereby given that I, Pamela Yvonne Siphelele Ginindza of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Nkosi after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Hhohho Region and in the government Gazette.

The reason I want to assume the surname is because Nkosi is my natural surname.

Any person or persons likely to object to my assuming the surname Nkosi should lodge their objections in writing with me at the address given below and with the Regional Secretary for Hhohho Region.

P.O. Box 3566
Mbabane

F1712 4x29-10-2004

NOTICE

ESTATE LATE: THERESSA ALMA NKABINDZE ESTATE NO. EH93/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

ANITA VILAKATI
P.O. Box 166
Mbabane

F1824 22-10-2004

1356

NOTICE

ESTATE LATE: JEREMIAH MPIKAYIPHELI FAKUDZE ESTATE NO. EM271/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NOMSA FAKUDZE
P.O. Box 518
Mankayane

F1826 22-10-2004

NOTICE

ESTATE LATE: SARAPHINA HAMBAPHI BHEMBE ESTATE NO. EH180/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

ROBERT F. BHEMBE
P.O. Box 122
Mhlambanyatsi

F1827 22-10-2004

NOTICE

ESTATE LATE: MOSES BHEKUYISE MTHEMBU ESTATE NO. ES214/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NOMSA K. MTHEMBU
P.O. Box A750
Swazi Plaza

F1830 22-10-2004

NOTICE

ESTATE LATE: JETHRO SAYITSHENI SIMELANE - ES211/2004

Debtors and Creditors in the above estate are hereby required to lodge their claims and pay their debts to the undersigned within thirty (30) days from date of publication of this notice.

THWALA ATORNEYS
Attorneys For Executors
P.O. Box 4140
Manzini

F1832 22-10-2004

NOTICE

ESTATE LATE: MADLEBE HANDICAP GAMEDZE ESTATE NO. EM318/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MAGARETH ZODWA GAMEDZE
P.O. Box 2113
Manzini

F1833 22-10-2004

NOTICE

ESTATE LATE: MALUNGISA KOLA MAGAGULA ESTATE NO. EM266/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MACALA MAGAGULA
P.O. Box 81
Mliba

F1834 22-10-2004

NOTICE

ESTATE LATE: VUSI VALENTINE DLADLA ESTATE NO. EH179/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

FIKILE DLADLA
P.O. Box 4981
Mbabane

F1835 22-10-2004

NOTICE

ESTATE LATE: ZAKHELE DLAMINI ESTATE NO. EH172/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

XOLISILE DLAMINI
P.O. Box 173
Lobamba

F1836 22-10-2004

1358

NOTICE

ESTATE LATE: ALICE THEMBANI MASILELA ESTATE NO. EH116/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NANDIE THEODORAH BAARTJIES
P.O. Box 2208
Mbabane

F1838 22-10-2004

NOTICE

ESTATE LATE: JOYCE THEMBEKA SHONGWE - EM 412/2003

Debtors and Creditors in the above Estate are hereby called to lodge their claims and pay their debts to the undersigned within thirty (30) days from date of publication of this Notice.

C. J. LITTLER & CO.
Attorneys for Executrix Dative
P.O. Box 2208
Mbabane

F1839 22-10-2004

NOTICE

ESTATE LATE: JENNETHA DLAMINI ESTATE NO. EL96/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

AGNES DLAMINI
P.O. Box 251
Siteki

F1823 22-10-2004

NOTICE

ESTATE LATE: NDLELENI MANYATSI NO. EM331/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

SABELO MANYATSI
P.O. Box 1707
Manzini

F1825 22-10-2004

NOTICE

ESTATE LATE: GOODMAN MWELASE ESTATE NO. EH154/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

BUSISIWE L. NGWENYA
P.O. Box 2053
Mbabane

F1828 22-10-2004

NOTICE

ESTATE LATE: THEMBA WILFRED SOKO ESTATE NO. EM262/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

BETTY SOKO
P.O. Box 16
Mankayane

F1829 22-10-2004

1360

NOTICE

ESTATE LATE: JULIA XABA NEE MNDVOTI ESTATE NO. ES123/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

THULILE XABA
P.O. Box 118
Hlatikhulu

F1831 22-10-2004

NOTICE

ESTATE LATE: THEMBI CLEAREN MANANA ESTATE NO. EH55/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

MRS ZANELE F. MANANA
P.O. Box 3158
Mbabane

F1836 22-10-2004

NOTICE

ESTATE LATE: JACOB GWEBU ESTATE NO. EM339/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

SINDISIWE A. GWEBU
P.O. Box 1
Sidvokodvo

F1837 22-10-2004

1361

NOTICE

ESTATE LATE: MUZIKAWAKHELWANA KENNETH MHLANGA

Notice is hereby given in terms of Section 51 bis of the Administration of Estates Act No. 28 of 1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of The Master of the High Court of Swaziland at Mbabane for a period of twenty one (21) days from the date of appearance of this notice.

Any person objecting to the account may lodge his/her objection in writing in duplicate with the Master of the High Court at any time before the expiry of the period.

RJS PERRY In association with
N.A. MCHUNU and M. MABILA
P.O. Box 4869
Mbabane

F1840 22-10-2004

NOTICE

ESTATE LATE: JOHN VUSI KHUMALO ESTATE NO. ES109/02

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MOSES KHUMALO
P.O. Box 192
Malkerns

F1853 22-10-2004

NOTICE

ESTATE LATE: MFANZILE LEONARD MKHALIPHI ESTATE NO. EM37/2000

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

JOSEPHATY MKHALIPHI
P.O. Box 16
Mankayane

F1845 22-10-2004

1362

NOTICE

ESTATE LATE: LUKE GUGA MTHEMBU ESTATE NO. ES16/2001

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

ABSALOM MTHEMBU
P.O. Box 47
Mhlosheni

F1850 22-10-2004

NOTICE

ESTATE LATE: MDUDUZI NHLANHLA MHLONGO ESTATE NO. ES234/2001

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

LILLY FAKUDZE
P.O. Box 503
Manzini

F1846 22-10-2004

NOTICE

ESTATE LATE: MUSA MAMBA ESTATE NO. EL162/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

BONSILE LUKHELE
P.O. Box 106
Big Bend

F1847 22-10-2004

NOTICE

ESTATE LATE: MFANUFIKILE MBOLWANE DVUBA ESTATE NO. EL125/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SAM DVUBA
P.O. Box 268
Siteki

F1863 22-10-2004

NOTICE

ESTATE LATE: SAMUEL LUBHIDLA DLAMINI ESTATE NO. EM229/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

MDUDUZI DLAMINI
P.O. Box 3522
Manzini

F1848 22-10-2004

NOTICE

ESTATE LATE: JAMES MSWELANTFO SIMELANE ESTATE NO. EL119/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

MARY N. SIMELANE
P.O. Box 578
Siteki

F1849 22-10-2004

NOTICE

ESTATE LATE: ANTELIZA ANTHONY MAZIYA ESTATE NO. EL144/2003

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

THABSILE MAZIYA (NEE SHONGWE)
Sitsatsaweni P. School
P.O. Box 195
Siteki

F1852 22-10-2004

1364

NOTICE

**NOTICE TO ALL CREDITORS OF NEW BIELLA TEXTILES
(PROPRIETARY) LIMITED (In Liquidation)**

Notice is hereby given to all the Creditors in the above named Estate, to attend the first meeting of the Creditor's at the Master of the High Court's office on Tuesday the 9th of November, 2004 at 09:00 a.m.

All Creditors who wish to prove their claims are reminded that they should proceed to the Liquidator's office c/o Maphanga Howe Masuku Nsibande, 1st Floor Campus Crusade Building, Warner Street, Mbabane to collect their forms and must submit them twenty-four (24) hours before the meeting, failing which they will not be permitted vote at the said meeting.

MASTER OF THE HIGH COURT OF SWAZILAND

F1851 22-10-2004

NOTICE

Notice is hereby given that we intend applying for a certified copy of Crown Grant No. 38/1981 made in favour of **FRANCINA SENELENI DLAMINI** in respect of:-

CERTAIN : Lot No. 665 situate in the Manzini Township Extension No.7 within the Manzini Township District, Swaziland;

MEASURING : 1290 (One Two Nine Zero) square metres;

Any person having objection to issue such copy is hereby requested to lodge in writing with the Registrar of Deeds within two (2) weeks of last publication of this Notice.

C. J. LITTLER & CO.
Applicant's Attorneys
Ground Floor Embassy House
Dzeliwe Street
Mbabane

F1854 2x29-10-04

NOTICE

**ESTATE LATE: NTOMBIFUTHI IGNITIA NKONDE & JABULANI NKONDE
ESTATE NO. EH56/2004**

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

GLADYS MAGAGULA
P.O. Box 3721
Manzini

F1862 22-10-2004

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2902/04

In the matter between:

NEW BIELLA TEXTILES (PROPRIETARY) LIMITED

Petitioner

COURT ORDER

Before the Honourable **Justice Matsebula** on the 08th October 2004.

FOR PETITIONER : **MR NKOSI**

Being an application for winding up of the Petitioner.

WHEREUPON : Having heard Counsel for the Petitioner it is hereby **ORDERED** and **DIRECTED** as follows:

- a) That the company New Biella Textiles (Pty) Ltd is hereby placed into Liquidation.
- b) That Lukcy Howe is appointed as Liquidator of New Biella Texties (Pty) Ltd, and that the liquidator is granted powers listed in Section 127 of The Companies Act No. 7 1912 as amended.
- c) That the costs of the petition be cost in the winding up of New Biella Textiles (Pty) Ltd.

DATED AT MBABANE ON THIS 12TH DAY OF OCTOBER 2004.

THE REGISTRAR OF THE HIGH COURT
Mbabane

F1851 22-10-2004

NOTICE

ESTATE LATE: SIPHO ANDRIAS SHONGWE ESTATE NO. EP69/2004

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

EMMELINA & JABULILE SHONGWE
P.O. Box 31
Msahweni

F1860 22-10-2004

1366

NOTICE

IN THE HIGH COURT OF SWAZILAND

HOLDEN AT MBABANE ON THE 15TH DAY OF OCTOBER, 2004 BEFORE HIS LORDSHIP
THE HONOURABLE MAPHALALA J.

CIV.T. No. 2964/2004

In the matter between:

MARINUS BREERO

Petitioner

and

AUTO PLAZA (PTY) LIMITED

Respondent

COURT ORDER

WHEREUPON Hearing Counsel for the Petitioner

IT IS ORDERED:

- a) That the Respondent be provisionally wound up under the hands of the Master of the High Court of Swaziland.
- b) That a Rule Nisi do issue calling upon all interested parties to show cause on the **29th of OCTOBER, 2004** why order number 1 above should not be made final and that the additional relief sought hereunder should not be confirmed.
- c) That the Order be served on the Respondent at its registered office and published in two (2) consecutive publications of a Newspaper circulating in Swaziland and in one (1) publication of the Government Gazette.
- d) That **MBONISWA SIMELANE** be and is hereby appointed Provisional Liquidator of the Respondent with all the powers set out in Section 127 of the Companies Act No. 7 of 1912.
- e) That the costs of this Petition form part of the costs of the liquidation.

BY ORDER OF THE HIGH COURT

GIVEN UNDER MY HAND AT MBABANE THIS 18TH DAY OF OCTOBER, 2004.

REGISTRAR OF THE HIGH COURT

F1864 22-10-2004

1367

NOTICE

ESTATE LATE: MUSA MARK NGCAMPHALALA ESTATE NO. EM365/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MICHAEL SIKELELA NGCAMPHALALA
P.O. Box 547
Siteki

F1861 22-10-2004

NOTICE

ESTATE LATE: MANDLA THEMBA MVUBU ESTATE NO. EM243/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NONHLANHLA MVUBU
P.O. Box 29
Mliba

F1858 22-10-2004

NOTICE

ESTATE LATE: ZEBLON MADUDULA CINDZI ESTATE NO. EM303/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BESLINAH NKWANYANA
P.O. Box 41
Mankayane

F1857 22-10-2004

NOTICE

ESTATE LATE: BAVUMSILE ELLINAH MHLANGA ESTATE NO. EL40/04

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BUSISIWE N. NYATSIKATI
P.O. Box 6137
Mbabane

F1856 22-10-2004

1368

NOTICE

ESTATE LATE: HELLEN DUMILE ZWANE NEE KUNENE ESTATE NO. 104/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

LORRAINE LINDIWE ZWANE
P.O. Box 1590
Manzini

F1855 22-10-2004

NOTICE

ESTATE LATE: NHLANHLA PETROS DLAMINI ESTATE NO. EM426/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MARTHA ZODWA DLUDLU
P.O. Box 32
Mankayane

F1866 22-10-2004

NOTICE

ESTATE LATE: SIMON BHEKINDLELA NKOSI ESTATE NO. ES203/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

PAULINE GIRLIE NKOSI
P.O. Box 1359
Nhlangano

F1871 22-10-2004

NOTICE

ESTATE LATE: ELIAS MBOLWANE SIMELANE ESTATE NO. ES221/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

DUDUZILE SIMELANE
P.O. Box 108
Nhlangano

F1870 22-10-2004

1369

NOTICE

ESTATE LATE: BONGANI DLAMINI ESTATE EM230/2000

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

CHARLES DLAMINI
P.O. Box 2959
Manzini / R/N69801

F1869 22-10-2004

NOTICE

ESTATE LATE: ELLIOT MASHIGO MATHONSI ESTATE NO. EL52/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SOLOMON NDLELENI MATHONSI
P.O. Box 31
Mayiwane

F1868 22-10-2004

NOTICE

ESTATE LATE: PHILLIPA CIFICA ESTATE NO. EH239/2004

Debtors and Creditors in the abovementioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

ELIZA RUTH CIFICA
P.O. Box 77
Ezulwini

F1867 22-10-2004

NOTICE

ESTATE LATE: CALVIN GEORGE DLAMINI ESTATE NO. EM296/2001

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

RICHARD JEALOUS DLAMINI
P/Bag 2
Kwaluseni

F1859 22-10-2004

NOTICE**ESTATE LATE: ERNEST MFANASIBILI DLAMINI ESTATE NO. EL5/2004**

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing with the Executor and with the Master of the High Court at any time before the expiry of the said period.

TOPSE M. MLOTSI
P.O. Box 196
Siteki

F1872 22-10-2004

NOTICE

The persons whose names are listed hereunder or to whom it may concern, are required to make payment of the amount reflected opposite their names within two months from the date of publication of this notice. In default thereof, an application will be made to Court to order such property to be sold at public auction in satisfaction of the rates.

EXTENSION 11 (Thembelihle Township)

PLOT NO.	NAME OF DEBTOR	AMOUNT
1103 PTN 1	MAGONGO MUSA	11,033.74
1124	THRING LOUIS M.	9,604.15
1125	SITHOLE SAMUEL B. K.	19,664.61
1128	SITHOLE SAMUEL B. K.	4,758.81
1130	HOWE BASIL E.	17,742.32
1189	MNISI STANLEY SKHUMUZO A.	1,701.75
1196	KUNENE WILSON	3,690.34
1199	MABUZA GOODWIN HONEY	4,197.22
1235	DLAMINI SIBONELE	78,511.94
1243	MNGOMEZULU OLGA	13,947.62
1248	MAGONGO RICHARD D.	5,585.95
1267	VUMILE TRUST FUND	3,575.73
1302	THWALA WILSON M.	11,681.52
1317	ZWANE FANASE E.	2,868.66
1334	DLAMINI ALLEN SAMUEL	21,208.42
1339	CHONCO MESHACK J.	2,744.66
1355	SIMELANE SIKHUNDLA E.	6,467.60
1403	HLOPHE GEORGINA	9,620.92
1427	NXUMALO CONSTANCE T.	7,976.37
1446	KUNENE THEMBA SAMUEL	13,116.91
1449	DLAMINI PETROS PHAZAMA	15,378.02

1371

1459	M. V. N MARKETING SUPPLY	21,715.81
1460	M. V. N. MARKETING SUPPLY	4,164.97
1471	MABUSELA VUYANI RAYMOND	9,267.71
1534	HLATSHWAYO SAMUEL M.	13,391.66
1545	MAGAGULA BONGANI E.	4,289.20
1547	MASUKU SARAH	1,452.21
2521	DUBE TERESSA	4,234.10
2522	DLAMINI LONKHOKHELO	9,209.47
2532	DLAMINI NOMBULELO	7,925.48
2542	PATO THULA COSMA	7,563.03
2568	MLANGENI MDUMO TITUS	27,545.55
2600	NEDBANK (SWD)	4,556.63

FARM NO. 2

PLOT NO.	NAME OF DEBTOR	AMOUNT
B	SWAZI (PTY) LTD	532,351.31
R	BERLINER MISSIONS GESELSCHAFT	50,050.94
T	HLANZE DERRICK JABULANI	2,197.04
W	LITTLER OLIVE ETHEL	45,217.20
83	WILPROPR (PTY) LTD	1,276.32
90	STANFORD PATRICK PERCY	9,167.24
139	SWAZI INN	15,204.22
140	SWAZI INN	15,126.49
141	MARTYN TONY	14,756.04
209	E & T LIMITED	15,544.43
219	SWAZI INN (PTY) LTD	18,526.04
227	DLUDLU THERESA NTOMBIKAYISE	5,120.16
230	DLAMINI BUSISIWE	11,609.22
231	SWAZI INN	28,551.04
232	SWAZI INN (PTY) LTD	45,058.37
236	TRUSTEES OF THE MBABANE LODGE	11,778.29
255	MAHLANGU RUDOLPH THULANI	19,738.36
258	MONSSOR HASSEN	24,226.35
276	KUNENE GIDEON O	15,219.75
347	MNGOMEZULU VERNON T.	12,842.50
364	E & T LIMITED	33,438.52
478	DLAMINI TSHEKEDI	2,847.49
497	SHABALALA DONALD NDONI	6,415.63
500	NKWANYANE MILLION MPHAHLENI	13,826.81
504	MAHLANGU EUNICE THERESA	11,744.19
516	MASILELA VUKA JOSEPH	4,426.29

522	DLAMINI THEMBISILE SIBONGILE	10,488.65
523	NDLANGAMANDLA PHILILE G.	12,344.61
529	MANANA BASILO	23,056.12
532	DUNN G T.	27,552.67
547	MZILENI JOHANNES THAMSAQA	8,694.30
565	SAM & SONS CONSTRUCTION	137,105.47
585	SHILUBANE, NTIWANE & MAMBA	2,446.45
593	VILAKATI MAJALIMANE	50,148.29
677	MASILELA MAVELA SIKHUMBUZA	13,948.08
686	MNGOMEZULU S.K.	3,331.67
738	NXUMALO BREMER M.	5,063.78
757	SWAZI SUCCESS (PTY) LTD	6,702.79
770	MASHWAMA NONHLANHLA N.	7,946.81
845	KUNENE P. T.	3,583.03
854	MAPANZENE FREDERICK	2,937.05
859	P. J. STANFORD & S. STANFORD	8,840.34
886	MYBURGH FERDINAND	8,972.45

MBABANE TOWNSHIP

PLOT No.	NAME	AMOUNT
287	MALINGA ELIJAH	2,926.25
308/1	DLAMINI JEWEL NOLWAZI B165	3,940.88
451/1	DLAMINI KINGSLEY NDODA	1,913.93
453/1	K & S ENTERPRISES (PTY) LTD	3,871.64
453/2	K & S ENTERPRISES (PTY) LTD	3,584.80
502/1	SHONGWE BARTHOLOMEW BUDUYA	30,440.02
624	BOY SCOUT ASSOCIATION	30,056.69
626	TRUSTEES OF THE MBABANE LODGE	13,341.84
894	DLAMINI MARIA	2,476.87
932	NHLEKO P. M.	14,339.30
2570	AFRICAN BUSINESS CORPORATION (PTY)	7,113.13
2573	SIKHOTSA INVESTMENTS	5,726.01
188	THE HOLDING COMPANY (PTY) LTD	47,010.78
244	PHEFUMULA (PTY) LTD	33,854.88
246	MAZIYA THEMBA LEO	28,274.19

FARM NO. 188 (Dalriach)

PLOT No.	NAME	AMOUNT
4	MBABANE (WD ESTATES (PTY) LTD	20,390.67
46	O'DRISCOLL FARREL	617.67
52	HILL VIEW SHAREBLOCK (PTY) LTD	19,405.02
112	SHONGWE SEAPEL ROSELINE	12,707.00
115	SIMELANE LYDIA THOKO	25,704.64
121	MABUZA JOSEPH SONNYBOY MFANYANA	12,272.85
223	SHONGWE THEMBA WILSON	14,028.40
226	FITZGERALD VICTOR JOSEPH	16,139.37
227	GLASS JOSEPH	7,554.75
236	MAGAGULA EPHRAEM F.	23,408.55
240	MANANA PATRICK THEMBA	25,954.44
258	MABUZA GEORGE	18,084.70
300	BREDERODE INVESTMENTS (PTY) LTD	17,439.13
301	KHESWA CLIFFORD C.	23,780.45
332	THWALA AFRICA V.	7,091.74
334	MBINGO ALMON MBUZELI	2,967.04
346	KATAMZI ISABELLA BONGIE	5,067.82
347	KATAMZI ISABELLA BONGIE	5,896.48
350	NUNN PETER ETHELBERT	4,942.33
378	NUNN PETER ETHELBERT	17,478.65
399	SHONGWE SEAPEL ROSELINE	8,620.91
417	MLANGENI CALEB MANDLENKOSI	4,465.44
427	S. V. M. & INVESTERS (PTY) LTD	18,848.46
436	DLAMINI JULIUS SIQWAYI	8,204.21
443	KUNENE BONGINKOSI ABEDNEGO	6,744.92
487	RWAIRWAI MAUREN C.	16,114.73
489	NTIWANE COLLIN SDUMO	5,710.27
492	MALINGA BHEKILANGA SAMSON	14,784.99
493	DLAMINI PHINDILE FLORENCE	21,428.22
505	MAPHALALA REUBEN SIPHO	6,126.60
508	M. C. M. INVESTMENTS (PTY) LTD	10,998.20
512	DLAMINI JEROME THULANI MUSA	20,033.41
565	DLAMINI ABEDNEGO AMBROSE JOJO	8,009.01
571	DLAMINI THEMBI REGINAH	16,541.31
575	SPEEDWAY SECRETARIAL SERVICES	3,218.10
579	HLATSHWAYO RUTH NANA	6,537.65
650	DLAMINI MARIA JABHISILE	3,637.44
726	SPEEDWAY SECRETERIAL SERVICES	2,544.12
741	M. A. AND J INVESTMENTS	47,018.92
810	GLASS JOSEPH	14,722.45

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812	GLASS JOSEPH	10,564.33
853	HANIER CONSTRUCTION (PTY) LTD	7,574.62
856	GILBERT RAYMON BLAZE	14,602.21
862	DLAMINI WELILE ZANELE	2,904.74
867	THWALA EVEREST BOY BABILI	7,778.80
873	DLAMINI THANDI	16,340.49
887	S. K. HOLDINGS (PTY) LTD	24,313.76
910	KORLIMIT (PTY) LTD	12,739.69
911	KORLIMIT (PTY) LTD	11,785.81
912	KORLIMIT (PTY) LTD	10,508.77
920	TUAN SABRINA	39,091.66
932	SHONGWE THEMBA WILSON	19,631.19
979	KHUMALO BEATRICE	7,316.86
989	WILLIAMS LINDY N. M. SHEMBE	11,252.91
990	WILLIAMS LINDY N. M. SHEMBE	10,505.63
991	WILLIAMS LINDY N. M. SHEMBE	11,376.62
994	MAPHALALA REUBEN SIPHO	9,145.21
1038/102	SHONGWE SEAPEL R.	1,913.97
1001	DLAMINI JEREME THULANE MUSA	10,137.63
1018	MKHWANAZI DUDU ANASTACIA	7,779.91

FARM NO. 75 (Waterford Park)

PLOT NO.	NAME OF DEBTOR	AMOUNT
32	MKHONZA WILSON FRANCIS	2,328.73
56	VILAKATI DAVID MDWALI	7,287.11

F1865 22-10-2004

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XLII]

MBABANE, Friday, OCTOBER 22nd., 2004

[No. 118

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PUBLISHED BY AUTHORITY

LEGAL NOTICE NO. 140 OF 2004

THE SWAZILAND NATIONAL PROVIDENT FUND ORDER, 1974
(King's Order-in-Council No. 23 of 1974)

**THE SWAZILAND NATIONAL PROVIDENT FUND (STATUTORY
CONTRIBUTIONS) REGULATIONS, 2004**
(Under Sections 14, 15 & 17)

In exercise of the powers conferred on him by Sections 14, 15 and 17 of the Swaziland National Provident Fund Order, 1974, the Honourable Minister of Finance, after consultation with the Honourable Minister of Economic Planning and Development hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Swaziland National Provident Fund (Statutory Contributions) Regulations, 2004, and shall come into force on the 1st day of January, 2005, and shall continue to be in force for a period not exceeding five years.

Wages level for statutory contributions

2. (1) Statutory Contributions for:

- (a) the year 2005 shall be payable by a contributing employer in respect of wages of eight hundred Emalangenani (E800) or less during any calendar month;
- (b) the year 2006 shall be payable by a contributing employer in respect of wages of nine hundred Emalangenani (E900) or less during any calendar month;
- (c) the year 2007 shall be payable by a contributing employer in respect of wages one thousand Emalangenani (E1000) or less during any calendar month;
- (d) the year 2008 shall be payable by a contributing employer in respect of wages of one thousand one hundred Emalangenani (E1100) or less during any calendar month; and
- (e) the year 2009 shall be payable by a contributing employer in respect of wages of one thousand two hundred Emalangenani (E1200) or less during any calendar month.

(2) The wages of eligible employees in excess of the amounts stipulated in subsection (1) (a) to (e) during any calendar month shall be disregarded for the purpose of statutory contributions in respect of wage limits outside those stipulated for the year under reference.

Statutory contributions

3. A contributing employer shall, after every contribution period, pay into the Fund a statutory contribution in respect of each eligible employee employed by that employer during such period at the rate prescribed for that employer in the Schedule hereto.

SCHEDULE
(Regulation 3)

SWAZILAND NATIONAL PROVIDENT FUND

STATUTORY CONTRIBUTIONS

Contribution Period	Statutory Contributions	Employees share Deductible from wages
One week or less than one week	Ten cents for every complete Lilangeni with a maximum contribution of twenty Emalangeni	Five cents for every complete Lilangeni with a maximum contribution of ten Emalangeni
More than one week but not more than a fortnight	Ten cents for every complete Lilangeni with a maximum contribution of forty Emalangeni	Five cents for every complete Lilangeni with a maximum contribution of twenty Emalangeni
Calendar month if more than a fortnight	Ten cents for every complete Lilangeni with a maximum contribution of eighty Emalangeni	Five cents for every complete Lilangeni with a maximum contribution of forty Emalangeni.

Employee's share

4. A contributing employer who is required to pay a statutory contribution in respect of an employee may deduct the "employee's share" of such contribution from wages due from that employer to the employee during a contribution period at the rate prescribed for that employer in the Schedule hereto.

Repeal

5. Legal Notice No. 145 of 2001 is hereby repealed.

MAJOZI V. SITHOLE
Minister of Finance

Mbabane
12th October, 2004

LEGAL NOTICE NO. 141 OF 2004

THE INCOME TAX ORDER 1975
(Order No. 21 of 1975)

INCOME TAX: ISSUANCE OF INCOME TAX CLEARANCE CERTIFICATES

In exercise of the powers conferred by Section 69(3) of the Income Tax Order 1975, as amended, the Commissioner of Taxes hereby issues the following notice -

Citation and commencement

This notice may be cited as Practice Note No. 177 on the issuance of income tax clearance certificates notice and shall come into effect on 1 July 2004.

Issuance of income tax clearance certificates***1. The regulations***

1.1 In terms of section 69(3) of the Income Tax Order 1975, as amended, the Minister of Finance may make regulations requiring persons to obtain a tax clearance certificate for the purpose mentioned in such regulations. The Income Tax (Clearance Certificates) Regulations 1988, published in Legal Notice No. 71 of 1988, repealed and replaced the Income Tax (Clearance Certificates) Regulations of 1985. The Schedule to the 1988 Regulations sets out the types of transactions requiring income tax clearance certificates and the persons from whom the income tax clearance certificates are required.

2. Application for Income Tax Clearance

2.1 In accordance with the provisions of section 69(3)(d) of the Income Tax Order 1975, as Amended, a person requiring a tax clearance certificate shall apply for such certificate to the Commissioner either -

- (a) by himself;
- (b) through a representative; or
- (c) agent.

2.2 In terms of the law there are two endorsements that the Commissioner can make on the certificate -

- (a) that there is no tax outstanding against the person; or
- (b) that satisfactory arrangements have been made by such person with the Commissioner for payment of outstanding tax.

According to the proviso to subsection (3)(d), failure to comply with tax obligations, including but not limited to, failure to furnish returns or pay tax would constitute sufficient reasons for refusal to grant the requested certificate.

2.3 The intended objectives of these tax clearance regulations are twofold -

- (a) to bring to charge all taxpayers having an income; and

- (b) to enforce the collection of all outstanding taxes.

2.4 In order to achieve the above stated objectives, a tax clearance certificate shall only bear the endorsement "that there is no tax outstanding against the person" if the following have been strictly complied with -

- (a) that the person concerned has furnished all the required returns of income in respect of each year of assessment in question;
- (b) that, where applicable, all provisional tax payments in respect of any year of assessment have been fully paid;
- (c) that any duly assessed tax in respect of any year of assessment has been fully paid;
- (d) that all remittances as regards PAYE and other withholding taxes have been made.

Note: that in the case of a person deriving income solely from employment subject to the Final Deduction System (FDS), production of an employee's tax certificate in respect of the relevant year of assessment shall be *prima facie* proof that such person has met his tax obligations for the year of assessment in question.

2.5 Under no circumstances should any officer make an endorsement that there is no tax outstanding if the conditions in paragraph 2.4 above have not been met.

2.6 As regards the issuance of a tax clearance certificate with the endorsement "that satisfactory arrangement have been made by such person with the Commissioner for payment of outstanding tax", such endorsement shall only be made in respect of assessed tax that has not been fully paid up when the application for the certificate is made. For the purposes of section 69(3)(d) the arrangement contemplated here is an arrangement made in terms of section 57(1) of the Order.

2.7 Where the tax liability has arisen as a result of an assessment, and the taxpayer is required to make provisional tax payments, if no such payments have been made, the arrangement to pay by instalments would not be permitted.

2.8 Where applicable, any arrangement made with any taxpayer pursuant to the contents of paragraph 2.6 above, must fulfil the requirements prescribed under paragraphs 2.4(i), 2.4(ii), and 2.4(iv). All applications for arrangements to settle any outstanding tax must be forwarded to the Assistant Commissioner (Collection) for consideration and approval. The recovery of tax under such an arrangement if approved must be completed within the financial year, that is, on or before 31 March. However, in exceptional circumstances where there are compelling reasons to exceed the prescribed period then such cases must be referred to the Deputy Commissioner (Collection) for consideration and approval.

2.9 The extension of time under section 57 to pay tax in installments would only be agreed in cases of acute financial difficulty as the Commissioner holds the view that if profits were made then the tax should have been provided for. It should be noted that in terms of section 57 it is not a matter of the taxpayer making an "offer" of the amount of tax that he thinks he should pay but it is a matter of meeting a statutory obligation.

Note:

Transactions in immovable property (Item 2 Schedule)

As regards transactions in immovable property or any endorsement to any title deed (see item 2 in the schedule), income tax clearance certificates are required in respect of -

1. Transactions entered into before the commencement of the Act and registered after the commencement of the 1988 regulations (i.e. 1 July 1988).

2. Transactions (of the same type) entered into by persons not domiciled in Swaziland Neither residence nor domicile are the criteria for determining the requirement of income tax clearance certificate.

3. Transactions in connection with deceased estates, if such transactions come within the type of transactions mentioned in the Schedule to the 1988 regulations.

4. In the case of transfer of immovable property, income tax clearance certificates are required from the transferor. As to the other types of transactions, please refer to the Schedule to the 1988 regulations.

5. In terms of the Schedule only those endorsements to any title deeds, having the effect of transferring immovable property, would require income tax clearance certificates. Viewed in this light, endorsements under section 44 of the Deeds Registry Act No. 37 of 1968 will not require income tax clearance certificates. Endorsements under section 45 of the same Act would require income tax clearance certificates, as has been specified in the same section.

6. Transactions relating to bonds, cessions, grants and / or any transactions conferring a real right should be viewed in the light of the issue: Is there a transfer of immovable property? Or, does the endorsement to any title deed have the effect of transferring immovable property? It would appear that transactions relating to bonds generally would not require income tax clearances, whereas cession, where it results in transfer of immovable property, would require such a clearance. Grants (i.e. crown grants) will not require income tax clearances. Transactions conferring a real right (other than change of ownership of immovable property) such as those creating servitudes *et cetera*, will not require income tax clearances.

This practice note supersedes all other instructions relative thereto and come into effect on this day 1st of July 2004.

PN MSIBI
Commissioner of Taxes

MBABANE
1 July 2004

LEGAL NOTICE NO. 142 OF 2004

THE INCOME TAX ORDER, 1975
(Order No. 21 of 1975)INCOME TAX: ADDITIONAL TAX IN THE CASE OF
DEFAULT OR OMISSION - PENALTIES
(Section 40)

In exercise of the powers conferred by Section 40 of the Income Tax Order 1975, as amended, the Commissioner of Taxes hereby issues the following notice -

Citation and commencement

This notice may be cited as Practice Note No. 176 on additional tax in the case of default or omission notice and shall come into effect on 1 July 2004.

Additional tax in the case of default or omission

1. In terms of Section 40(1) of the Income Tax Order 1975, as amended where a taxpayer defaults in rendering an annual return of income or omits any amount which ought to be included therein, or makes any incorrect statement therein, the Commissioner may impose additional tax.
2. Subsection (3) empowers the Commissioner to waive or remit such additional tax, or part thereof, in those cases where he is satisfied that the default or omission was not intended to evade taxation.
3. The imposition of a penalty for the non-submission of a return ultimately may cause the defaulter to submit the return. This rendition will, in most cases, be accompanied by a plea for the Commissioner to waive the penalty or to reduce the amount. Any such request must be determined in the light of section 40(3) of the Order.
4. For the purposes of Section 40, the expression omission of an amount which ought to be included or making any incorrect statement in the return has the following meaning -
 - (a) In determining his taxable income, a taxpayer who deducts or sets off any amount the deduction or set off whereof is not permissible under the law or shows as an expenditure or loss any amount which he has in fact not expended or lost.
 - (b) A taxpayer who willfully fails to disclose in any return made by him any facts, which should be disclosed and disclosure of which would result in the taxation of the taxpayer's income on an amount higher than the amount upon which such income would be taxable on such return.
5. Additional tax may be imposed as follows -

(a) Default in rendering a return

If a taxpayer makes default in rendering a return in respect of any year of assessment, such taxpayer will be required to pay an amount equal to 20% of the tax chargeable in respect of his taxable income for such year of assessment. The 20% shall be chargeable for each year of assessment while such default continues subject to a maximum of 200%.

(b) Default in rendering a return in the case of a loss:

In terms of Section 40(8) a taxpayer who makes default in rendering a return in respect of any year of assessment in which the determination of the taxable income of the taxpayer results in an assessed loss shall, while such default continues, be liable to a penalty not exceeding fifty emalangeneni for each day during which the default continues.

(c) Deductions or set off - imposition of additional tax under paragraph 4(a)

In determining his taxable income, a taxpayer who deducts or sets off any amount the deduction or set-off whereof is not permissible under the law or shows as an expenditure or loss any amount which he has in fact not expended or lost, shall be liable to an additional tax determined as follows:

$$100\% \text{ to } 200\% \times A - B$$

Where -

A is the tax chargeable for the year of assessment on the taxable income of the taxpayer; and

B is the amount that would have been payable if the tax chargeable had been calculated by reference to the incorrectly stated amount of taxable income.

(d) Failure to disclose certain material facts

A taxpayer who willfully fails to disclose in any return made by him any facts, which should be disclosed and disclosure of which would result in the taxation of the taxpayer's income on an amount higher than the amount upon which such income would be taxable on such return, shall be liable to additional tax determined as follows:

$$200\% \times A - B$$

Where -

A is the tax chargeable for the year of assessment on the taxable income of the taxpayer; and

B is the amount that would have been payable if the tax chargeable had been calculated by reference to the incorrectly stated amount of taxable income.

6. The imposition of the levy of additional tax for omission or incorrect statement should be approached on a flexible basis subject to a maximum. The circumstances under which the penalty for concealment of income gets levied are varied. The entire below has a bearing to the imposition of additional tax.

Firstly, there are various shades of disclosure by taxpayers such as -

- | | |
|---|--------------------------------|
| <input type="checkbox"/> Voluntary disclosure | - reduce penalty by up to 20%. |
| <input type="checkbox"/> Disclosure on challenge | - reduce penalty by up to 15%. |
| <input type="checkbox"/> Belated disclosure | - reduce penalty by up to 10%. |
| <input type="checkbox"/> Outright denial right to the end | - no reduction of penalty. |

Secondly, there are different kinds of concealment of income such as -

- ☐ Non-business income.
- ☐ Inadequate drawings.
- ☐ Unexplained credits.
- ☐ Evidence of omission of sales
- ☐ Inflation of purchases and false explanations that are disproved.

Thirdly, the personal circumstances of the taxpayer could also be different in different cases -

- ☐ The omission due to carelessness or inadvertence by reason of old age - reduce penalty by up to 15%.
- ☐ The level of literacy - reduce penalty by up to 15%.
- ☐ The nature and extent of professional advice - reduce penalty by up to 10%.
- ☐ The nature and extent of cooperation extended to the assessor - reduce penalty by up to 15%

7. The maximum penalty reduction that could be afforded a taxpayer under the circumstances in paragraph 6 is 100%.

8. The penalty reduction is at the discretion of the assessor / investigation officer and the reasons for the exercise of such should be recorded in taxpayer's file.

9. In terms of the law the additional amounts of tax payable under Section 40 are chargeable where -

- ☐ the taxable income or any part thereof is estimated by the Commissioner under section 39(1); or
- ☐ agreed with the taxpayer in terms of Section 39(3); or
- ☐ such taxable income or any part thereof as is determined from accounts rendered by the taxpayer.

Objection and Appeal

The taxpayer has a right of objection and appeal against a decision of the Commissioner not to remit the whole of the additional imposed under paragraph 5 above.

In accordance with Section 40(3)(c) the Commissioner may either before or after an assessment is issued agree with the taxpayer on the amount of the additional tax to be paid. In such an event the taxpayer has not right of objection or appeal in respect of the amount so agreed.

PN MSIBI
Commissioner of Taxes

MBABANE
1 July 2004

LEGAL NOTICE NO. 143 OF 2004

THE INCOME TAX ORDER, 1975
(Order No. 21 of 1975)TAX TREATMENT OF ASSETS ACQUIRED UNDER FINANCIAL LEASES,
DIRECTIVE 2004

In the exercise of the powers conferred by Section 14(1)(c) of the Income Tax Order, as amended, the Commissioner of Taxes hereby issues the following directive:

Citation and commencement

This directive may be cited as the tax treatment of assets acquired under finance leases (Date of Commencement) directive, 2004 and shall come into effect on 1 July 2004.

TAX TREATMENT OF ASSETS ACQUIRED UNDER FINANCE LEASES

1. Background

1.1 The use of finance leases to finance the acquisition of assets particularly motor vehicles has been common practice in Swaziland over the years.

1.2 The Income Tax Order 1975 acknowledges the use of the finance leases as a means of financing and the dealing with thereof by the lessor on a similar basis as dealing with operating leases through certain provisions of the Order namely:

1.3 The proviso to Section 14(1)(c) provides that in the case of plant and machinery, implements, utensils and articles which are let by any taxpayer and which are brought into use by the lessee, thereof for the purposes of the lessee's trade, the Commissioner may, if he considers it just and reasonable, allow during the year of assessment wear and tear on an equal annual instalments over the estimated life of such plant and machinery, implements, utensils and articles. And Section 14(1)(e)(i) also provides that machinery or plant which was brought into use...or which was let by a taxpayer and which is brought into use by the lessee for the purpose of the lessee's trade and is used by the lessee directly in a process of manufacture, an allowance (to be called the machinery initial allowance")...equal to fifty per cent of the cost thereof.

Note that these provisions only relate to the determination of taxable income for the lessor and that there are no specific provisions in the Order dealing with finance (or other) leases in determining the taxable income of lessees.

1.4 In the financial statements of the lessor (for instance, the finance company or bank), in order to comply with International Financial Reporting Standards, the finance lease is recorded as a loan receivable over a fixed period in usually equal instalments and the interest element of the repayment is reflected in the income statement as income based on an effective interest rate.

1.5 ***In the case of lessors:*** the practice has been that lessors, in determining their taxable income, to exclude the interest element from income, to include the gross repayments received and to claim wear and tear in equal annual instalments determined, usually, over the period of the lease. Conversely, the lessee has recorded the transaction as the acquisition of a depreciating asset, with a liability under a loan repayable over a fixed period in equal instalments with the interest element of the repayment reflected in the income statement as an expense ("lease finance charges") based on an effective interest rate.

In the case of lessees: the practice has been that lessees, in determining their taxable income, to add back the interest element (for instance, "lease charges") and depreciation on the asset, and to claim the gross repayments as a deduction.

1.6 The effect of these adjustments (in paragraph 1.5 for purposes of determining taxable income results in a deferral of liability for tax both for the lessor and the lessee.

2. Departmental practice

2.1 Departmental practice in past years, has been to accept the submission of tax returns and supporting computations reflecting adjustments for determining taxable income as outlined above without query.

2.2 Recent examination of returns has brought to light that in the case of lessors (for instance banks) the adjustments were made and wear and tear claimed on leased assets notwithstanding that there was the possibility that the assets were not being used by the lessees in the course of their trade.

2.3 Examination of the returns and computations of lessees of assets under finance leases have revealed the following:

- (a) Certain taxpayers have not made any adjustments in their returns for assets acquired under finance leases. (No prejudice to the fiscus).
- (b) Certain taxpayers initially made adjustments in their tax computation for finance leases but have discontinued making adjustment in subsequent years. (Prejudice to the fiscus to the extent of deferral of tax at time of discontinuing adjustments).
- (c) Attempts to check the tax computation by reference to information in the financial statements were unsuccessful as no reconciliation was provided.
- (d) Possibility that proceeds on disposal of an asset acquired under a finance lease, in respect of which adjustments were made in previous tax computations, have not been properly dealt with in current computations.

3. ***Future considerations:*** The Income Tax (Amendment) Bill, 2004 includes provisions dealing with the treatment of finance leases for tax purposes as financing transactions and not as the hire of an asset. The actual wording being as follows:

"Finance Leases

20bis.(1) Where a lessor leases property to a lessee under a finance lease, for all purposes of this Order -

- (a) The lessee is treated as the owner of the property; and
 - (b) The lessor is treated as having made a loan to the lessee, in respect of which the payments of interest and principal are made equal in amount to the rental payable by the lessee.
- (2) The interest component of each payment under the loan is considered as interest expenses for the lessee and interest income for the lessor.
- (3) A lease of property is a finance lease if -

- (a) the lease transfers substantially all the risks and rewards to ownership of an asset; or
- (b) the lessee has an option to purchase the property for a fixed or determinable price at the expiration of the lease;
- (4) A finance lease entered into before the commencement of this section, which has been dealt with for purposes of the determination of taxable income other than in accordance with the provisions of subsection (1), shall be dealt with for purposes of determining taxable income in each subsequent year of assessment, on the same basis as applied in the previous years of assessment in respect of that lease until the expiry of the term of the lease.
- (5) Any amount received or accrued arising from the disposal of an asset which was acquired in terms of a lease which lease has been dealt with for purposes of the determination of taxable income other than in accordance with the provisions of subsection (1), shall be included into taxable income."

4. *Future Departmental practice*

4.1 In order to address past deficiencies, the Commissioner of Taxes requires all taxpayers who have entered into finance lease for the purposes of acquiring assets and who have dealt with such leases in their tax computations as operating leases to -

- (a) Review all previous tax computations and to proof the accuracy of the leasing adjustments therein by providing reconciliations of the amounts therein relating to leasing with the movement on 'assets acquired under leases', 'liabilities under finance leases' and 'deferred lease charges' in the balance sheet and with the relevant items in the income statement 'depreciation of leased assets', 'lease finance charges' and 'profit / loss on disposal of leased assets'.
- (b) Submit amended tax computations in cases where the leasing adjustment in a subsequent computation was discontinued notwithstanding that finance leases were still in operation or assets held under finance leases still owned.
- (c) Submit reconciliations as contemplated above in support of the adjustments for leasing in the return for the year of assessment commencing 1 July 2003. Alternatively the taxpayer may opt to deal with finance leases in the return for the year of assessment commencing 1 July 2003 as if the amendment had come into force with effect from that year of assessment.

4.2 For tax computations submitted subsequent to the coming into force of the amendment to the Income Tax Order as contemplated above, taxpayers will be required to submit reconciliations as outlined above distinguishing between assets acquired before and after the commencement of the amendment.

4.3 To provide assistance, a tabulation of the tax computation and of the relevant extracts from the financial statements is set below together with cross references as to the agreement of amounts.

Explanatory Note on Reconciliation of Finance Lease Data

Extracts from tax computation

1	Profit per financial statements	Per income statement - Profit before tax
2	Add depreciation of leased assets	Agrees to depreciation as below #13
3	Add lease finance charges	Agrees to lease charges as below #18
4	Less lease premium instalments paid	Agrees to payments as below #19

5	Less settlements on termination before end of contract period	Agrees to payments as below #20
6	Less profit/(loss) on disposal of leased assets	Per financial statements and #24 below
7	Add recoupments arising on disposal of leased asset	Agrees to proceeds on disposal #22 below
8	Taxable income	

Extract from financial statements

	Leased fixed assets	
11	Balance at beginning of period	Per balance sheet prior year
12	Add: additions to cost	Agrees to cost of new assets below #17
13	Less: depreciation for period	Agrees to depreciation as above #2
14	Less: disposals at net book value	Agrees to #23 below
15	Balance at end of period	Per balance sheet current year
	Lease finance liability	
16	Balance at beginning of period	Per balance sheet prior year
17	Add: cost of new assets	Agrees to cost of new assets above #12
18	Add: finance charges for period	Agrees to lease charges as above #3
19	Less: repayments	To computation #4
20	Less: settlements on termination before end of contract period	To computation #5
21	Balance at end of period	Per balance sheet current year
	Profit / (Loss) on disposal of leased assets	Per financial statements
22	Proceeds on disposal of asset	Agrees to computation #7
23	Less: book value of asset sold	Agrees to disposals at net book value as above #14
24	Profit / (loss) on disposal of leased assets	Agrees to #6 above

P. N. MSIBI
Commissioner of Taxes

MBABANE
 31 July 2004

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