



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 884. 29 June 1998

No. 884. 29 Junie 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 30 of 1998: Taxation Laws Amendment Act, 1998.

No. 30 van 1998: Wysigingswet op Belastingwette, 1998.

**GENERAL EXPLANATORY NOTE:**

[                    ]    Words in bold type in square brackets indicate omissions from existing enactments.

                        Words underlined with a solid line indicate insertions in existing enactments.

# ACT

To amend the Marketable Securities Tax Act, 1948, so as to withdraw an exemption; to further regulate the payment of penalties; to make provision for the payment of interest; to further regulate the making of refunds; to effect certain textual amendments; and to provide for the publication of names of offenders; to amend the Transfer Duty Act, 1949, so as to further regulate the payment of transfer duty; to effect certain textual amendments; to further regulate the making of refunds; and to provide for the publication of names of offenders; to amend the Estate Duty Act, 1955, so as to further regulate the payment of estate duty; to effect certain textual amendments; and to provide for the publication of names of offenders; to amend the Income Tax Act, 1962, so as to fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1999 and 30 June 1999, and by companies in respect of taxable incomes for the years of assessment ending during the period of 12 months ending on 31 March 1999; to further define certain expressions; to make certain decisions of the Commissioner subject to objection and appeal; to adjust the secrecy provisions; to increase certain tax rebates; to further regulate the receipt and accrual of income from certain funds; to further regulate the taxation of allowances or advances in respect of transport expenses; to further regulate the circumstances in which amounts are deemed to have accrued from a source within the Republic; to further regulate the circumstances in which amounts received or accrued in relation to the disposal of listed shares are deemed to be of a capital nature; to further regulate the taxation of investment income from foreign sources; to further regulate the taxation of investment income of controlled foreign entities and investment income arising from donations, settlements or other dispositions; to further regulate the application of certain exemptions; to withdraw certain exemptions and to introduce another; to further regulate certain general deductions allowed in the determination of taxable income; to repeal the deduction in respect of expenses incurred by medical practitioners and dentists on courses or congresses outside the Republic; to deem certain dividends received by or accrued to a shareholder to be income derived otherwise than in the form of dividends; to further regulate the limitation of allowances granted to lessors of certain assets; to further regulate the taxation of gains and losses on foreign exchange transactions; to further regulate the taxation of the income of trusts and beneficiaries of trusts; to further regulate the determination of the taxable income of certain persons in respect of international transactions; to effect certain textual amendments; to introduce an exemption from donations tax; to further regulate the determination of amounts distributed which are deemed to be dividends for purposes of the Secondary Tax on Companies; to further regulate the furnishing of information; to provide for the publication of names of offenders; to delete certain obsolete provisions; to further regulate the making of refunds; to make certain general anti-avoidance provisions also applicable to trusts; to empower the Minister of Finance to make regulations prescribing the contents of certain accounts; to further regulate the computation of gross income derived by way of lump sum benefits from certain pension, provident and retirement annuity funds; to further regulate the deduction or withholding of amounts by employers in respect of

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

\_\_\_\_\_ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

# WET

Tot wysiging van die Handelseffektebelastingwet, 1948, ten einde 'n vrystelling in te trek; die betaling van boetes verder te reël; voorsiening te maak vir die betaling van rente; die maak van terugbetalings verder te reël; sekere tekstuele wysigings aan te bring; en vir die publikasie van name van oortreders voorsiening te maak; tot wysiging van die Wet op Hereregte, 1949, ten einde die betaling van hereregte verder te reël; sekere tekstuele wysigings aan te bring; die maak van terugbetalings verder te reël; en vir die publikasie van name van oortreders voorsiening te maak; tot wysiging van die Boedelbelastingwet, 1955, ten einde die betaling van boedelbelasting verder te reël; sekere tekstuele wysigings aan te bring; en vir die publikasie van name van oortreders voorsiening te maak; tot wysiging van die Inkomstebelastingwet, 1962, ten einde die skale van normale belasting betaalbaar deur ander persone as maatskappye ten opsigte van belasbare inkomste vir die jare van aanslag eindigende op 28 Februarie 1999 en 30 Junie 1999, en deur maatskappye ten opsigte van belasbare inkomste vir die jare van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1999, vas te stel; sekere uitdrukkings nader te omskryf; sekere besluite van die Kommissaris aan beswaar en appèl onderhewig te maak; die geheimhoudingsbepalings aan te pas; sekere belastingkortings te verhoog; die ontvangste en toevalling van inkomste uit sekere fondse verder te reël; die belasting van toelaes of voorskotte ten opsigte van reiskoste verder te reël; die omstandighede waarin bedrae geag word uit bronne in die Republiek toe te geval het, verder te reël; die omstandighede waarin sekere bedrae ontvang of toegeval met betrekking tot die vervreemding van genoteerde aandele geag word van 'n kapitale aard te wees, verder te reël; die belasting van beleggingsinkomste uit buitelandse bronne verder te reël; die belasting van beleggingsinkomste van beheerde buitelandse entiteite en beleggingsinkomste wat ontstaan uit skenkings, oormakings of ander beskikkings, verder te reël; die toepassing van sekere vrystellings verder te reël; sekere vrystellings in te trek en 'n ander in te voer; sekere algemene aftrekkings wat by die vasstelling van belasbare inkomste toegestaan word, verder te reël; die aftrekking ten opsigte van onkoste deur geneeshere en tandartse aangegaan op kursusse of kongresse buite die Republiek, in te trek; sekere dividende ontvang deur of toegeval aan 'n aandeelhouer as inkomste te ag wat andersins as in die vorm van dividende verkry is; die beperking van verminderings toegestaan aan verhuurders van sekere bates verder te reël; die belasting van winste en verliese op buitelandse valuta-transaksies verder te reël; die belasting van die inkomste van trusts en begunstigdes van trusts verder te reël; die vasstelling van belasbare inkomste van sekere persone ten opsigte van internasionale transaksies verder te reël; sekere tekstuele wysigings aan te bring; 'n vrystelling van belasting op geskenke in te voer; die vasstelling van bedrae uitgekeer wat geag word dividende te wees by die toepassing van die sekondêre belasting op maatskappye verder te reël; die verskaffing van inligting verder te reël; vir die publikasie van name van oortreders voorsiening te maak; sekere verouderde bepalinge te skrap; die maak van terugbetalings verder te reël; sekere algemene teenvermydingsmaatreëls ook op trusts van toepassing te maak; die Minister van Finansies te magtig om regulasies te maak wat die inhoud van sekere rekenings voorskryf; die berekening

normal tax; and to extend the provisions in relation to, and to further regulate, the determination of benefits and advantages derived by reason of employment; to amend the Customs and Excise Act, 1964, so as to further define certain expressions; to adjust the secrecy provisions; to effect certain consequential and textual amendments; to introduce special measures to regulate the payment of duty on marked goods; to further regulate the conclusion of certain international agreements; to regulate the disclosure of information and the rendering of mutual assistance in terms of a convention or agreement; to further regulate the making of refunds; to criminalise certain conduct; to provide for the publication of names of offenders; to further regulate the circumstances in which rewards may be made; to further regulate the liability of an agent for obligations imposed on such agent's principal; to further regulate the prohibition and restriction on the importation of certain goods; and to provide for the continuation of certain amendments to the Schedules to the Customs and Excise Act, 1964; to amend the Stamp Duties Act, 1968, so as to further define certain expressions; to introduce certain exemptions; to further regulate the payment of stamp duty; to further regulate the making of refunds; to provide for the publication of names of offenders; and to withdraw certain exemptions; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to exclude certain activities from the scope of the exemption for financial services; to allow the Commissioner to make certain information regarding vendors known; to limit the application of the zero rate in respect of the supply of services to non-residents; to limit the application of the payments basis of accounting for tax and to introduce a transitional arrangement in that regard; to limit the period during which input tax may be deducted to five years and to introduce a scheme for determining the tax liability; to provide that any basis for apportioning input tax be approved by the Commissioner and that the basis so approved may only be changed from a future tax period; to make further provision in respect of adjustments of input tax; to further regulate the particulars to be reflected on tax invoices; to further regulate the circumstances in which the Commissioner should be advised of a change of status; to provide for certain decisions of the Commissioner to be subject to objection and appeal; to limit the circumstances in which a vendor is protected from the withdrawal of a ruling; to prohibit the backdating of claims for refunds and to further provide for amounts due by vendors to be set off against refunds; to further regulate the determination of the period of 21 days within which a refund must be made; to further regulate the publication of names of offenders; and to effect certain textual amendments; to amend the Income Tax Act, 1993, so as to effect a textual amendment to the unbundling provisions; to amend the Income Tax Act, 1996, so as to effect a textual amendment; and to amend the Tax on Retirement Funds Act, 1996, so as to increase the rate of tax; and to provide for matters connected therewith.

*(English text signed by the President.)*  
*(Assented to 24 June 1998.)*

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

van bruto inkomste by wyse van enkelbedragvoordele uit pensioen-, voorsorgs- en uittredingannuïteitsfondse verkry, verder te reël; en die bedrae wat deur werkgewers afgetrek of teruggehou moet word ten opsigte van normale belasting, verder te reël; die bepalinge met betrekking tot die vasstelling van voordele of bates verkry weens diens of ampsbekleding, uit te brei en verder te reël; tot wysiging van die Doeane- en Aksynswet, 1964, ten einde sekere uitdrukkings nader te omskryf; die geheimhoudingsbepalinge aan te pas; sekere gevolglike en tekstuele wysigings aan te bring; spesiale maatreëls in te voer om die betaling van reg op gemerkte goedere te reël; die aangaan van sekere internasionale ooreenkoms te reël; die openbaarmaking van inligting en die lewering van onderlinge bystand ingevolge 'n konvensie of ooreenkoms te reël; die maak van terugbetalings verder te reël; sekere gedrag strafbaar te stel; vir die publikasie van die name van oortreders voorsiening te maak; die omstandighede waaronder toekennings gemaak kan word verder te reël; die aanspreeklikheid van 'n agent vir verpligtinge aan daardie agent se prinsipaal opgelê verder te reël; die verbod en beperking op die invoer van sekere goedere verder te reël; en voorsiening te maak vir die verlenging van sekere wysigings aan die Bylaes by die Doeane- en Aksynswet, 1964; tot wysiging van die Wet op Seëlregte, 1968, ten einde sekere uitdrukkings nader te omskryf; sekere vrystellings in te voer; die betaling van seëlregte verder te reël; die maak van terugbetalings verder te reël; vir die publikasie van name van oortreders voorsiening te maak; en sekere vrystellings in te trek; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings nader te omskryf; sekere aktiwiteite van die omvang van die vrystelling vir finansiële dienste uit te sluit; die Kommissaris toe te laat om sekere inligting rakende ondernemers bekend te maak; die toepassing van die nulkoers ten opsigte van die lewering van dienste aan buitelanders te beperk; die toepassing van die betalingsbasis van rekenskap gee van belasting te beperk en 'n oorgangsmatreël in daardie verband in te voer; die tydperk waarbinne insetbelasting afgetrek kan word tot vyf jaar te beperk en 'n skema vir die vasstelling van die belastingaanspreeklikheid in te voer; voorsiening te maak dat enige basis van toedeling van insetbelasting deur die Kommissaris goedgekeur word en dat die basis aldus goedgekeur slegs verander kan word vanaf 'n toekomstige belastingtydperk; regstellings van insetbelasting verder te reël; die besonderhede wat in belastingfakture vervat moet word verder te reël; die omstandighede waaronder die Kommissaris van 'n verandering in status in kennis gestel moet word, verder te reël; voorsiening te maak dat sekere besluite van die Kommissaris aan beswaar en appèl onderhewig is; die omstandighede waaronder 'n onderneemer beskerm word teen die intrekking van 'n beslissing te beperk; die terugdatering van eise om terugbetalings te verbied en verder voorsiening te maak vir die verrekening teen terugbetalings van bedrae deur ondernemers verskuldig; die vasstelling van die tydperk van 21 dae waarbinne terugbetalings gemaak moet word, verder te reël; die publikasie van name van oortreders verder te reël; en sekere tekstuele wysigings aan te bring; tot wysiging van die Inkomstebelastingwet, 1993, ten einde 'n tekstuele wysiging aan die ontbondelingsbepalinge aan te bring; tot wysiging van die Inkomstebelastingwet, 1996, ten einde 'n tekstuele wysiging aan te bring; en tot wysiging van die Wet op Belasting op Uittreefondse, 1996, ten einde die koers van belasting te verhoog; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)  
(Goedgekeur op 24 Junie 1998.)*

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982, section 1 of Act 92 of 1983, section 1 of Act 118 of 1984, section 1 of Act 81 of 1985, section 1 of Act 87 of 1988, section 1 of Act 136 of 1992, section 1 of Act 97 of 1993, section 3 of Act 37 of 1996 and section 2 of Act 27 of 1997** 5

1. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of subparagraph (ix) of paragraph (c).

(2) Subsection (1) shall be deemed to have come into operation on 26 June 1998 and shall apply in respect of any purchase of marketable securities on or after that date. 10

**Substitution of section 5 of Act 32 of 1948, as substituted by section 3 of Act 103 of 1969 and amended by section 2 of Act 87 of 1982**

2. The following section is hereby substituted for section 5 of the Marketable Securities Tax Act, 1948:

**“Penalty on late payments”** 15

5. If any tax remains unpaid at the expiration of the period of 14 days or the further period within which payment thereof is in terms of section 4(1) required to be made, a penalty [at the rate] of 10 per cent [per annum, calculated from the last day of the said period or further period, as the case may be, to the date of payment] of the amount of such unpaid tax shall be payable [on the amount which so remains unpaid]: Provided that [where the last day of the said period or further period, as the case may be, is a date before 1 July 1982, such penalty shall be calculated up to 30 June 1982 at the rate of 12 per cent per annum] the Commissioner may, having regard to the circumstances of the case, remit the penalty imposed under this section or any part thereof.” 20 25

**Insertion of section 5A in Act 32 of 1948**

3. (1) The following section is hereby inserted in the Marketable Securities Tax Act, 1948, after section 5:

**“Interest on late payments”** 30

5A. If any tax is not paid in full within the period for payment prescribed by section 4, interest shall be paid at the prescribed rate as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), on the balance of tax outstanding reckoned from the last date for payment contemplated in section 4 to the date of payment to the Commissioner.” 35

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any unpaid tax on or after that date.

**Substitution of section 7 of Act 32 of 1948, as amended by section 4 of Act 114 of 1977**

4. The following section is hereby substituted for section 7 of the Marketable Securities Tax Act, 1948: 40

**“Refunds and set-off”**

7. (1) Subject to the provisions of subsection (2), the Commissioner may, if he is satisfied that any purchase of marketable securities has been cancelled, or has been set aside or declared void by any court of law, refund any tax which may have been paid in respect of the purchase of those securities. 45

Wysiging van artikel 3 van Wet 32 van 1948, soos gewysig deur artikel 12 van Wet 64 van 1960, artikel 36 van Wet 77 van 1968, artikel 2 van Wet 88 van 1974, artikel 2 van Wet 114 van 1977, artikel 1 van Wet 95 van 1978, artikel 2 van Wet 106 van 1980, artikel 1 van Wet 87 van 1982, artikel 1 van Wet 92 van 1983, artikel 1 van  
5 Wet 118 van 1984, artikel 1 van Wet 81 van 1985, artikel 1 van Wet 87 van 1988, artikel 1 van Wet 136 van 1992, artikel 1 van Wet 97 van 1993, artikel 3 van Wet 37 van 1996 en artikel 2 van Wet 27 van 1997

1. (1) Artikel 3 van die Handelseffektebelastingwet, 1948, word hierby gewysig deur subparagraaf (ix) van paragraaf (c) te skrap.

10 (2) Subartikel (1) word geag op 26 Junie 1998 in werking te getree het en is van toepassing ten opsigte van enige koop van handelseffekte op of na daardie datum.

Vervanging van artikel 5 van Wet 32 van 1948, soos vervang deur artikel 3 van Wet 103 van 1969 en gewysig deur artikel 2 van Wet 87 van 1982

2. Artikel 5 van die Handelseffektebelastingwet, 1948, word hierby deur die  
15 volgende artikel vervang:

#### “Boete op laat betalings

5. Indien enige belasting onbetaald is by afloop van die tydperk van 14  
20 dae of die verdere tydperk waarin betaling daarvan ingevolge artikel 4(1) moes geskied, is 'n boete van 10 persent [per jaar, bereken vanaf die laaste dag van genoemde tydperk of verdere tydperk, na gelang van die geval, tot die datum van betaling] van die bedrag van bedoelde onbetaalde belasting, betaalbaar [op die aldus onbetaalde bedrag]: Met dien verstande dat [waar die laaste dag van genoemde tydperk of verdere tydperk, na gelang van die geval, 'n datum voor 1 Julie 1982  
25 is, sodanige boete tot 30 Junie 1982 teen die koers van 12 persent per jaar bereken word] die Kommissaris, met inagneming van die omstandighede van die geval, die boete kragtens hierdie artikel opgelê, in geheel of ten dele kan kwytskeld.”.

#### Invoeging van artikel 5A in Wet 32 van 1948

30 3. (1) Die volgende artikel word hierby na artikel 5 van die Handelseffektebelastingwet, 1948, ingevoeg:

#### “Rente op laat betalings

35 5A. Indien enige belasting nie ten volle betaal is binne die tydperk vir betaling by artikel 4 voorgeskryf nie, is rente teen die voorgeskrewe koers soos omskryf in artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), op die balans van daardie belasting uitstaande, bereken vanaf die laaste datum vir betaling in artikel 4 beoog tot die datum van betaling aan die Kommissaris, betaalbaar.”.

40 (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige belasting wat op of na daardie datum onbetaald is.

Vervanging van artikel 7 van Wet 32 van 1948, soos gewysig deur artikel 4 van Wet 114 van 1977

45 4. Artikel 7 van die Handelseffektebelastingwet, 1948, word hierby deur die volgende artikel vervang:

#### “Terugbetalings en verrekening

50 7. (1) Indien die Kommissaris oortuig is dat 'n koop van handelseffekte gekanselleer is, of deur 'n geregshof tersyde gestel of nietig verklaar is, kan hy behoudens die bepalinge van subartikel (2) die belasting, wat betaal is ten opsigte van die koop van daardie handelseffekte, terugbetaal.

(2) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section.”

**Amendment of section 9 of Act 32 of 1948, as substituted by section 2 of Act 46 of 1996**

5. Section 9 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the definition of “judge” in subsection (1) of the following definition: “ ‘judge’ means a judge of the [Supreme] High Court and includes a judge in chambers;”.

**Amendment of section 9D of Act 32 of 1948, as inserted by section 2 of Act 46 of 1996**

6. Section 9D of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the words “Supreme Court” in paragraph (a) of subsection (9) of the words “High Court”.

**Insertion of section 11 in Act 32 of 1948**

7. (1) The following section is hereby inserted in the Marketable Securities Tax Act, 1948, after section 10:

**“Publication of names of offenders**

**11.** (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of—

- (a) section 10;
- (b) the common law, where the criminal conduct corresponds materially with the offence referred to in paragraph (a), after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify—

- (a) the name and address of the offender;
- (b) such particulars of the offence as the Commissioner may think fit;
- (c) the particulars of the fine or sentence imposed.”.

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date.

**Amendment of section 6 of Act 40 of 1949**

8. (1) Section 6 of the Transfer Duty Act, 1949, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) any commission or fees paid or payable in respect of the property by the person who acquired [such] the property [in excess of five per centum of the amount of the consideration payable in respect of the property]: Provided that where the property is acquired by way of a sale in execution, the amount to be added to the consideration in terms of this paragraph shall be so much of any commission or fees paid or payable by the person who acquired the property, as exceeds five per cent of the consideration payable in respect of the property;”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any property acquired on or after that date.



(2) Waar enige terugbetaling in subartikel (1) beoog, aan enige persoon verskuldig is wat versuim het om enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete gehef of opgelê kragtens hierdie Wet of enige ander wet deur die Kommissaris geadminestreer, binne die tydperk voorgeskryf vir betaling van die bedrag te betaal, kan die Kommissaris enige bedrag wat kragtens hierdie artikel aan die persoon terugbetaalbaar geword het, teen die bedrag wat daardie persoon versuim het om te betaal, verreken.”

**Wysiging van artikel 9 van Wet 32 van 1948, soos vervang deur artikel 2 van Wet 46 van 1996**

5. Artikel 9 van die Handelseffektebelastingwet, 1948, word hierby gewysig deur die omskrywing van “regter” in subartikel (1) deur die volgende omskrywing te vervang:

“ ‘regter’ ’n regter van die [Hooggeregshof] Hoë Hof en ook ’n regter [op kamerhof] in kamers.”

**Wysiging van artikel 9D van Wet 32 van 1948, soos ingevoeg deur artikel 2 van Wet 46 van 1996**

6. Artikel 9D van die Handelseffektebelastingwet, 1948, word hierby gewysig deur die woord “Hooggeregshof” in paragraaf (a) van subartikel (9) deur die woorde “Hoë Hof” te vervang.

**Invoeging van artikel 11 in Wet 32 van 1948**

7. (1) Die volgende artikel word hierby na artikel 10 van die Handelseffektebelastingwet, 1948, ingevoeg:

**“Publikasie van name van oortreders**

11. (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die Staatskoerant ’n lys van persone publiseer wat aan ’n misdryf skuldig bevind is ingevolge—

- (a) artikel 10;
  - (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met die misdryf in paragraaf (a) bedoel, nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- (2) Elke sodanige lys kan vermeld—
- (a) die naam en adres van die oortreder;
  - (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
  - (c) die besonderhede van die boete of vonnis opgelê.”

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van ’n persoon wat op of na daardie datum skuldig bevind is.

**Wysiging van artikel 6 van Wet 40 van 1949**

8. (1) Artikel 6 van die Wet op Hereregte, 1949, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) enige kommissie of gelde [bo vyf per centum van die bedrag van die vergoeding wat ten opsigte van die eiendom betaalbaar is en] ten opsigte van die eiendom wat deur die persoon wat die eiendom verkry het, betaal of betaalbaar is: Met dien verstande dat waar die eiendom by wyse van ’n verkoping in eksekusie verkry is, die bedrag wat by die vergoeding ingevolge hierdie paragraaf bygereken moet word soveel van enige kommissie of gelde betaal of betaalbaar deur die persoon wat die eiendom verkry het, is as wat vyf persent van die vergoeding betaalbaar ten opsigte van die eiendom oorskry;”

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige eiendom verkry op of na daardie datum.

**Amendment of section 11A of Act 40 of 1949, as inserted by section 5 of Act 46 of 1996**

9. Section 11A of the Transfer Duty Act, 1949, is hereby amended by the substitution for the definition of “judge” in subsection (1) of the following definition:

“ ‘judge’ means a judge of the [Supreme] High Court and includes a judge in chambers;”.

**Amendment of section 11E of Act 40 of 1949, as inserted by section 5 of Act 46 of 1996**

10. Section 11E of the Transfer Duty Act, 1949, is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“For the purposes of the administration of this Act, a judge may on *[ex parte]* application by the Commissioner or any officer contemplated in section 11A(4), issue a warrant, authorising the officer named therein to, without prior notice and at any time—”; and

(b) by the substitution for the words “Supreme Court” in paragraph (a) of subsection (9) of the words “High Court”.

**Substitution of section 20 of Act 40 of 1949**

11. The following section is hereby substituted for section 20 of the Transfer Duty Act, 1949:

**“Refunds and set-off**

20. (1) If it is proved to the satisfaction of the Commissioner that duty has been paid in respect of an acquisition of property by a person who is or has become, in terms of this Act or any other law as in force on the date of the acquisition, exempt from the payment of duty in respect of that acquisition, or that the amount of duty which has been paid is in excess of the amount payable, he may, subject to the provisions of subsection (2), authorize a refund of the duty paid or of so much of the duty as has been overpaid, as the case may be.

(2) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section.”.

**Insertion of section 20A in Act 40 of 1949**

12. (1) The following section is hereby inserted in the Transfer Duty Act, 1949, after section 20:

**“Publication of names of offenders**

20A. (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of—

(a) section 15 or 17;

(b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a),

after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify—

**Wysiging van artikel 11A van Wet 40 van 1949, soos ingevoeg deur artikel 5 van Wet 46 van 1996**

9. Artikel 11A van die Wet op Hereregte, 1949, word hierby gewysig deur die omskrywing van "regter" in subartikel (1) deur die volgende omskrywing te vervang:
- 5 " 'regter' 'n regter van die [Hooggeregshof] Hoë Hof en ook 'n regter [op kamerhof] in kamers."

**Wysiging van artikel 11E van Wet 40 van 1949, soos ingevoeg deur artikel 5 van Wet 46 van 1996**

- 10 10. Artikel 11E van die Wet op Hereregte, 1949, word hierby gewysig—
- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
- "Vir die doeleindes van die administrasie van hierdie Wet kan 'n regter, op [ex parte-aansoek] aansoek deur die Kommissaris of 'n amptenaar beoog in artikel 11A(4), 'n lasbrief uitreik waarin die amptenaar daarin genoem, gemagtig word om sonder vooraf kennisgewing en te eniger tyd—"; en
- 15 (b) deur die woord "Hooggeregshof" in paragraaf (a) van subartikel (9) deur die woorde "Hoë Hof" te vervang.

**Vervanging van artikel 20 van Wet 40 van 1949**

11. Artikel 20 van die Wet op Hereregte, 1949, word hierby deur die volgende artikel 20 vervang:

**"Terugbetalings en verrekening**

- 25 20. (1) Indien dit tot bevrediging van die Kommissaris bewys word dat hereregte betaal is ten opsigte van 'n verkryging van eiendom deur iemand wat, ingevolge hierdie Wet of enige ander wet soos op die datum van die verkryging in werking, van die betaling van hereregte ten opsigte van daardie verkryging onthef is of geword het, of dat die bedrag wat aan hereregte betaal is meer is [dan] as die bedrag wat betaalbaar is, kan hy behoudens die bepalings van subartikel (2) 'n terugbetaling van die betaalde hereregte of soveel van die hereregte as wat te veel betaal is, na gelang van die geval, magtig.

- 30 (2) Waar enige terugbetaling in subartikel (1) beoog aan enige persoon verskuldig is wat versuim het om enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete gehef of opgelê kragtens hierdie Wet of enige ander wet deur die Kommissaris geadminestreer,
- 35 binne die tydperk voorgeskryf vir betaling van die bedrag te betaal, kan die Kommissaris enige bedrag wat kragtens hierdie artikel aan die persoon terugbetaalbaar geword het, teen die bedrag wat die persoon versuim het om te betaal, verreken."

**Invoeging van artikel 20A in Wet 40 van 1949**

- 40 12. (1) Die volgende artikel word hierby in die Wet op Hereregte, 1949, na artikel 20 ingevoeg:

**"Publikasie van name van oortreders**

- 45 20A. (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die Staatskoerant 'n lys van persone publiseer wat aan 'n misdryf skuldig bevind is ingevolge—
- (a) artikel 15 of 17;
- (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met 'n misdryf in paragraaf (a) bedoel,
- nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- 50 (2) Elke sodanige lys kan vermeld—

- (a) the name and address of the offender;  
 (b) such particulars of the offence as the Commissioner may think fit;  
 (c) the particulars of the fine or sentence imposed.”

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date. 5

**Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988, section 7 of Act 97 of 1993 and section 6 of Act 27 of 1997** 10

13. Section 3 of the Estate Duty Act, 1955, is hereby amended by the substitution for paragraph (a)bis of subsection (3) of the following paragraph:

“(a)bis so much of any benefit which is due and payable by, or in consequence of membership or past membership of, any fund on or as a result of the death of the deceased as exceeds the aggregate amount of any contributions or consideration proved to the satisfaction of the Commissioner to have been paid by the beneficiary, together with interest at six per cent per annum calculated upon such contributions or consideration from the date of payment to the date of death: Provided that— 15

- (i) this paragraph shall not apply in respect of any annuity provided by or in consequence of membership or past membership of a pension fund, a provident fund or a retirement annuity fund as respectively defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962); 20
- (ii) this paragraph shall apply in respect of the commutation of any annuity which on or after the date of the death of the deceased is provided or may be provided by or in consequence of membership or past membership of a fund referred to in paragraph (i) of this proviso, and that for the purposes of this paragraph any amount payable by way of such a commutation shall be deemed to be a benefit which is due and payable as aforesaid;” 25 30

**Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987, section 10 of Act 87 of 1988, section 8 of Act 97 of 1993, section 3 of Act 20 of 1994 and section 7 of Act 27 of 1997** 35

14. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended by the substitution for subparagraph (ii) of paragraph (m) of the following subparagraph: 40

“(ii) no deduction in respect of the value of such interest or right was [allowed] allowable in the determination of the net value of the estate of the predeceased spouse under the provisions of paragraph (q) of this section;”

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of the estate of any person who dies on or after that date. 45

**Amendment of section 8A of Act 45 of 1955, as inserted by section 7 of Act 46 of 1996**

15. Section 8A of the Estate Duty Act, 1955, is hereby amended by the substitution for the definition of “judge” in subsection (1) of the following definition:

“ ‘judge’ means a judge of the [Supreme] High Court and includes a judge in chambers;” 50

- (a) die naam en adres van die oortreder;
- (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
- (c) die besonderhede van die boete of vonnis opgelê.”

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van 'n persoon wat op of na daardie datum skuldig bevind is.

Wysiging van artikel 3 van Wet 45 van 1955, soos gewysig deur artikel 2 van Wet 65 van 1960, artikel 8 van Wet 77 van 1964, artikel 2 van Wet 81 van 1965, artikel 4 van Wet 92 van 1971, artikel 3 van Wet 89 van 1972, artikel 3 van Wet 102 van 1979, artikel 10 van Wet 106 van 1980, artikel 2 van Wet 92 van 1983, artikel 4 van Wet 81 van 1985, artikel 9 van Wet 87 van 1988, artikel 7 van Wet 97 van 1993 en artikel 6 van Wet 27 van 1997

13. Artikel 3 van die Boedelbelastingwet, 1955, word hierby gewysig deur paragraaf (a)bis van subartikel (3) deur die volgende paragraaf te vervang:

“(a)bis soveel van enige voordeel wat deur, of as gevolg van lidmaatskap of gewese lidmaatskap van, enige fonds by of as gevolg van die dood van die oorledene verskuldig en betaalbaar is as wat die totale bedrag van enige bydraes of vergoeding wat tot bevrediging van die Kommissaris bewys word betaal te gewees het deur die begunstigde, saam met rente teen ses persent per jaar bereken op sodanige bydraes of vergoeding vanaf die datum van betaling tot die datum van dood, te bowe gaan: Met dien verstande dat—

- (i) hierdie paragraaf nie van toepassing is nie ten opsigte van 'n jaargeld voorsien deur, of as gevolg van lidmaatskap of gewese lidmaatskap van, 'n pensioenfonds, 'n voorsorgsfonds of 'n uittredingannuïteitsfonds soos onderskeidelik omskryf in artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962);
- (ii) hierdie paragraaf van toepassing is ten opsigte van die vervanging van 'n jaargeld wat op of na die datum van dood van die oorledene deur, of as gevolg van lidmaatskap of gewese lidmaatskap van, 'n fonds vermeld in paragraaf (i) van hierdie voorbehoudsbepaling voorsien is of voorsien mag wees, en dat by die toepassing van hierdie paragraaf 'n bedrag betaalbaar by wyse van so 'n vervanging geag word 'n voordeel te wees wat soos voormeld verskuldig en betaalbaar is;”.

Wysiging van artikel 4 van Wet 45 van 1955, soos gewysig deur artikel 2 van Wet 59 van 1957, artikel 3 van Wet 65 van 1960, artikel 9 van Wet 71 van 1961, artikel 9 van Wet 77 van 1964, artikel 3 van Wet 81 van 1965, artikel 2 van Wet 94 van 1967, artikel 5 van Wet 92 van 1971, artikel 2 van Wet 70 van 1975, artikel 1 van Wet 104 van 1976, artikel 4 van Wet 102 van 1979, artikel 11 van Wet 106 van 1980, artikel 3 van Wet 99 van 1981, artikel 5 van Wet 81 van 1985, artikel 6 van Wet 86 van 1987, artikel 10 van Wet 87 van 1988, artikel 8 van Wet 97 van 1993, artikel 3 van Wet 20 van 1994 en artikel 7 van Wet 27 van 1997

14. (1) Artikel 4 van die Boedelbelastingwet, 1955, word hierby gewysig deur subparagraaf (ii) van paragraaf (m) deur die volgende subparagraaf te vervang:

“(ii) geen korting ten opsigte van die waarde van daardie belang of reg by die bepaling van die netto waarde van die boedel van die vooroorlede gade kragtens die bepalings van paragraaf (q) van hierdie artikel [toegelaat is] toelaatbaar was nie;”.

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing op die boedel van 'n persoon wat op of na daardie datum te sterwe kom.

Wysiging van artikel 8A van Wet 45 van 1955, soos ingevoeg deur artikel 7 van Wet 46 van 1996

15. Artikel 8A van die Boedelbelastingwet, 1955, word hierby gewysig deur die omskrywing van “regter” in subartikel (1) deur die volgende omskrywing te vervang: “‘regter’ 'n regter van die [Hoogeregshof] Hoë Hof en ook 'n regter [op kamerhof] in kamers.”.

**Amendment of section 8E of Act 45 of 1955, as inserted by section 7 of Act 46 of 1996**

16. Section 8E of the Estate Duty Act, 1955, is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words: 5  
 “For the purposes of the administration of this Act, a judge may on [*ex parte*] application by the Commissioner or any officer contemplated in section 8A(4), issue a warrant, authorising the officer named therein to, without prior notice and at any time—”; and
- (b) by the substitution for the words “Supreme Court” in paragraph (a) of 10  
 subsection (9) of the words “High Court”.

**Insertion of section 28A in Act 45 of 1955**

17. (1) The following section is hereby inserted in the Estate Duty Act, 1955, after section 28:

**“Publication of names of offenders” 15**

**28A.** (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of—

- (a) section 28; 20  
 (b) the common law, where the criminal conduct corresponds materially with the offence referred to in paragraph (a), after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify—

- (a) the name and address of the offender; 25  
 (b) such particulars of the offence as the Commissioner may think fit;  
 (c) the particulars of the fine or sentence imposed.”.

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date.

**Fixing of rates of normal tax in terms of Act 58 of 1962 30**

18. The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962, in respect of—

- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1999 or 30 June 1999; and 35  
 (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1999,

shall be as set forth in Schedule 1 to this Act.

**Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 40  
 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, 50**

**Wysiging van artikel 8E van Wet 45 van 1955, soos ingevoeg deur artikel 7 van Wet 46 van 1996**

16. Artikel 8E van die Boedelbelastingwet, 1955, word hierby gewysig—

- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
- “Vir die doeleindes van die administrasie van hierdie Wet kan ’n regter, op [ex parte-aansoek] aansoek deur die Kommissaris of ’n amptenaar beoog in artikel 8A(4), ’n lasbrief uitreik waarin die amptenaar daarin genoem, gemagtig word om sonder vooraf kennisgewing en te eniger tyd—”; en
- (b) deur die woord “Hooggeregshof” in paragraaf (a) van subartikel (9) deur die woorde “Hoë Hof” te vervang.

**Invoeging van artikel 28A in Wet 45 van 1955**

17. (1) Die volgende artikel word hierby na artikel 28 van die Boedelbelastingwet, 1955, ingevoeg:

15 **“Publikasie van name van oortreders**

**28A.** (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die *Staatskoerant* ’n lys van persone publiseer wat aan ’n misdryf skuldig bevind is ingevolge—

- (a) artikel 28;
- (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met die misdryf in paragraaf (a) bedoel, nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- (2) Elke sodanige lys kan vermeld—
- (a) die naam en adres van die oortreder;
- (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
- (c) die besonderhede van die boete of vonnis opgelê.”

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van ’n persoon wat op of na daardie datum skuldig bevind is.

30 **Vasstelling van skale van normale belasting ingevolge Wet 58 van 1962**

18. Die skale van normale belasting wat ingevolge artikel 5(2) van die Inkomste-belastingwet, 1962, gehef moet word ten opsigte van—

- (a) die belasbare inkomste van ’n ander persoon as ’n maatskappy vir die jaar van aanslag eindigende op 28 Februarie 1999 of 30 Junie 1999; en
- (b) die belasbare inkomste van ’n maatskappy vir ’n jaar van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1999, is soos in Bylae 1 by hierdie Wet uiteengesit.

Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 95 van 1967, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing No. R.780 van 14 April 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel

**section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995,  
section 2 of Act 36 of 1996 and section 2 of Act 28 of 1997**

19. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for paragraph (c) of the definition of “benefit fund” of the following paragraph: 5  
 “(c) any fund (other than a pension fund, provident fund or retirement annuity fund) [**which, in respect of the year of assessment in question**], where the Commissioner [**is satisfied is**]—  
 (i) was prior to 11 March 1998 satisfied that such fund constituted; and  
 (ii) is in respect of the year of assessment in question satisfied, that such 10  
fund constitutes,  
 a permanent fund *bona fide* established for the purpose of providing sickness, accident or unemployment benefits for its members, or mainly for such a purpose and also for the purpose of providing benefits for the dependants or nominees of deceased members;”;
- (b) by the deletion of paragraph (c) of the definition of “benefit fund”;
- (c) by the insertion of the following paragraph after paragraph (b) of the definition of “connected person”:  
 “(bA) in relation to a connected person in relation to a trust (other than a unit trust scheme in property shares as authorised under the Unit Trust Control Act, 1981 (Act No. 54 of 1981)), includes any other person who is a connected person in relation to such trust;”; 20
- (d) by the substitution for subparagraph (vA) of paragraph (d) of the definition of “connected person” of the following subparagraph:  
 “(vA) any other company if such other company is managed or controlled by— 25  
 (aa) any person who or which is a connected person in relation to such company; or  
 (bb) any person who or which is a connected person in relation to a person contemplated in item (aa); and”; 30
- (e) by the substitution for the words preceding subparagraph (i) of paragraph (e) of the definition of “gross income” of the following words:  
 “any amount determined in accordance with the provisions of the Second Schedule in respect of lump sum benefits received by or accrued to such person from or in consequence of his membership or past membership of—”; 35
- (f) by the substitution in the definition of “gross income” for the words following upon subparagraph (ii) and preceding the proviso to paragraph (e) of the following words:  
 “if such person was a member or past member of such fund during any such year.”; 40
- (g) by the substitution for the words preceding subparagraph (i) of paragraph (eA) of the definition of “gross income” of the following words:  
 “where, in relation to a member who effectively remains in the employment of the same employer, or the dependants or nominees of a deceased member—”; 45
- (h) by the addition of the word “or” at the end of subparagraph (ii) of paragraph (eA) of the definition of “gross income”;
- (i) by the addition to paragraph (eA) of the definition of “gross income” of the following subparagraph:  
 “(iii) any amount in a fund contemplated in paragraph (a) or (b) of the definition of ‘pension fund’ has become payable to the member or is being utilised to redeem a debt;”; 50
- (j) by the addition of the word “or” at the end of subparagraph (bb) of paragraph (eA) of the definition of “gross income”;
- (k) by the addition to paragraph (eA) of the definition of “gross income” of the following item: 55  
 “(cc) in the case of an amount becoming payable to a member or being utilised to redeem a debt, of the amount so payable or so utilised;”;
- (l) by the substitution for subparagraph (xii) of paragraph (b) of the definition of “retirement annuity fund” of the following subparagraph: 60



**2 van Wet 113 van 1993, artikel 2 van Wet 21 van 1994, artikel 2 van Wet 21 van 1995, artikel 2 van Wet 36 van 1996 en artikel 2 van Wet 28 van 1997**

19. (1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- 5 (a) deur die omskrywing van “belasting” of “die belasting” deur die volgende omskrywing te vervang:  
 “ ‘belasting’ of ‘die belasting’ enige heffing of belasting hefbaar ingevolge hierdie Wet en by die toepassing van Deel IV van Hoofstuk III ook enige heffing of belasting hefbaar ingevolge ’n vorige Inkomstebelastingwet [**of ’n belasting op persone of die inkomstes van persone hefbaar ingevolge ’n ordonnansie van ’n provinsiale raad**];”;
- 10 (b) deur die omskrywing van “belastingpligtige” deur die volgende omskrywing te vervang:  
 “ ‘belastingpligtige’ ’n persoon belasbaar met ’n belasting hefbaar ingevolge hierdie Wet, en by die toepassing van ’n bepaling met betrekking tot ’n opgawe ook elke persoon wat ingevolge hierdie Wet so ’n opgawe moet verstrekk en by die toepassing van Deel IV van Hoofstuk III ook ’n persoon belasbaar met ’n belasting hefbaar ingevolge ’n vorige Inkomstebelastingwet [**of ’n belasting op persone of die inkomstes van persone hefbaar ingevolge ’n ordonnansie van ’n provinsiale raad**];”;
- 15 (c) deur die woorde wat subparagraaf (i) van paragraaf (e) van die omskrywing van “bruto inkomste” voorafgaan deur die volgende woorde te vervang:  
 “ ’n bedrag vasgestel ooreenkomstig die bepalings van die Tweede Bylae ten opsigte van enkelbedragvoordele ontvang deur of toegeval aan so ’n persoon uit of as gevolg van sy lidmaatskap of gewese lidmaatskap van—”;
- 20 (d) deur in die omskrywing van “bruto inkomste” die woorde wat op subparagraaf (ii) volg en die voorbehoudsbepaling by paragraaf (e) voorafgaan deur die volgende woorde te vervang:  
 “indien so ’n persoon gedurende so ’n jaar ’n lid of gewese lid van bedoelde fonds was;”;
- 25 (e) deur die woorde wat subparagraaf (i) van paragraaf (eA) van die omskrywing van “bruto inkomste” voorafgaan deur die volgende woorde te vervang:  
 “waar, met betrekking tot ’n lid wat effektief in diens van dieselfde werkgewer bly, of die afhanklikes of benoemdes van ’n oorlede lid—”;
- 30 (f) deur die woord “of” aan die einde van subparagraaf (ii) van paragraaf (eA) van die omskrywing van “bruto inkomste” by te voeg;
- 35 (g) deur die volgende subparagraaf by paragraaf (eA) van die omskrywing van “bruto inkomste” te voeg:  
 “(iii) enige bedrag in ’n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ beoog aan die lid betaalbaar word of aangewend word om ’n skuld af te los,”;
- 40 (h) deur die woord “of” aan die einde van subparagraaf (bb) van paragraaf (eA) van die omskrywing van “bruto inkomste” by te voeg;
- (i) deur die volgende item by paragraaf (eA) van die omskrywing van “bruto inkomste” te voeg:
- 45 “(cc) in die geval van ’n bedrag wat aan ’n lid betaalbaar word of wat aangewend word om ’n skuld af te los, van die bedrag aldus betaalbaar of aldus aangewend,”;
- (j) deur paragraaf (c) van die omskrywing van “bystandsfonds” deur die volgende paragraaf te vervang:
- 50 “(c) ’n fonds (behalwe ’n pensioenfonds, voorsorgsfonds of uittreding-annuïteitsfonds) [**wat volgens**] waar die Kommissaris [**se oortuiging**]—  
 (i) voor 11 Maart 1998 oortuig was dat daardie fonds; en  
 (ii) ten opsigte van die betrokke jaar van aanslag oortuig is dat daardie fonds,  
 55 ’n permanente fonds [**is**] uitgemaak het of uitmaak wat *bona fide* ingestel is met die doel om by siekte, ongeval of werkloosheid voordele vir sy lede beskikbaar te stel, of hoofsaaklik met so ’n doel en ook met die doel om voordele vir die afhanklikes of benoemdes van oorlede lede beskikbaar te stel;”;
- 60 (k) deur paragraaf (c) van die omskrywing van “bystandsfonds” te skrap;
- (l) deur subparagraaf (xii) van paragraaf (b) van die omskrywing van “uittredingannuïteitsfonds” deur die volgende subparagraaf te vervang:

“(xii) that save—

(aa) as is contemplated in subparagraph (ii); or  
(bb) for the transfer of any member’s total interest in any approved  
retirement annuity fund into another approved retirement annuity  
fund prior to the member becoming entitled to the payment of an  
annuity,

no member’s rights to benefits shall be capable of surrender, commutation or assignment or of being pledged as security for any loan;”;

(m) by the substitution for the definition of “tax” or “the tax” or “taxation” of the following definition:

“ ‘tax’ or ‘the tax’ or ‘taxation’ means any levy or tax leviable under this Act and for the purposes of Part IV of Chapter III includes any levy or tax leviable under any previous Income Tax Act [or any tax on persons or the incomes of persons leviable under any ordinance of a provincial council];”;

(n) by the substitution for the definition of “taxpayer” of the following definition:

“ ‘taxpayer’ means any person chargeable with any tax leviable under this Act and, for the purposes of any provision relating to any return, includes every person required by this Act to furnish such return; and for the purposes of Part IV of Chapter III includes any person chargeable with any tax leviable under any previous Income Tax Act [or any tax on persons or the incomes of persons leviable under any ordinance of a provincial council];”.

(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 11 March 1998.

(b) Subsection (1)(b) shall come into operation on 1 January 2000 and shall apply in respect of years of assessment commencing on or after that date.

(c) Subsection (1)(g) to (k), inclusive, shall come into operation on the date of promulgation of this Act.

**Amendment of section 3 of Act 58 of 1962, as amended by section 3 of Act 141 of 1992, section 3 of Act 21 of 1994 and section 3 of Act 21 of 1995**

20. (1) Section 3 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any decision by the Commissioner under the definitions of ‘benefit fund’, ‘pension fund’, ‘provident fund’ and ‘retirement annuity fund’ in section 1, section 6, section 8(4)(b), (c), (d) and (e), section 9C, section 9D, section 10(1)(cB), (cH), (cI), (cJ), (cK), (e), (iA), (j) and (nB), section 11(e), (f), (g), (gA), (j), (l), (t), (u) and (w), section 12C, section 13, section 14, section 15, [section 16A] section 22(1), (3) and (5), section 24(2), section 24A(6), section 24C, section 24D, section 24I, section 27, section 31, section 35(2), section 38(4), section 57, paragraphs 6, 7, 9, 13, 13A, 14, 19 and 20 of the First Schedule, paragraph (b) of the definition of ‘formula A’ in paragraph 1 and paragraph 4 of the Second Schedule, paragraphs 18, 19(1), 20, 21, 22, 24 and 27 of the Fourth Schedule and paragraphs 2, 3, 6, 9 and 11 of the Seventh Schedule, shall be subject to objection and appeal.”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any decision communicated to the taxpayer or the person concerned on or after that date.

**Amendment of section 4 of Act 58 of 1962, as amended by section 6 of Act 55 of 1966, section 4 of Act 104 of 1979, section 32 of Act 104 of 1980, section 3 of Act 96 of 1981, section 3 of Act 85 of 1987, section 3 of Act 70 of 1989, section 4 of Act 21 of 1994, section 3 of Act 36 of 1996 and section 34 of Act 34 of 1997**

21. Section 4 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for paragraph (b) of the proviso to subsection (1) of the following paragraph:

“(b) the Auditor-General shall in the performance of his duties in terms of section [5] 3 of the Auditor-General Act, [1989 (Act No. 52 of 1989)] 1995 (Act No. 12 of 1995), have access to documents in the possession or custody of the Commissioner;”;

- “(xii) dat behalwe—  
 (aa) soos in subparagraaf (ii) beoog; of  
 (bb) vir die oordrag van ’n lid se totale belang in ’n goedgekeurde  
 uittredingannuïteitsfonds na ’n ander goedgekeurde uittreding-  
 annuïteitsfonds, voordat die lid geregtig word op die betaling van  
 ’n annuïteit,  
 ’n lid se regte op voordele nie afgekoop, omgesit of gesedeer kan word  
 nie en ook nie by wyse van sekuriteit vir enige lening verpand kan word  
 nie;”;
- (m) deur die volgende paragraaf na paragraaf (b) van die omskrywing van  
 “verbonde persoon” in te voeg:  
 “(bA) met betrekking tot ’n verbonde persoon met betrekking tot ’n trust  
 (behalwe ’n effektrustskema in eiendomsaandele gemagtig inge-  
 volgde die Wet op Beheer van Effektetrustskemas, 1981 (Wet No. 54  
 van 1981)), ook enige ander persoon wat ’n verbonde persoon met  
 betrekking tot daardie trust is;”; en
- (n) deur subparagraaf (vA) van paragraaf (d) van die omskrywing van “ver-  
 bonde persoon” deur die volgende subparagraaf te vervang:  
 “(vA) enige ander maatskappy indien bedoelde ander maatskappy bestuur  
 of beheer word deur—  
 (aa) enige persoon wat ’n verbonde persoon met betrekking tot be-  
 doelde maatskappy is; of  
 (bb) enige persoon wat ’n verbonde persoon met betrekking tot ’n  
 persoon in item (aa) beoog, is; en”.
- (2) (a) Subartikel (1)(j) word geag op 11 Maart 1998 in werking te getree het.  
 (b) Subartikel (1)(k) tree op 1 Januarie 2000 in werking en is van toepassing ten  
 opsigte van jare van aanslag wat op of na daardie datum begin.  
 (c) Subartikel (1)(e) tot en met (i) tree in werking op die datum van afkondiging van  
 hierdie Wet.

**30 Wysiging van artikel 3 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 141 van 1992, artikel 3 van Wet 21 van 1994 en artikel 3 van Wet 21 van 1995**

20. (1) Artikel 3 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:  
 “(4) ’n Beslissing van die Kommissaris kragtens die omskrywings van ‘bystands-  
 fonds’, ‘pensioenfonds’, ‘uittredingannuïteitsfonds’ en ‘voorsorgsfonds’ in artikel  
 1, artikel 6, artikel 8(4)(b), (c), (d) en (e), artikel 9C, artikel 9D, artikel 10(1)(cB),  
 (cH), (cI), (cJ), (cK), (e), (iA), (j) en (nB), artikel 11(e), (f), (g), (gA), (j), (l), (t),  
 (u) en (w), artikel 12C, artikel 13, artikel 14, artikel 15, [artikel 16A] artikel  
 22(1), (3) en (5), artikel 24(2), artikel 24A(6), artikel 24C, artikel 24D, artikel 24I,  
 artikel 27, artikel 31, artikel 35(2), artikel 38(4), artikel 57, paragrawe 6, 7, 9, 13,  
 13A, 14, 19 en 20 van die Eerste Bylae, paragraaf (b) van die omskrywing van  
 ‘formule A’ in paragraaf 1 en paragraaf 4 van die Tweede Bylae, paragrawe 18,  
 19(1), 20, 21, 24 en 27 van die Vierde Bylae en paragrawe 2, 3, 6, 9 en 11 van die  
 Sewende Bylae, is aan beswaar en appèl onderhewig.”.
- (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en  
 is van toepassing ten opsigte van enige beslissing aan die belastingpligtige of betrokke  
 persoon op of na daardie datum meegedeel.

**Wysiging van artikel 4 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 55 van 1966, artikel 4 van Wet 104 van 1979, artikel 32 van Wet 104 van 1980, artikel 3 van Wet 96 van 1981, artikel 3 van Wet 85 van 1987, artikel 3 van Wet 70 van 1989, artikel 4 van Wet 21 van 1994, artikel 3 van Wet 36 van 1996 en artikel 34 van Wet 34 van 1997**

21. Artikel 4 van die Inkomstebelastingwet, 1962, word hierby gewysig—  
 (a) deur paragraaf (b) van die voorbehoudsbepaling by subartikel (1) deur die  
 volgende paragraaf te vervang:  
 “(b) die Ouditeur-generaal by die uitvoering van sy pligte ingevolge artikel  
 [5] 3 van die Wet op die Ouditeur-generaal, [1989 (Wet No. 52 van 1989)]  
 1995 (Wet No. 12 van 1995), tot dokumente in die besit of  
 bewaring van die Kommissaris toegang het;”;

- (b) by the addition to the proviso to subsection (1) of the following paragraph:  
“(c) the provisions of this subsection not be construed as preventing the  
 Commissioner from disclosing to the Chief of the Central Statistical  
 Services such information in relation to any person as may be required by  
 such Chief in connection with the collection of statistics in complying  
 with the provisions of the Statistics Act, 1976 (Act No. 66 of 1976), or  
any regulation thereunder.”; and 5
- (c) by the insertion after subsection (1) of the following subsection:  
“(1A) The Chief of the Central Statistical Services or any person acting  
 under the direction and control of such Chief, shall not disclose any  
 information supplied under subsection (1)(c) to any person or permit any  
 person to have access thereto, except in the exercise of his powers or the  
carrying out of his duties to publish statistics in any anonymous form.”. 10

**Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980  
 and amended by section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of  
 Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of  
 Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of  
 Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5  
 of Act 21 of 1995, section 4 of Act 36 of 1996 and section 3 of Act 28 of 1997** 15

22. Section 6 of the Income Tax Act, 1962, is hereby amended— 20
- (a) by the substitution for the expression “R3 215” in paragraph (a) of subsection  
 (2) of the expression “R3 515”; and
- (b) by the substitution for the expression “R2 500” in paragraph (b) of subsection  
 (2) of the expression “R2 660”.

**Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of  
 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of  
 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of  
 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141  
 of 1992 and section 6 of Act 21 of 1995** 25

23. (1) Section 7 of the Income Tax Act, 1962, is hereby amended by the substitution 30  
 for paragraph (a) of subsection (2C) of the following paragraph:  
“(a) any benefit paid or payable to a spouse in his capacity as a member or past  
 member of a pension fund, provident fund, benefit fund, [or] retirement  
 annuity fund or any other fund of a similar nature shall be deemed to be  
 income derived by such spouse from a trade carried on by him;”. 35
- (2) Subsection (1) shall come into operation on 1 January 1999 and shall apply in  
 respect of years of assessment commencing on or after that date.

**Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of  
 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of  
 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of  
 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of  
 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of  
 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of  
 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113  
 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36  
 of 1996 and section 6 of Act 28 of 1997** 40 45

24. (1) Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution  
 for paragraph (cc) of the second proviso to subparagraph (ii) of paragraph (b) of  
 subsection (1) of the following paragraph:  
“(cc) where the recipient has during the whole or any portion of the year of  
 assessment interchangeably used more than one vehicle for business  
 purposes [and one or more of such vehicles were not used primarily 50

- (b) deur die volgende paragraaf by die voorbehoudsbepaling by subartikel (1) te voeg:  
 “(c) die bepalings van hierdie subartikel nie so uitgelê word dat dit die  
 5 Kommissaris belet om die inligting met betrekking tot ’n persoon aan die Hoof van die Sentrale Statistiekdiens te verskaf nie wat deur daardie Hoof vereis word met betrekking tot die insameling van statistieke in die nakoming van die bepalings van die Wet op Statistieke, 1976 (Wet No. 66 van 1976), of enige regulasie daarkragtens.”; en
- (c) deur die volgende subartikel na subartikel (1) in te voeg:  
 10 “(1A) Die Hoof van die Sentrale Statistiekdiens of enige persoon wat in opdrag en onder die beheer van daardie Hoof optree, mag nie enige inligting wat ingevolge subartikel (1)(c) verskaf is, aan enige persoon openbaar nie of toelaat dat enige persoon toegang daartoe verkry nie, behalwe by die uitoefening van sy bevoegdheids of die uitvoering van sy pligte om statistieke in ’n naamlose vorm te publiseer.”.

20 **Wysiging van artikel 6 van Wet 58 van 1962, soos ingevoeg deur artikel 5 van Wet 104 van 1980 en gewysig deur artikel 5 van Wet 96 van 1981, artikel 5 van Wet 91 van 1982, artikel 4 van Wet 94 van 1983, artikel 4 van Wet 121 van 1984, artikel 3 van Wet 96 van 1985, artikel 4 van Wet 85 van 1987, artikel 4 van Wet 90 van 1988, artikel 4 van Wet 70 van 1989, artikel 3 van Wet 101 van 1990, artikel 4 van Wet 129 van 1991, artikel 4 van Wet 141 van 1992, artikel 5 van Wet 21 van 1995, artikel 4 van Wet 36 van 1996 en artikel 3 van Wet 28 van 1997**

22. Artikel 6 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- 25 (a) deur die uitdrukking “R3 215” in paragraaf (a) van subartikel (2) deur die uitdrukking “R3 515” te vervang; en  
 (b) deur die uitdrukking “R2 500” in paragraaf (b) van subartikel (2) deur die uitdrukking “R2 660” te vervang.

30 **Wysiging van artikel 7 van Wet 58 van 1962, soos gewysig deur artikel 5 van Wet 90 van 1962, artikel 8 van Wet 88 van 1965, artikel 9 van Wet 55 van 1966, artikel 7 van Wet 94 van 1983, artikel 2 van Wet 30 van 1984, artikel 5 van Wet 90 van 1988, artikel 5 van Wet 70 van 1989, artikel 4 van Wet 101 van 1990, artikel 7 van Wet 129 van 1991, artikel 5 van Wet 141 van 1992 en artikel 6 van Wet 21 van 1995**

23. (1) Artikel 7 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (a) van subartikel (2C) deur die volgende paragraaf te vervang:

- 35 “(a) ’n voordeel betaal of betaalbaar aan ’n gade in sy hoedanigheid as ’n lid of gewese lid van ’n pensioenfonds, voorsorgsfonds, bystandsfonds, [of] uittredingannuïteitsfonds, of enige ander fonds van ’n soortgelyke aard geag inkomste te wees wat deur daardie gade verkry is uit ’n bedryf wat deur hom beoefen word;”.

- 40 (2) Subartikel (1) tree op 1 Januarie 1999 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

45 **Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van 1993, artikel 6 van Wet 21 van 1994, artikel 8 van Wet 21 van 1995, artikel 6 van Wet 36 van 1996 en artikel 6 van Wet 28 van 1997**

24. (1) Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (cc) van die tweede voorbehoudsbepaling by subparagraaf (ii) van paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

- 55 “(cc) waar die ontvanger gedurende die geheel of ’n gedeelte van die jaar van aanslag meer as een voertuig afwisselend vir besigheidsdoeleindes gebruik het [en een of meer bedoelde voertuie nie primêr vir besigheids-

for business purposes], the provisions of paragraphs (aa) and (bb) of this proviso shall be applied separately to each such vehicle [which was not used primarily for business purposes];”.

(2) Subsection (1) shall come into operation on 1 March 1999 and shall apply in respect of years of assessment ending on or after that date.

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**Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 36 of Act 9 of 1989, section 10 of Act 129 of 1991, section 7 of Act 141 of 1992, section 5 of Act 113 of 1993, section 3 of Act 140 of 1993, section 7 of Act 21 of 1994, section 9 of Act 21 of 1995 and section 7 of Act 28 of 1997**

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25. (1) Section 9 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (e) of subsection (1) of the following subparagraph:

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“(i) any services rendered by such person to or work or labour done by such person for or on behalf of the Government, including [the Railway Administration and] any provincial administration, or any local authority in the Republic or the South African Tourist Corporation or the Council for Scientific and Industrial Research, notwithstanding that such services are rendered or that such work or labour is done outside the Republic, provided such services are rendered or such work or labour is done in accordance with a contract of employment entered into with the Government or such administration or local authority or that Corporation or that Council; or”; and

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(b) by the addition of the following subsections:

“(6) Any interest as defined in section 24J shall for the purposes of this Act be deemed to have been received or accrued from a source within the Republic, where such interest was derived from the utilisation or application in the Republic by any person of any funds or credit obtained in terms of any form of interest-bearing arrangement.

30

(7) For the purposes of subsection (6) the place of utilisation or application shall, until the contrary is proved, be deemed to be, in the case where such funds are or credit is utilised or applied by—

35

(a) a natural person, the place where such person is ordinarily resident; or  
(b) a person other than a natural person, its place of effective management.”.

(2) Subsection (1)(b) shall be deemed to have come into operation on 1 July 1998 and shall apply in respect of any interest received or accrued on or after that date.

**Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991, section 9 of Act 141 of 1992, section 6 of Act 113 of 1993 and section 7 of Act 36 of 1996**

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26. Section 9B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (8) of the following subsection:

“(8) For the purposes of this section any amount included in the income of any company in terms of the provisions of [the second proviso to] section 22(8)(b) as a result of the application, disposal or distribution of any affected share as contemplated in that section, shall be deemed to be an amount which has accrued to such company as a result of the disposal of such affected share.”.

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**Amendment of section 9C of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997**

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27. (1) Section 9C of the Income Tax Act, 1962, is hereby amended—

(a) by the insertion after subsection (2) of the following subsection:

**doeleindes gebruik is nie],** die bepalings van paragrawe (*aa*) en (*bb*) van hierdie voorbehoudsbepaling afsonderlik toegepas word op elke bedoelde voertuig [**wat nie primêr vir besigheidsdoeleindes gebruik is nie];**”.

- (2) Subartikel (1) tree op 1 Maart 1999 in werking en is van toepassing ten opsigte van 5 van jare van aanslag wat op of na daardie datum eindig.

Wysiging van artikel 9 van Wet 58 van 1962, soos gewysig deur artikel 7 van Wet 90 van 1962, artikel 6 van Wet 72 van 1963, artikel 7 van Wet 90 van 1964, artikel 9 van Wet 95 van 1967, artikel 12 van Wet 89 van 1969, artikel 6 van Wet 65 van 1973, artikel 9 van Wet 85 van 1974, artikel 8 van Wet 103 van 1976, artikel 9 van 10 Wet 121 van 1984, artikel 5 van Wet 96 van 1985, artikel 6 van Wet 65 van 1986, artikel 2 van Wet 108 van 1986, artikel 7 van Wet 85 van 1987, artikel 36 van Wet 9 van 1989, artikel 10 van Wet 129 van 1991, artikel 7 van Wet 141 van 1992, artikel 5 van Wet 113 van 1993, artikel 3 van Wet 140 van 1993, artikel 7 van Wet 21 van 1994, artikel 9 van Wet 21 van 1995 en artikel 7 van Wet 28 van 1997

- 15 25. (1) Artikel 9 van die Inkomstebelastingwet, 1962, word hierby gewysig—  
 (a) deur subparagraaf (i) van paragraaf (*e*) van subartikel (1) deur die volgende subparagraaf te vervang:  
 “(i) dienste deur so ’n persoon bewys aan of werk of arbeid deur so ’n  
 persoon verrig vir of ten behoeve van die Regering, met inbegrip van  
 20 [die Spoorwegadministrasie en] ’n provinsiale administrasie, of ’n  
 plaaslike bestuur in die Republiek, of die Suid-Afrikaanse Toeristekor-  
 porasie, of die Wetenskaplike en Nywerheidsnavorsingsraad, al word dié  
 dienste bewys of dié werk of arbeid verrig buite die Republiek, mits dié  
 25 dienste bewys of dié werk of arbeid verrig word ooreenkomstig ’n  
 dienskontrak aangegaan met die Regering of so ’n administrasie of  
 plaaslike bestuur of dié Korporasie of dié Raad; of”; en  
 (b) deur die volgende subartikels by te voeg:  
 “(6) Enige rente soos in artikel 24J omskryf, word by die toepassing van  
 hierdie Wet geag ontvang of toegeval te gewees het uit ’n bron in die  
 30 Republiek, waar daardie rente verkry is uit die gebruik of aanwending in die  
 Republiek deur enige persoon van enige fondse of krediet ingevolge enige  
 vorm van rentedraende reëling verkry is.  
 (7) By die toepassing van subartikel (6) word die plek van gebruik of  
 aanwending, totdat die teendeel bewys word, geag te wees, in die geval waar  
 35 daardie fondse of krediet gebruik of aangewend is deur—  
 (a) ’n natuurlike persoon, die plek waar daardie persoon gewoonlik  
 woonagtig is; of  
 (b) ’n persoon behalwe ’n natuurlike persoon, sy plek van effektiewe  
 bestuur.”.  
 40 (2) Subartikel (1)(b) word geag op 1 Julie 1998 in werking te getree het en is van  
 toepassing ten opsigte van enige rente op of na daardie datum ontvang of toegeval.

Wysiging van artikel 9B van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 129 van 1991, artikel 9 van Wet 141 van 1992, artikel 6 van Wet 113 van 1993 en artikel 7 van Wet 36 van 1996

- 45 26. Artikel 9B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang:  
 “(8) By die toepassing van hierdie artikel word ’n bedrag wat ingevolge die bepalings van [die tweede voorbehoudsbepaling by] artikel 22(8)(b) by die inkomste van ’n maatskappy ingesluit word vanweë die aanwending, beskikking of uitkering van ’n geaffekteerde aandeel soos in daardie artikel beoog, geag ’n 50 bedrag te wees wat aan bedoelde maatskappy toegeval het vanweë die vervreemding van bedoelde geaffekteerde aandeel.”.

Wysiging van artikel 9C van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 28 van 1997

- 55 27. (1) Artikel 9C van die Inkomstebelastingwet, 1962, word hierby gewysig—  
 (a) deur die volgende subartikel na subartikel (2) in te voeg:

- “(2A) Notwithstanding the provisions of subsection (2), where it is established to the satisfaction of the Commissioner that the investment income, or any portion thereof, received or accrued during any year of assessment may not be remitted to the Republic during such year of assessment as a result of currency or other restrictions or limitations imposed in terms of the laws of the country where the investment income was received or accrued, such investment income or any portion thereof shall be deemed to have been received or accrued from a source within the Republic during the year of assessment during which such investment income or portion thereof may be so remitted to the Republic.”; and
- (b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- “(a) arising from and effectively connected to the business activities of a substantive business enterprise conducted by such resident through a permanent establishment of such resident in any country other than the Republic, where such permanent establishment is suitably equipped for conducting the principal business of such substantive business enterprise; or”.
- (2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

**Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997**

28. (1) Section 9D of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- “(b) who is a resident and to [whom] which investment income the provisions of section 7(3), (4), (5), (6) or (7) would have applied by reason or in consequence of such donation, settlement or other disposition, had such income been received or accrued from a source within the Republic.”;
- (b) by the insertion after subsection (4) of the following subsection:
- “(4A) Notwithstanding the provisions of subsections (2), (3) and (4), where it is established to the satisfaction of the Commissioner that the investment income or any portion thereof received or accrued during any year of assessment, which is to be included in the income of any resident in terms of such subsections, may not be remitted to the Republic during such year of assessment as a result of currency or other restrictions or limitations imposed in terms of the laws of the country where the investment income was received or accrued, such investment income or any portion thereof shall be included in the income of such resident in the year of assessment during which such investment income or portion thereof may be so remitted to the Republic.”;
- (c) by the substitution for paragraph (b) of subsection (8) of the following paragraph:
- “(b) any amount whereby such deductions or allowances exceed the amount of such investment income, shall be carried forward [to the immediately succeeding year of assessment and shall be allowed as a deduction in such succeeding year of assessment] and be deemed to be a deduction or allowance which may be made in the determination of the taxable income of such resident during the immediately succeeding year of assessment if such controlled foreign entity carries on such trade during such succeeding year of assessment.”;
- (d) by the substitution for the proviso to paragraph (a) of subsection (9) of the following proviso:
- “Provided that for the purposes of the determination of the tax payable in the Republic on such proportional amount, such tax shall be an amount which bears to the total normal tax payable the same ratio as the taxable income attributable to the inclusion of such proportional amount bears to the total taxable income in relation to such resident.”;
- (e) by the substitution for paragraph (b) of subsection (9) of the following paragraph:
- “(b) where the investment income arises from and is effectively connected to the business activities of a substantive business enterprise of any controlled foreign entity conducted through a permanent establishment



- 5 “(2A) Waar dit tot die bevrediging van die Kommissaris vasgestel word dat die beleggingsinkomste, of ’n gedeelte daarvan, gedurende ’n jaar van aanslag ontvang of toegeval nie gedurende daardie jaar van aanslag na die Republiek oorgeplaas kan word nie as gevolg van valuta- of ander beperkings of voorbehoude opgelê ingevolge die wette van die land waar die beleggingsinkomste ontvang is of toegeval het, word daardie beleggingsinkomste of gedeelte daarvan, ondanks die bepalings van subartikel (2), geag ontvang te gewees het of toe te geval het van ’n bron in die Republiek gedurende die jaar van aanslag waarin daardie beleggingsinkomste of gedeelte daarvan aldus na die Republiek oorgeplaas kan word.”; en
- 10 (b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang: “(a) wat ontstaan uit en effektief verbonde is aan die besigheidsaktiwiteite van ’n substantiewe besigheidsonderneming deur bedoelde inwoner bedryf deur ’n permanente saak van bedoelde inwoner in enige land
- 15 behalwe die Republiek, waar bedoelde permanente saak gepas toegerus is vir die bedryf van die vernaamste besigheid van bedoelde substantiewe besigheidsonderneming; of”.
- (2) Subartikel (1) word geag op 1 Julie 1997 in werking te getree het.

20 **Wysiging van artikel 9D van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 28 van 1997**

28. (1) Artikel 9D van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur paragraaf (b) van subartikel (4) deur die volgende paragraaf te vervang:
- 25 “(b) wat ’n inwoner is en op [wie] welke beleggingsinkomste die bepalings van artikel 7(3), (4), (5), (6) of (7) vanweë of as gevolg van bedoelde skenking, oormaking of ander beskikking van toepassing sou gewees het, sou bedoelde inkomste uit ’n bron in die Republiek ontvang gewees of toegeval het.”;
- (b) deur die volgende subartikel na subartikel (4) in te voeg:
- 30 “(4A) Waar dit tot die bevrediging van die Kommissaris vasgestel word dat die beleggingsinkomste, of ’n gedeelte daarvan, gedurende die jaar van aanslag ontvang of toegeval, wat ingevolge subartikels (2), (3) en (4) by die inkomste van ’n inwoner ingesluit staan te word, nie gedurende daardie jaar van aanslag na die Republiek oorgeplaas kan word nie as gevolg van valuta- of ander beperkings of voorbehoude opgelê ingevolge die wette van die land
- 35 waar die beleggingsinkomste ontvang is of toegeval het, word daardie beleggingsinkomste of ’n gedeelte daarvan, ondanks die bepalings van daardie subartikels, ingesluit by die inkomste van daardie inwoner in die jaar van aanslag waarin daardie beleggingsinkomste of gedeelte daarvan aldus na die Republiek oorgeplaas kan word.”;
- 40 (c) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang: “(b) enige bedrag waarmee die aftrekkings of verminderings die bedrag van bedoelde beleggingsinkomste te bowe gaan, oorgedra word [na die onmiddellik daaropvolgende jaar van aanslag en as ’n aftrekking toegelaat word in bedoelde daaropvolgende jaar van aanslag] en geag word ’n aftrekking of vermindering te wees wat toegelaat kan
- 45 word by die vasstelling van die belasbare inkomste van daardie inwoner gedurende die onmiddellik daaropvolgende jaar van aanslag, indien die beheerde buitelandse entiteit gedurende bedoelde daaropvolgende jaar van aanslag bedoelde bedryf beoefen.”;
- 50 (d) deur die voorbehoudsbepaling by paragraaf (a) van subartikel (9) deur die volgende voorbehoudsbepaling te vervang: “Met dien verstande dat vir die doeleindes van die vasstelling van die belasting in die Republiek op bedoelde proporsionele bedrag betaalbaar, bedoelde belasting ’n bedrag is wat tot die totale normale belasting betaalbaar in dieselfde verhouding staan as wat die belasbare inkomste toeskryfbaar aan die insluiting van bedoelde proporsionele bedrag tot die totale belasbare inkomste met betrekking tot bedoelde inwoner staan.”;
- 55 (e) deur paragraaf (b) van subartikel (9) deur die volgende paragraaf te vervang: “(b) waar die beleggingsinkomste ontstaan uit en effektief verbonde is aan die besigheidsaktiwiteite van ’n substantiewe besigheidsonderneming van ’n beheerde buitelandse entiteit deur ’n permanente saak soos in
- 60

as defined in section 9C(1) of such controlled foreign entity, in any country other than the Republic, where such permanent establishment is suitably equipped for conducting the principal business of such substantive business enterprise;”;

- (f) by the deletion of the word “or” at the end of paragraph (c) of subsection (9); 5  
 (g) by the addition of the word “or” at the end of paragraph (d) of subsection (9);  
 and  
 (h) by the addition to subsection (9) of the following paragraph:  
 “(e) to investment income of any controlled foreign entity which is—  
 (i) deemed to have accrued to the entity from a source in the Republic 10  
 in terms of section 9(1)(b) or (bA); or  
 (ii) included in the taxable income of the entity.”

(2)(a) Subsection (1)(a), (b), (c), (e), (f), (g) and (h) shall be deemed to have come into operation on 1 July 1997.

(b) Subsection (1)(d) shall be deemed to have come into operation on 1 July 1998 and 15 shall apply in respect of years of assessment commencing on or after that date.

**Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996 and section 10 of Act 28 of 1997** 20 25 30

29. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:  
 “(f) the receipts and accruals of all religious, charitable and educational 35  
 institutions of a public character, which carry on religious, charitable or educational activities, as the case may be, in the Republic, whether or not supported wholly or partly by grants from public revenue;”;  
 (b) by the substitution for paragraph (gA) of subsection (1) of the following 40  
 paragraph:  
 “(gA) any disability pension paid under section 2 of the Social [Pensions Act, 1973 (Act No. 37 of 1973)] Assistance Act, 1992 (Act No. 59 of 1992);”;  
 (c) by the deletion of subparagraph (iii) of paragraph (t) of subsection (1);  
 (d) by the insertion after paragraph (t) of subsection (1) of the following 45  
 paragraph:  
 “(tA) the receipts and accruals of any company which qualifies for exemp-  
 tion under section 2 of the Company Tax Amendment Decree, 1994  
 (Decree No. 2 of 1994 of Ciskei), which are derived from a source  
 within the territory of the former Republic of Ciskei;” and 50  
 (e) by the deletion of paragraph (w) of subsection (1).

(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 11 March 1998.

(b) Subsection (1)(c) shall be deemed to have come into operation on 26 June 1998.

(c) Subsection (1)(d) shall be deemed to have come into operation on 1 April 1998 and 55 shall apply in respect of years of assessment ending on or after that date.

(d) Subsection (1)(e) shall be deemed to have come into operation on 1 July 1998 and shall apply in respect of all interest received or accrued on or after that date.

artikel 9C(1) omskryf van daardie beheerde buitelandse entiteit, bedryf, in 'n ander land as die Republiek, waar bedoelde permanente saak gepas toegerus is vir die bedryf van die vernaamste besigheid van bedoelde substantiewe besigheidsonderneming;”;

- 5 (f) deur die woord “of” aan die einde van paragraaf (c) van subartikel (9) te skrap;
- (g) deur die woord “of” aan die einde van paragraaf (d) van subartikel (9) by te voeg; en
- (h) deur die volgende paragraaf by subartikel (9) te voeg:
- 10 “(e) op beleggingsinkomste van ’n beheerde buitelandse entiteit wat—
- (i) geag word het aan die entiteit uit ’n bron in die Republiek toe te geval ingevolge artikel 9(1)(b) of (bA); of
- (ii) in die belasbare inkomste van die entiteit ingesluit is.”
- (2)(a) Subartikel (1)(a), (b), (c), (e), (f), (g) en (h) word geag op 1 Julie 1997 in werking te getree het.
- 15 (b) Subartikel (1)(d) word geag op 1 Julie 1998 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 20 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, 25 artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, 30 artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996 en artikel 10 van Wet 28 van 1997

- 35 29. (1) Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
- “(f) die ontvangste en toevallings van alle godsdienstige, liefdadigheids- en opvoedkundige inrigtings van ’n openbare aard, wat godsdienstige, liefdadigheids- of opvoedkundige aktiwiteite, na gelang van die geval, in die Republiek beoefen, hetsy hulle geheel en al of ten dele deur toekennings uit staatsinkomste ondersteun word al dan nie;”;
- 40 (b) deur paragraaf (gA) van subartikel (1) deur die volgende paragraaf te vervang:
- “(gA) ’n ongeskiktheidspensioen kragtens artikel 2 van die Wet op Maatskaplike [Pensioene, 1973 (Wet No. 37 van 1973)] Bystand, 1992 (Wet No. 59 van 1992), betaal;”;
- 45 (c) deur subparagraaf (iii) van paragraaf (t) van subartikel (1) te skrap;
- (d) deur die volgende paragraaf na paragraaf (t) van subartikel (1) in te voeg:
- 50 “(tA) die ontvangste en toevallings van enige maatskappy wat kragtens artikel 2 van die “Company Tax Amendment Decree”, 1994 (Dekreet No. 2 van 1994 van Ciskei), vir vrystelling kwalifiseer, wat verkry is uit ’n bron binne die gebied van die voormalige Republiek van Ciskei;”;
- en
- (e) deur paragraaf (w) van subartikel (1) te skrap.
- 55 (2) (a) Subartikel (1)(a) word geag op 11 Maart 1998 in werking te getree het.
- (b) Subartikel (1)(c) word geag op 26 Junie 1998 in werking te getree het.
- (c) Subartikel (1)(d) word geag op 1 April 1998 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.
- (d) Subartikel (1)(e) word geag op 1 Julie 1998 in werking te getree het en is van 60 toepassing ten opsigte alle rente ontvang of toegeval op of na daardie datum.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996 and section 12 of Act 28 of 1997

30. (1) Section 11 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for the proviso to subparagraph (i) of paragraph (k) of the following proviso: 15

“Provided that the total deduction to be allowed in respect of the total contributions by such person to any one or more pension fund or funds [referred to in paragraph (c) of the definition of ‘pension fund’ in section 1] shall not in the year of assessment exceed the greater of RI 750 or 7,5 per cent of the remuneration (being the income or part thereof referred to in the definition of ‘retirement-funding employment’ in section 1) derived by such person during such year in respect of his retirement-funding employment;” and 20

(b) by the substitution for the words preceding the proviso to paragraph (l) of the following words: 25

“any sum contributed by an employer during the year of assessment for the benefit of his employees to any pension fund, provident fund or benefit fund (other than a fund contemplated in paragraph (a) of the definition of ‘benefit fund’);” 30

(2) Subsection (1) shall come into operation on 1 March 1999 and shall apply in respect of any sum contributed on or after that date.

**Amendment of section 11sex of Act 58 of 1962, as inserted by section 10 of Act 90 of 1972 and amended by section 11 of Act 65 of 1973**

31. Section 11sex of the Income Tax Act, 1962, is hereby amended by the substitution for the words and paragraph preceding paragraph (b) of the following words and paragraph: 35

“For the purpose of determining the taxable income derived by any taxpayer from carrying on any trade within the Republic, there shall be allowed as a deduction from the income of the taxpayer so derived the amount of any compensation due to [the Railway Administration] Transnet Limited and paid by the taxpayer (whether directly or through any trade association of which the taxpayer is a member) in respect of any loss incurred by [that Administration] Transnet Limited in operating any railway line, if— 40

(a) such railway line was constructed under or in pursuance of a written agreement with [the said Administration] Transnet Limited in terms of which [the Administration] Transnet Limited undertook to operate the railway line;” 45

**Repeal of section 16A of Act 58 of 1962, as inserted by section 10 of Act 70 of 1989 and amended by section 10 of Act 36 of 1996** 50

32. (1) Section 16A of the Income Tax Act, 1962, is hereby repealed.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act.

Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van  
 5 Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel  
 10 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991, artikel 11 van Wet 141 van 1992, artikel 9 van Wet 113 van 1993, artikel 5 van Wet 140 van 1993, artikel 10 van Wet 21 van 1994, artikel 12 van Wet 21 van 1995, artikel 9 van Wet 36 van  
 15 1996 en artikel 12 van Wet 28 van 1997

30. (1) Artikel 11 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die voorbehoudsbepaling by subparagraaf (i) van paragraaf (k) deur die volgende voorbehoudsbepaling te vervang:

20 “Met dien verstande dat die totale aftrekking toegestaan ten opsigte van bydraes deur so iemand tot enige een of meer pensioenfondse of -fondse **[in paragraaf (c) van die omskrywing van “pensioenfondse” in artikel 1 bedoel]** in die jaar van aanslag nie die grootste van R1 750 of 7,5 persent van die besoldiging (synde die inkomste of gedeelte daarvan bedoel in die omskrywing van ‘uittredingfunderingsdiens’ in artikel 1) deur so iemand ten  
 25 opsigte van sy uittredingfunderingsdiens in dié jaar verkry, **[nie]** te bowe mag gaan nie;”;

(b) deur die woorde wat die voorbehoudsbepaling by paragraaf (l) voorafgaan deur die volgende woorde te vervang:

30 “ ’n som deur ’n werkgewer gedurende die jaar van aanslag ten bate van sy werknemers tot ’n pensioenfondse, voorsorgfondse of bystandsfondse (behalwe ’n fondse in paragraaf (a) van die omskrywing van ‘bystandsfondse’ beoog), bygedra:”.

(2) Subartikel (1) tree op 1 Maart 1999 in werking en is van toepassing ten opsigte van enige bedrag op of na daardie datum bygedra.

35 **Wysiging van artikel 11sex van Wet 58 van 1962, soos ingevoeg deur artikel 10 van Wet 90 van 1972 en gewysig deur artikel 11 van Wet 65 van 1973**

31. Artikel 11sex van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde en paragraaf wat paragraaf (b) voorafgaan deur die volgende woorde en paragraaf te vervang:

40 “By die vasstelling van die belasbare inkomste deur ’n belastingpligtige verkry uit die beoefening van ’n bedryf in die Republiek, word daar toegelaat as ’n aftrekking van die belastingpligtige se aldus verkreeë inkomste, die bedrag van enige vergoeding aan **[die Spoorwegadministrasie] Transnet Beperk** verskuldig en deur die belastingpligtige betaal (hetsy regstreeks of deur ’n bedryfsvereniging  
 45 waarvan die belastingpligtige ’n lid is) ten opsigte van ’n verlies deur **[daardie Administrasie] Transnet Beperk** by die werking van ’n spoorlyn gely, indien—  
 (a) daardie spoorlyn gebou is ingevolge of uit hoofde van ’n skriftelike ooreenkoms met **[bedoelde Administrasie] Transnet Beperk** waarvolgens  
 50 **[die Administrasie] Transnet Beperk** onderneem het om die spoorlyn in bedryf te hou;”.

**Herroeping van artikel 16A van Wet 58 van 1962, soos ingevoeg deur artikel 10 van Wet 70 van 1989 en gewysig deur artikel 10 van Wet 36 van 1996**

32. (1) Artikel 16A van die Inkomstebelastingwet, 1962, word hierby herroep.

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet.

**Amendment of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of Act 88 of 1965, section 17 of Act 88 of 1971, section 14 of Act 90 of 1972, section 18 of Act 85 of 1974, section 14 of Act 104 of 1980, section 17 of Act 96 of 1981, section 15 of Act 91 of 1982, section 17 of Act 94 of 1983, section 17 of Act 121 of 1984, section 12 of Act 96 of 1985, section 12 of Act 65 of 1986, section 4 of Act 108 of 1986, section 13 of Act 85 of 1987, section 18 of Act 101 of 1990 and section 21 of Act 129 of 1991**

33. Section 19 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5B) of the following subsection:

“(5B) So much of any dividend received by or accrued to any shareholder in relation to a unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as has been distributed out of—

- (a) interest derived by such unit portfolio and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10(1)(iA); or  
 (b) any dividend derived by such unit portfolio which is a dividend referred to in section 11(s),

shall for the purposes of this section, be deemed to be income derived by such shareholder otherwise than in the form of dividends.”.

**Amendment of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984 and substituted by section 12 of Act 70 of 1989 and amended by section 22 of Act 101 of 1990 and section 24 of Act 129 of 1991**

34. Section 23A of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (b) of the definition of “affected asset” in subsection (1) of the following paragraph:

- “(b) any machinery, plant, implement, utensil, [or] article, aircraft or ship which has been let and in respect of which the lessor is or was entitled to an allowance under section 12B or 12C, whether in the current or a previous year of assessment, other than any such machinery, plant, implement, utensil, [or] article, aircraft or ship let by him under an agreement of lease formally and finally signed by every party to the agreement before 19 November 1988.”.

**Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 11 of Act 140 of 1993, section 18 of Act 21 of 1994, section 13 of Act 36 of 1996 and section 18 of Act 28 of 1997**

35. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of the definition of “affected forward exchange contract” in subsection (1) of the following words:

“ ‘affected [forward exchange] contract’ means any foreign currency option contract or forward exchange contract, as the case may be, which has been entered into by any person during any year of assessment, to serve as a hedge in respect of a loan, advance or debt, where—”;

- (b) by the substitution for subparagraph (ii) of paragraph (b) of the definition of “ruling exchange rate” in subsection (1) of the following subparagraph:

“(ii) the date it is translated, the market-related forward rate available for the remaining period of such forward exchange contract, or in the case where the forward rate in terms of such forward exchange contract has been used to translate a loan, advance or debt as contemplated in paragraph (a)(ii), the forward rate in terms of such contract, or in respect of a forward exchange contract which is an affected [forward exchange] contract, the forward rate in terms of such [affected] forward exchange contract;”;

- (c) by the substitution for subparagraph (ii) of paragraph (c) of the definition of “ruling exchange rate” in subsection (1) of the following subparagraph:

“(ii) the date it is translated—  
 (aa) in relation to a foreign currency option contract which is not an affected contract, the rate obtained by dividing the market value

Wysiging van artikel 19 van Wet 58 van 1962, soos gewysig deur artikel 15 van Wet 90 van 1962, artikel 6 van Wet 6 van 1963, artikel 17 van Wet 88 van 1965, artikel 17 van Wet 88 van 1971, artikel 14 van Wet 90 van 1972, artikel 18 van Wet 85 van 1974, artikel 14 van Wet 104 van 1980, artikel 17 van Wet 96 van 1981, artikel 15 van Wet 91 van 1982, artikel 17 van Wet 94 van 1983, artikel 17 van Wet 121 van 1984, artikel 12 van Wet 96 van 1985, artikel 12 van Wet 65 van 1986, artikel 4 van Wet 108 van 1986, artikel 13 van Wet 85 van 1987, artikel 18 van Wet 101 van 1990 en artikel 21 van Wet 129 van 1991

33. Artikel 19 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (5B) deur die volgende subartikel te vervang:

“(5B) Soveel van ’n dividend ontvang deur of toegeval aan ’n aandeelhouer met betrekking tot ’n effektegroepe bedoel in paragraaf (e) van die omskrywing van ‘maatskappy’ in artikel 1 as wat uitgekeer is uit—

(a) rente deur daardie effektegroepe verkry wat ingevolge die bepalings van artikel 10(1)(iA) in die hande van dié effektegroepe van belasting vrygestel is; of

(b) ’n dividend deur daardie effektegroepe verkry wat ’n dividend in artikel 11(s) bedoel, is,

word, by die toepassing van hierdie artikel, geag inkomste te wees wat deur daardie aandeelhouer andersins as in die vorm van dividende verkry is.”.

Wysiging van artikel 23A van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 121 van 1984 en vervang deur artikel 12 van Wet 70 van 1989 en gewysig deur artikel 22 van Wet 101 van 1990 en artikel 24 van Wet 129 van 1991

34. Artikel 23A van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (b) van die omskrywing van “geaffekteerde bate” in subartikel (1) deur die volgende paragraaf te vervang:

“(b) enige masjinerie, installasie, gereedskap, werktuig, [of] artikel, vliegtuig of skip wat verhuur is en ten opsigte waarvan die verhuurder hetsy in die lopende of ’n vorige jaar van aanslag op ’n vermindering ingevolge artikel 12B of 12C geregtig is of was, behalwe enige bedoelde masjinerie, installasie, gereedskap, werktuig, [of] artikel, vliegtuig of skip wat deur hom ingevolge ’n huurooreenkoms wat voor 19 November 1988 formeel en finaal deur elke party tot die ooreenkoms onderteken is, verhuur is.”.

Wysiging van artikel 24I van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 113 van 1993 en gewysig deur artikel 11 van Wet 140 van 1993, artikel 18 van Wet 21 van 1994, artikel 13 van Wet 36 van 1996 en artikel 18 van Wet 28 van 1997

35. (1) Artikel 24I van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die woorde wat paragraaf (a) van die omskrywing van “geaffekteerde valutatermykontrak” in subartikel (1) voorafgaan deur die volgende woorde te vervang:

“‘geaffekteerde [valutatermykontrak] kontrak’ ’n buitelandse valuta-opsiekontrak of valutatermykontrak, na gelang van die geval, wat gedurende ’n jaar van aanslag deur ’n persoon aangegaan is om as dekking te dien ten opsigte van ’n lening, voorskot of skuld, waar—”;

(b) deur subparagraaf (ii) van paragraaf (b) van die omskrywing van “heersende wisselkoers” in subartikel (1) deur die volgende subparagraaf te vervang:

“(ii) die datum waarop dit omgerekend word, die markverwante termynkoers wat vir die oorblywende tydperk van bedoelde valutatermykontrak beskikbaar is, of in die geval waar die termynkoers ingevolge bedoelde valutatermykontrak gebruik is om ’n lening, voorskot of skuld soos beoog in paragraaf (a)(ii) om te reken, die termynkoers ingevolge bedoelde kontrak, of met betrekking tot ’n valutatermykontrak wat ’n geaffekteerde [valutatermykontrak] kontrak is, die termynkoers ingevolge bedoelde [geaffekteerde] valutatermykontrak;”;

(c) deur subparagraaf (ii) van paragraaf (c) van die omskrywing van “heersende wisselkoers” in subartikel (1) deur die volgende paragraaf te vervang:

“(ii) die datum waarop dit omgerekend word—

(aa) met betrekking tot ’n buitelandse valuta-opsiekontrak wat nie ’n geaffekteerde kontrak is nie, die koers verkry deur die mark-

of such foreign currency option contract on that date by the foreign currency amount as specified in such foreign currency option contract; or

(bb) in relation to a foreign currency option contract which is an affected contract, the rate obtained by dividing any amount included or deducted, as the case may be, in terms of subsection (4)(a) by the foreign currency amount, as specified in such affected contract;"; and

(d) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) (i) any premium or like consideration received [or receivable] by, or paid [or payable] by, such person in terms of a foreign currency option contract entered into by such person in the course of such trade; or

(ii) any consideration paid [or payable] by such person in respect of a foreign currency option contract acquired by such person in the course of such trade; and”.

(2)(a) Subsection (1)(a), (b) and (c) shall come into operation on the date of promulgation of this Act and shall apply in respect of any agreement entered into on or after that date.

(b) Subsection (1)(d) shall be deemed to have come into operation on 27 May 1998 and shall apply in respect of any agreement entered into on or after that date.

**Amendment of section 25B of Act 58 of 1962, as inserted by section 27 of Act 129 of 1991 and amended by section 22 of Act 141 of 1992**

36. (1) Section 25B of the Income Tax Act, 1962, is hereby amended by the addition of the following subsections:

“(4) Notwithstanding the provisions of subsection (3), any deduction or allowance contemplated in that subsection which is deemed to be made in the determination of the taxable income of a beneficiary of a trust during any year of assessment shall be limited to the income which is deemed to be income which has accrued to such beneficiary in terms of subsection (1) during such year of assessment.

(5) The amount by which the sum of the deductions and allowances contemplated in subsection (4) exceeds the income contemplated in that subsection, shall be deemed to be a deduction or allowance which may be made in the determination of the taxable income of the trust during such year of assessment: Provided that the sum of such deductions and allowances shall be limited to the taxable income of such trust during such year of assessment as calculated before allowing any deduction or allowance under this subsection.

(6) The amount by which the sum of the deductions and allowances contemplated in subsection (4) exceeds the sum of the income contemplated in subsection (4) of such beneficiary and the taxable income of such trust contemplated in subsection (5), shall for the purposes of subsection (3) be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such beneficiary by way of income referred to in subsection (1) during the immediately succeeding year of assessment.”.

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of—

(a) any new trust created on or after 11 March 1998; and

(b) any existing trust, with effect from years of assessment commencing on or after 1 January 1999.

**Amendment of section 31 of Act 58 of 1962, as substituted by section 23 of Act 21 of 1995**

37. (1) Section 31 of the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “international agreement” in subsection (1) of the following definition:

“ ‘international agreement’ means a transaction, operation or scheme entered into between—



- waarde van bedoelde buitelandse valuta-opsiekontrak op daardie datum deur die buitelandse valutabedrag soos in bedoelde buitelandse valuta-opsiekontrak gespesifiseer, te deel; of
- (bb) met betrekking tot 'n buitelandse valuta-opsiekontrak wat 'n geaffekteerde kontrak is, die koers verkry deur die bedrag ingevolge subartikel 4(a) ingesluit of afgetrek, na gelang van die geval, deur die buitelandse valutabedrag soos in die geaffekteerde kontrak gespesifiseer, te deel;"; en
- (d) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:
- “(a) (i) enige premie of soortgelyke vergoeding ontvang [**of ontvangbaar**] deur, of betaal [**of betaalbaar**] deur, bedoelde persoon ingevolge 'n buitelandse valuta-opsiekontrak deur bedoelde persoon in die loop van bedoelde bedryf aangegaan; of
- (ii) enige vergoeding betaal [**of betaalbaar**] deur bedoelde persoon ten opsigte van 'n buitelandse valuta-opsiekontrak deur bedoelde persoon in die loop van bedoelde bedryf verkry; en”.
- (2)(a) Subartikel (1)(a), (b) en (c) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige ooreenkoms op of na daardie datum aangegaan.
- (b) Subartikel (1)(d) word geag op 27 Mei 1998 in werking te getree het en is van toepassing ten opsigte van enige ooreenkoms op of na daardie datum aangegaan.

**Wysiging van artikel 25B van Wet 58 van 1962, soos ingevoeg deur artikel 27 van Wet 129 van 1991 en gewysig deur artikel 22 van Wet 141 van 1992**

36. (1) Artikel 25B van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikels by te voeg:

“(4) Ondanks die bepalings van subartikel (3) word enige aftrekking of vermindering in daardie subartikel beoog, wat gedurende enige jaar van aanslag geag word toegestaan te word by die vasstelling van die belasbare inkomste van 'n begunstigde van 'n trust, beperk tot die inkomste wat geag word inkomste te wees wat gedurende daardie jaar van aanslag aan daardie begunstigde ingevolge subartikel (1) toegeval het.

(5) Die bedrag waarmee die som van die aftrekkings en verminderings in subartikel (4) beoog die inkomste in daardie subartikel beoog, oorskry, word geag 'n aftrekking of vermindering te wees wat toegestaan kan word by die vasstelling van die belasbare inkomste van die trust gedurende daardie jaar van aanslag. Met dien verstande dat die som van daardie aftrekkings en verminderings beperk word tot die belasbare inkomste van daardie trust gedurende daardie jaar van aanslag, soos bereken voordat enige aftrekking of vermindering kragtens hierdie subartikel toegelaat word.

(6) Die bedrag waarmee die som van die aftrekkings en verminderings in subartikel (4) beoog die som van die inkomste in subartikel (4) beoog van daardie begunstigde en die belasbare inkomste van daardie trust in subartikel (5) beoog, oorskry, word by die toepassing van subartikel (3) geag 'n aftrekking of vermindering te wees wat toegestaan kan word by die vasstelling van die belasbare inkomste deur daardie begunstigde verkry by wyse van inkomste bedoel in subartikel (1) in die onmiddellik daaropvolgende jaar van aanslag.”.

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van—

- (a) enige nuwe trust, op of na 11 Maart 1998 geskep; en
- (b) enige bestaande trust, met ingang van jare van aanslag wat op of na 1 Januarie 1999 begin.

**Wysiging van artikel 31 van Wet 58 van 1962, soos vervang deur artikel 23 van Wet 21 van 1995**

37. (1) Artikel 31 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van “internasionale ooreenkoms” in subartikel (1) deur die volgende omskrywing te vervang:

“‘internasionale ooreenkoms’ 'n transaksie, handeling of skema aangegaan tussen—

- (a) (i) a person who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person, is managed or controlled in the Republic; and
- [(b)](ii) any other person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic; or 5
- (b) (i) a person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic; and
- (ii) any other person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic, 10  
for the supply of goods or services to or by a permanent establishment as contemplated in section 9C(1) of either of such persons in the Republic; and”.
- (2) Subsection (1) shall come into operation on the date of promulgation of this Act 15  
and shall apply in respect of the supply of goods and services on or after that date.

**Amendment of section 37H of Act 58 of 1962, as inserted by section 12 of Act 46 of 1996**

38. Section 37H of the Income Tax Act, 1962, is hereby amended by the substitution for the words “Supreme Court” in subsection (23) and paragraph (a) of subsection (25), 20  
respectively, of the words “High Court”.

**Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 25  
121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993 and section 18 of Act 36 of 1996**

39. (1) Section 56 of the Income Tax Act, 1962, is hereby amended by the addition to subsection (1) of the following paragraph: 30

- “(a) where such property consists of the full ownership in immovable property, if—
- (i) such immovable property was acquired by any beneficiary entitled to any grant or services in terms of the Land Reform Programme, as contemplated in the White Paper on South African Land Policy, 1997; 35  
and
- (ii) the Minister of Land Affairs or a person designated by him has, on such terms and conditions as such Minister may in consultation with the Commissioner prescribe, approved the particular project in terms of which such immovable property is so acquired.”. 40

(2) Subsection (1) shall be deemed to have come into operation on 27 April 1994 and shall apply in respect of any donation made on or after that date.

**Amendment of section 64C of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 13 of Act 140 of 1993, section 25 of Act 21 of 1994, section 30 of Act 21 of 1995 and section 22 of Act 36 of 1996** 45

40. Section 64C of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (d) of subsection (4) of the following paragraph:

- “(d) to any loan granted—
- (i) which is denominated in the currency of the Republic, in respect of which a rate of interest not less than the ‘official rate of interest’, as defined in paragraph 1 of the Seventh Schedule; or 50

- (a) (i) 'n persoon wat, in die geval van 'n natuurlike persoon, gewoonlik in die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, in die Republiek bestuur of beheer word; en
- 5 [(b)](ii) enige ander persoon wat, in die geval van 'n natuurlike persoon, gewoonlik buite die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, buite die Republiek bestuur of beheer word; of
- 10 (b) (i) 'n persoon wat, in die geval van 'n natuurlike persoon, gewoonlik buite die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, buite die Republiek bestuur of beheer word; en
- (ii) enige ander persoon wat, in die geval van 'n natuurlike persoon, gewoonlik buite die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, buite die Republiek bestuur of beheer word,
- 15 vir die lewering van goedere of dienste aan of deur 'n permanente saak soos beoog in artikel 9C(1) van enigeen van daardie persone binne die Republiek; en”.
- (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van die verskaffing van goedere en dienste op of na 20 daardie datum.

**Wysiging van artikel 37H van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 46 van 1996**

38. Artikel 37H van die Inkomstebelastingwet, 1962, word hierby gewysig deur onderskeidelik in subartikel (23) en paragraaf (a) van subartikel (25) die woord 25 “Hooggeregshof” deur die woorde “Hoë Hof” te vervang.

- Wysiging van artikel 56 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 90 van 1964, artikel 25 van Wet 55 van 1966, artikel 33 van Wet 89 van 1969, artikel 38 van Wet 85 van 1974, artikel 21 van Wet 113 van 1977, artikel 13 van 30 Wet 101 van 1978, artikel 23 van Wet 96 van 1981, artikel 31 van Wet 94 van 1983, artikel 4 van Wet 30 van 1984, artikel 28 van Wet 121 van 1984, artikel 18 van Wet 96 van 1985, artikel 21 van Wet 85 van 1987, artikel 26 van Wet 90 van 1988, artikel 28 van Wet 141 van 1992, artikel 32 van Wet 113 van 1993 en artikel 18 van Wet 36 van 1996

39. (1) Artikel 56 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die 35 volgende paragraaf by subartikel (1) te voeg:

“(o) waar die eiendom bestaan uit die volle eiendomsreg in onroerende eiendom, indien—

- (i) daardie onroerende eiendom deur 'n begunstigde verkry is wat ingevolge die Grondhervormingsprogram, soos in die Witskrif oor Suid-Afrika se Grondbeleid, 1997, beoog op 'n toelae of dienste geregtig is; 40 en
- (ii) die Minister van Grondsake of 'n persoon deur hom aangewys die spesifieke projek ingevolge waarvan daardie onroerende eiendom aldus verkry word, op die bedinge en voorwaardes wat daardie Minister in 45 oorleg met die Kommissaris voorskryf, goedgekeur het.”.

- (2) Subartikel (1) word geag op 27 April 1994 in werking te getree het en is van toepassing ten opsigte van enige skenking op of na daardie datum gemaak.

**Wysiging van artikel 64C van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 113 van 1993 en gewysig deur artikel 13 van Wet 140 van 1993, artikel 25 van 50 Wet 21 van 1994, artikel 30 van Wet 21 van 1995 en artikel 22 van Wet 36 van 1996**

40. Artikel 64C van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (d) van subartikel (4) deur die volgende paragraaf te vervang:

“(d) op enige lening toegestaan—

- (i) wat in die geldeenheid van die Republiek aangedui word, ten opsigte 55 waarvan 'n rentekoers van minstens die ‘amptelike rentekoers’ in paragraaf 1 van die Sewende Bylae omskryf; of

- (ii) which is denominated in a foreign currency, in respect of which a market-related rate of interest, is payable by the recipient;”.

#### **Amendment of section 69 of Act 58 of 1962**

41. Section 69 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) In addition to the returns specified in subsection (1), every person, whether a taxpayer or not, shall, if required by the Commissioner—

(a) furnish the Commissioner with information reflecting—

- (i) the full name and address; and  
(ii) in the case of—

(aa) any natural person, his or her identification number: Provided that if he or she is not in possession of a South African identity document, any other form of identification; or

(bb) any person other than a natural person, the registration number, in relation to the amounts received by or accrued to such person as contemplated in subsection (1)(b) to (f), inclusive; and

(b) supply such information and furnish such returns or such further or other returns as the Commissioner may require.”.

#### **Insertion of section 75A in Act 58 of 1962**

42. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 75:

##### **“Publication of names of offenders**

**75A.** (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of—

(a) section 75 or 104, paragraph 11A(7) or 30 of the Fourth Schedule or paragraph 19 of the Seventh Schedule;

(b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a),

after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify—

(a) the name and address of the offender;

(b) such particulars of the offence as the Commissioner may think fit;

(c) the year of assessment or tax period during which the offence occurred;

(d) the amount or estimated amount of the tax or additional tax involved;

(e) the particulars of the fine or sentence imposed.”.

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date. 40

#### **Amendment of section 90 of Act 58 of 1962, as amended by section 15 of Act 6 of 1963, section 23 of Act 95 of 1967, section 35 of Act 121 of 1984, section 20 of Act 96 of 1985 and section 38 of Act 129 of 1991**

43. Section 90 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (a) of the following paragraph: 45

“(a) by any representative taxpayer, liable to assessment or for the payment of such tax or interest under this Act or under any previous Income Tax Act [or any ordinance of a provincial council imposing taxes on persons or the incomes of persons];”.

50

(ii) wat in 'n buitelandse geldeenheid aangedui word, ten opsigte waarvan 'n markverwante rentekoers, deur die ontvanger betaalbaar is;”.

#### Wysiging van artikel 69 van Wet 58 van 1962

5 41. Artikel 69 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Benewens die opgawes in subartikel (1) vermeld, moet elke persoon, of hy 'n belastingpligtige is al dan nie, indien deur die Kommissaris vereis—

- 10 (a) aan die Kommissaris inligting verstrek bevattende—
- (i) die volle naam en adres; en
  - (ii) in die geval van—
    - (aa) enige natuurlike persoon, sy of haar identiteitsnommer: Met dien verstande dat indien hy of sy nie oor 'n Suid-Afrikaanse identiteitsdokument beskik nie, enige ander vorm van identifikasie; of
    - 15 (bb) enige persoon behalwe 'n natuurlike persoon, die registrasienommer, met betrekking tot die bedrae ontvang deur of toegeval aan daardie persoon soos in subartikel (1)(b) tot en met (f) beoog; en
- 20 (b) die inligting verstrek en die opgawes of die verdere of ander opgawes doen wat die Kommissaris vereis.”.

#### Invoeging van artikel 75A in Wet 58 van 1962

42. (1) Die volgende artikel word hierby na artikel 75 in die Inkomstebelastingwet, 1962, ingevoeg:

##### “Publikasie van name van oortreders

25 75A. (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die Staatskoerant 'n lys van persone publiseer wat aan 'n misdryf skuldig bevind is ingevolge—

- (a) artikel 75 of 104, paragraaf 11A(7) of 30 van die Vierde Bylae of paragraaf 19 van die Sewende Bylae;
  - 30 (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met 'n misdryf in paragraaf (a) bedoel, nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- (2) Elke sodanige lys kan vermeld—
- 35 (a) die naam en adres van die oortreder;
  - (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
  - (c) die jaar van aanslag of belastingtydperk waartydens die misdryf plaasgevind het;
  - (d) die bedrag of geskatte bedrag van die belasting of addisionele
  - 40 (e) die besonderhede van die boete of vonnis opgelê.”.

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van 'n persoon wat op of na daardie datum skuldig bevind is.

45 Wysiging van artikel 90 van Wet 58 van 1962, soos gewysig deur artikel 15 van Wet 6 van 1963, artikel 23 van Wet 95 van 1967, artikel 35 van Wet 121 van 1984, artikel 20 van Wet 96 van 1985 en artikel 38 van Wet 129 van 1991

43. Artikel 90 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- 50 “(a) deur 'n verteenwoordigende belastingpligtige wat ingevolge hierdie Wet of ingevolge 'n vorige Inkomstebelastingwet [of 'n ordonnansie van 'n provinsiale raad wat belasting op persone of die inkomstes van persone hef] aan aanslag onderhewig of vir die betaling van so 'n belasting of rente aanspreeklik is;”.

**Amendment of section 102 of Act 58 of 1962, as substituted by section 28 of Act 69 of 1975 and amended by section 27 of Act 91 of 1982**

44. Section 102 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the words preceding the proviso to subsection (1) of the following words: 5  
 “If it is proved to the satisfaction of the Commissioner that any amount paid by a taxpayer was in excess of the amount properly chargeable under this Act, the Commissioner may, subject to the provisions of subsection (4), authorize a refund to such taxpayer of any tax overpaid.”; and
- (b) by the addition of the following subsection: 10  
 “(4) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section.”. 15

**Amendment of section 103 of Act 58 of 1962, as amended by section 14 of Act 101 of 1978, section 37 of Act 121 of 1984, section 19 of Act 70 of 1989 and section 29 of Act 36 of 1996**

45. (1) Section 103 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection: 20  
 “(2) Whenever the Commissioner is satisfied that—  
 (a) any agreement affecting any company or trust; or  
 (b) any change in— 25  
     (i) the shareholding in any company; or  
     (ii) [in] the members’ interests in any company which is a close corporation; or  
     (iii) the trustees or beneficiaries of any trust,  
 as a direct or indirect result of which income has been received by or has 30  
 accrued to that company or trust during any year of assessment, has at any time before or after the commencement of the Income Tax Act, 1946, been entered into or effected by any person solely or mainly for the purpose of utilizing any assessed loss or any balance of assessed loss incurred by the company or trust, in order to avoid liability on the part of that company or trust 35  
 or any other person for the payment of any tax, duty or levy on income, or to reduce the amount thereof, the set-off of any such assessed loss or balance of assessed loss against any such income shall be disallowed.”;
- (b) by the substitution for the words preceding paragraph (a) of subsection (4) of the following words: 40  
 “Any decision of the Commissioner under subsection (1), (2) or (3) shall be subject to objection and appeal, and whenever in proceedings relating thereto it is proved that the transaction, operation, scheme, agreement or change in shareholder or members’ interests or trustees or beneficiaries of the trust in question would result in the avoidance or the postponement of liability for 45  
 payment of any tax, duty or levy imposed by this Act or any previous Income Tax Act or any other law administered by the Commissioner, or in the reduction of the amount thereof, it shall be presumed, until the contrary is proved—”; and
- (c) by the substitution for paragraph (b) of subsection (4) of the following 50  
 paragraph:  
 “(b) in the case of any such agreement or change in shareholding or members’ interests or trustees or beneficiaries of such trust, that it has been entered into or effected solely or mainly for the purpose of utilizing the assessed loss or balance of assessed loss in question in order to avoid or postpone 55  
 such liability or to reduce the amount thereof.”.

**Wysiging van artikel 102 van Wet 58 van 1962, soos vervang deur artikel 28 van Wet 69 van 1975 en gewysig deur artikel 27 van Wet 91 van 1982**

44. Artikel 102 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan deur die volgende woorde te vervang:

“Indien daar tot bevrediging van die Kommissaris bewys word dat ’n bedrag wat ’n belastingpligtige betaal het, die bedrag behoorlik hefbaar ingevolge hierdie Wet te bowe gegaan het, kan die Kommissaris, behoudens die bepalinge van subartikel (4), magtiging verleen om die bedrag wat te veel aan belasting betaal is, aan so ’n belastingpligtige terug te betaal.”; en

(b) deur die volgende subartikel by te voeg:

“(4) Waar enige terugbetaling in subartikel (1) beoog aan enige persoon verskuldig is wat versuim het om enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete kragtens hierdie Wet of enige ander wet deur die Kommissaris geadministreer, geheel of opgelê, binne die tydperk voorgeskryf vir betaling van die bedrag te betaal, kan die Kommissaris enige bedrag wat kragtens hierdie artikel aan die persoon terugbetaalbaar geword het, teen die bedrag wat die persoon versuim het om te betaal, verreken.”.

20 **Wysiging van artikel 103 van Wet 58 van 1962, soos gewysig deur artikel 14 van Wet 101 van 1978, artikel 37 van Wet 121 van 1984, artikel 19 van Wet 70 van 1989 en artikel 29 van Wet 36 van 1996**

45. (1) Artikel 103 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Wanneer die Kommissaris oortuig is dat—

(a) ’n ooreenkoms rakende ’n maatskappy of trust; of

(b) ’n verandering in—

(i) die aandeelbesit in ’n maatskappy; of

(ii) [in] die ledebelange in ’n maatskappy wat ’n beslote korporasie is;

30 of

(iii) die trustees of begunstigdes van ’n trust,

as ’n direkte of indirekte gevolg waarvan inkomste gedurende ’n jaar van aanslag ontvang is deur of toegeval het aan daardie maatskappy of trust te eniger tyd voor of na die inwerkingtreding van die Inkomstebelastingwet, 1946, deur ’n persoon aangegaan of teweeggebring is uitsluitlik of hoofsaaklik met die oogmerk om ’n vasgestelde verlies of ’n balans van vasgestelde verlies wat die maatskappy of trust gely het, aan te wend ten einde aanspreeklikheid aan die kant van daardie maatskappy of trust of ’n ander persoon vir die betaling van ’n belasting of heffing op inkomste te vermy of die bedrag daarvan te verminder, word die in vergelyking bring van so ’n vasgestelde verlies of balans van vasgestelde verlies teen bedoelde inkomste van die hand gewys.”;

(b) deur die woorde wat paragraaf (a) van subartikel (4) voorafgaan deur die volgende woorde te vervang:

45 “ ’n Beslissing van die Kommissaris ingevolge subartikel (1), (2) of (3) is aan beswaar en appèl onderhewig, en wanneer by verrigtings wat daarop betrekking het, bewys word dat die onderhawige transaksie, handeling, skema, ooreenkoms of verandering in aandeelbesit of ledebelange of trustees of begunstigdes van die trust, die vermyding of die uitstel van aanspreeklikheid vir betaling van enige belasting of heffing wat opgelê is deur hierdie Wet of ’n vorige Inkomstebelastingwet of ’n ander wet deur die Kommissaris uitgevoer, of die vermindering van die bedrag daarvan, ten gevolg sou hê, word vermoed, totdat die teendeel bewys word—”; en

(c) deur paragraaf (b) van subartikel (4) deur die volgende paragraaf te vervang:

55 “(b) in die geval van so ’n ooreenkoms of verandering in aandeelbesit of ledebelange of trustees of begunstigdes van daardie trust, dat dit aangegaan of teweeggebring is uitsluitlik of hoofsaaklik met die oogmerk om die onderhawige vasgestelde verlies of balans van vasgestelde verlies aan te wend ten einde bedoelde aanspreeklikheid te vermy of uit te stel of die bedrag daarvan te verminder.”.

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(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any agreement affecting any trust entered into on or after that date or any change in trustees or beneficiaries effected on or after that date.

**Amendment of section 107 of Act 58 of 1962, as amended by section 26 of Act 65 of 1973, section 46 of Act 97 of 1986, section 29 of Act 21 of 1994 and section 37 of Act 28 of 1997** 5

46. Section 107 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) prescribing the nature and contents of the accounts to be rendered by any taxpayer in support of any returns rendered under this Act and the manner in which such accounts shall be authenticated;” 10

**Amendment of paragraph 1 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964, section 34 of Act 88 of 1971, section 34 of Act 69 of 1975, section 26 of Act 113 of 1977, section 17 of Act 104 of 1979, section 27 of Act 104 of 1980, section 28 of Act 96 of 1981, section 46 of Act 94 of 1983, section 24 of Act 65 of 1986, section 43 of Act 101 of 1990, section 35 of Act 21 of 1995 and section 41 of Act 28 of 1997** 15

47. (1) Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for paragraphs (b) and (c) of “formula C” of the following paragraphs: 20

“(b) ‘B’ represents—

(i) where the number of completed years of employment are in terms of the rules of the fund in question taken into account for the purpose of determining the amount of the benefit payable to him by the fund, the number of completed years of employment of the taxpayer after 1 March 1998, including previous or other periods of service approved as pensionable service in terms of the rules of any fund after 1 March 1998 [**which is, in terms of the rules of the fund in question, taken into account for the purpose of determining the amount of the benefits payable to him by the fund**] (other than completed years of employment representing any benefit of a member of any fund referred to in paragraph (a) or (b) of the definition of ‘pension fund’ in section 1, hereinafter referred to as a ‘public sector fund’, which is after 1 March 1998 paid for the benefit of such member into another public sector fund in respect of any previous or other periods of service or membership accounted for prior to 1 March 1998 in terms of the rules of any public sector fund); or 25 30 35

(ii) [if] where the number of completed years of employment is not taken into account for that purpose, the number of completed years after 1 March 1998 during which the taxpayer had, until the date of accrual of any benefit, been a member of [the] any public sector fund or funds; 40

(c) ‘C’ represents— 45

(i) where the number of completed years of employment are in terms of the rules of the fund in question taken into account for the purpose of determining the amount of the benefits payable to him by the



(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige ooreenkoms rakende 'n trust op of na daardie datum aangegaan of enige verandering in trustees of begunstigdes op of na daardie datum teweeggebring.

5 **Wysiging van artikel 107 van Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 65 van 1973, artikel 46 van Wet 97 van 1986, artikel 29 van Wet 21 van 1994 en artikel 37 van Wet 28 van 1997**

46. Artikel 107 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

- 10 “(c) die aard en inhoud van die rekenings wat deur 'n belastingpligtige verstrek moet word ter staving van opgawes ingevolge hierdie Wet verstrek, en die wyse waarop sodanige rekenings gewaarmerk moet word, voorgeskryf word;”.

15 **Wysiging van paragraaf 1 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 90 van 1962, artikel 23 van Wet 90 van 1964, artikel 34 van Wet 88 van 1971, artikel 34 van Wet 69 van 1975, artikel 26 van Wet 113 van 1977, artikel 17 van Wet 104 van 1979, artikel 27 van Wet 104 van 1980, artikel 28 van Wet 96 van 1981, artikel 46 van Wet 94 van 1983, artikel 24 van Wet 65 van 1986, artikel 43 van Wet 101 van 1990, artikel 35 van Wet 21 van 1995 en artikel**  
20 **41 van Wet 28 van 1997**

47. (1) Paragraaf 1 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur die omskrywing van “enkelbedragvoordeel” deur die volgende omskrywing te vervang:
- 25 “‘enkelbedragvoordeel’ ook 'n bedrag bepaal deur die omsetting van 'n lyfrente of jaargeld of 'n gedeelte van 'n lyfrente of jaargeld, en enige bepaalde of bepaalde bedrag (behalwe 'n lyfrente of jaargeld) betaalbaar deur of as gevolg van lidmaatskap of gewese lidmaatskap van 'n in paragraaf (e) van die omskrywing van ‘bruto inkomste’ in artikel 1 van hierdie Wet bedoelde fonds **[betaalbaar]**, hetsy in een bedrag of in paaiemente;”;
- 30 (b) deur paragrawe (b) en (c) van “formule C” deur die volgende paragrawe te vervang:
- “*(b)* ‘B’—
- (i) waar die aantal voltooide diensjare ingevolge die reglement van die  
35 betrokke fonds in aanmerking geneem word vir die doeleindes van die vasstelling van die bedrag van die voordeel deur die fonds aan hom betaalbaar, die aantal voltooide diensjare van die belastingpligtige na 1 Maart 1998 voorstel, met inbegrip van vorige of ander tydperke van diens goedgekeur as pensioendraende diens ingevolge die reglement van 'n fonds na 1 Maart 1998 [wat ingevolge  
40 die reglement van die betrokke fonds by die vasstelling van die bedrag van die voordele deur die fonds aan hom betaalbaar in aanmerking geneem is] (behalwe voltooide diensjare wat 'n voordeel van 'n lid van 'n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 bedoel, hieronder ‘openbare sektor fonds’ genoem, verteenwoordig, wat na 1 Maart 1998 vir die voordeel van daardie lid in 'n ander openbare sektor fonds inbetaal is ten opsigte van enige vorige of ander dienstydperke of lidmaatskap wat voor 1 Maart 1998 ingevolge die reglement van enige openbare sektor fonds verantwoord is); of
- 45 (ii) **[indien]** waar die aantal voltooide diensjare nie vir daardie doel in aanmerking geneem is nie, die aantal voltooide jare na 1 Maart 1998 waartydens die belastingpligtige, tot die datum van toevalling van 'n voordeel, 'n lid van [die] enige openbare sektor fonds of  
50 fondse was;
- 55 (c) ‘C’—
- (i) waar die aantal voltooide diensjare ingevolge die reglement van die betrokke fonds in aanmerking geneem word by die vasstelling van die bedrag van die voordele deur die fonds aan hom betaalbaar, die

- fund, the total number of completed years of employment taken into account for the purpose of determining the amount of the benefits payable to the taxpayer by the fund; or
- (ii) [if] where the number of completed years of employment is not taken into account for that purpose, the number of completed years during which the taxpayer had, until the date of accrual of any benefit, continuously been a member of [the] any public sector fund or funds;”;
- (b) by the substitution for the definition of “lump sum benefit” of the following definition:
- “ ‘lump sum benefit’ includes any amount determined by the commutation of an annuity or portion of an annuity and any fixed or ascertainable amount (other than an annuity) payable by or provided in consequence of membership or past membership of any fund referred to in paragraph (e) of the definition of ‘gross income’ in section 1 of this Act whether in one amount or in instalments;”;
- (c) by the substitution in the Afrikaans text for paragraph (b) of the definition of “pensioenfonds” of the following paragraph:
- “(b) ’n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 van hierdie Wet bedoel (behalwe ’n fonds in paragraaf (b) van die omskrywing van ‘voorsorgsfonds’), waarvan die reëls geheel en al of hoofsaaklik voorsiening maak vir jaargelde aan sy lede met [uitdienstreding] uittreding,”; and
- (d) by the substitution in the Afrikaans text for paragraph (b) of the definition of “voorsorgsfonds” of the following paragraph:
- “(b) ’n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 bedoel, waarvan die reëls voorsiening maak vir voordele in die vorm van ’n enkelbedrag wat een-derde van die gekapitaliseerde waarde van alle voordele (met inbegrip van enkelbedragbetalings en jaargelde) aan sy lede met [uitdienstreding] uittreding te bowe gaan,”.
- (2) Subsection (1) shall be deemed to have come into operation on 1 March 1998.

**Substitution of paragraph 2 of Second Schedule to Act 58 of 1962, as substituted by section 42 of Act 28 of 1997**

48. The following paragraph is hereby substituted for paragraph 2 of the Second Schedule to the Income Tax Act, 1962:

“2. Subject to the provisions of paragraph 2A, the amount to be included in the gross income of any person in terms of paragraph (e) of the definition of ‘gross income’ in section 1 of this Act shall be the aggregate of the amounts received by or accrued to such person by way of lump sum benefits during any year of assessment from or in consequence of membership or past membership of any pension funds, provident funds or retirement annuity funds, less the deductions permitted under the provisions of this Schedule.”.

**Amendment of paragraph 2A of Second Schedule to Act 58 of 1962, as inserted by section 43 of Act 28 of 1997**

49. Paragraph 2A of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the addition of the following proviso:

“Provided that the determination of the deemed amount of the lump sum benefit in terms of this paragraph shall only apply if the person was a member of a fund referred to in paragraph (a) or (b) of the definition of ‘pension fund’ in section 1 of this Act on 1 March 1998 and thereafter uninterruptedly continued to be a member of any such fund until the date of accrual of the lump sum benefit.”.

**Substitution of paragraph 3 of Second Schedule to Act 58 of 1962, as amended by section 47 of Act 94 of 1983**

50. The following paragraph is hereby substituted for paragraph 3 of the Second Schedule to the Income Tax Act, 1962:

“3. Any lump sum benefit which becomes recoverable in consequence of or following upon the death of a member or past member of a pension fund, provident fund or retirement annuity fund shall be deemed to be a lump sum benefit which

totale aantal voltooide [**jare**] diensjare voorstel wat by die berekening van die bedrag van die voordele deur die fonds aan die belastingpligtige betaalbaar in aanmerking geneem is; of

- (ii) [**indien**] waar die aantal voltooide diensjare nie vir daardie doel in aanmerking geneem is nie, die aantal voltooide jare voorstel waartydens die belastingpligtige, tot die datum van toevalling van 'n voordeel, deurlopend 'n lid van [die] enige openbare sektor fonds of fondse was;”;
- (c) deur paragraaf (b) van die omskrywing van “pensioenfonds” deur die volgende paragraaf te vervang:  
 “(b) 'n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 van hierdie Wet bedoel (behalwe 'n fonds in paragraaf (b) van die omskrywing van ‘voorsorgsfonds’), waarvan die reëls geheel en al of hoofsaaklik voorsiening maak vir jaargelde aan sy lede met [**uitdienstreding**] uittreding;”;
- (d) deur paragraaf (b) van die omskrywing van “voorsorgsfonds” deur die volgende omskrywing te vervang:  
 “(b) 'n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 bedoel, waarvan die reëls voorsiening maak vir voordele in die vorm van 'n enkelbedrag wat een derde van die gekapitaliseerde waarde van alle voordele (met inbegrip van enkelbedragbetalings en jaargelde) aan sy lede met [**uitdienstreding**] uittreding te bowe gaan;”.
- (2) Subartikel (1) word geag op 1 Maart 1998 in werking te getree het.

**Vervanging van paragraaf 2 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 42 van Wet 28 van 1997**

48. Paragraaf 2 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby deur die volgende paragraaf vervang:

- “2. Behoudens die bepalings van subparagraaf 2A is die bedrag wat ingevolge paragraaf (e) van die omskrywing van ‘bruto inkomste’ in artikel 1 van hierdie Wet by die bruto inkomste van enige persoon ingesluit moet word, die totaal van die bedrae deur so 'n persoon ontvang of aan hom toegeval by wyse van enkelbedragvoordele gedurende 'n jaar van aanslag uit of as gevolg van lidmaatskap of gewese lidmaatskap van pensioenfondse, voorsorgsfondse of uittredingannuïteitsfondse, min die toelaatbare aftrekkings ingevolge die bepalings van hierdie Bylae.”.

**Wysiging van paragraaf 2A van Tweede Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 43 van Wet 28 van 1997**

49. Paragraaf 2A van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende voorbehoudsbepaling by te voeg:

- “Met dien verstande dat vasstelling van die bedrag van die enkelbedragvoordeel ingevolge hierdie paragraaf geag, slegs van toepassing is indien die persoon op 1 Maart 1998 'n lid was van 'n fonds in paragraaf (a) of (b) van die omskrywing van ‘pensioenfonds’ in artikel 1 van hierdie Wet bedoel, en daarna ononderbroke aangehou het om 'n lid van so 'n fonds te wees tot die datum van die toevalling van die enkelbedragvoordeel.”.

**Vervanging van paragraaf 3 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 47 van Wet 94 van 1983**

50. Paragraaf 3 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby deur die volgende paragraaf vervang:

- “3. 'n Enkelbedragvoordeel wat as gevolg van of na die dood van 'n lid of gewese lid van 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds verhaalbaar word, word geag 'n enkelbedragvoordeel te wees wat aan bedoelde lid of gewese lid onmiddellik voor sy dood toegeval het: Met dien verstande dat soveel van enige belasting betaalbaar as wat toe te skryf is aan die insluiting by die inkomste van bedoelde lid of gewese lid van enige bedrag ingevolge die bepalings van hierdie paragraaf, verhaal kan word op die persoon aan of ten gunste van wie die betrokke enkelbedragvoordeel toeval: Met dien verstande

accrued to such member or past member immediately prior to his death: Provided that so much of any tax payable as is due to the inclusion in the income of such member or past member of any amount in accordance with the provisions of this paragraph, may be recovered from the person to whom or in whose favour the lump sum benefit in question accrues: Provided further that where any annuity which became payable or may become payable or which is provided or may be provided on or in consequence of or following upon the death of a member or past member of any such fund has on or after 1 July 1983 been commuted for a lump sum, such lump sum shall for the purposes of this paragraph be deemed to be a lump sum which has become recoverable in consequence of or following upon the death of such member or past member.”.

**Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 26 of Act 90 of 1964 and amended by section 18 of Act 104 of 1979, section 5 of Act 30 of 1984 and section 32 of Act 141 of 1992**

51. (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subparagraphs (a) and (b) of the following subparagraphs, respectively:
- “(a) so much of any lump sum benefit so derived by the taxpayer from any [fund approved by the Commissioner as a] pension fund [in respect of the year of assessment in question] as is paid for the benefit of such taxpayer into any other [fund approved by the Commissioner as a] pension fund or retirement annuity fund [in respect of that year];
- (b) so much of any lump sum benefit so derived by the taxpayer from any [fund approved by the Commissioner as a] provident fund [in respect of the year of assessment in question] as is paid for the benefit of such taxpayer into any [fund approved by the Commissioner as a] pension fund, provident fund or retirement annuity fund [in respect of that year];”;
- (b) by the substitution for the provisos of the following proviso:
- “Provided that—
- (i) in respect of any lump sum benefits so derived by the taxpayer from any pension fund, provident fund or retirement annuity fund the sum of the deductions under this paragraph shall not be less than the lesser of either the aggregate value of such lump sum benefits or the sum of the taxpayer’s own contributions to such fund, including so much of any amounts paid into such fund for his benefit by any other pension fund, provident fund or retirement annuity fund as represented his own contributions to such other fund, but excluding so much of such contributions and amounts representing contributions as ranked for deduction against the taxpayer’s income in terms of section 11(k) or (n) of this Act or the corresponding provisions of any previous Income Tax Act;
- (ii) [Provided further that] for the purposes of this paragraph the surrender value of any policy of insurance ceded or otherwise made over to the taxpayer by any aforesaid fund and ceded or otherwise made over by the taxpayer to another such fund in the appropriate circumstances contemplated by this paragraph or any amount paid in such circumstances by the taxpayer into such other fund in lieu of or as representing such surrender value or a portion thereof, shall, if such surrender value is in terms of subparagraph (2)bis of paragraph 4 deemed to be a lump sum benefit accruing to the taxpayer, be deemed to have been paid for the benefit of the taxpayer into such other fund; and
- (iii) where the lump sum benefit in question has been derived in consequence of or following upon the taxpayer’s withdrawal or resignation from a fund referred to in paragraph (a) or (b) of the definition of ‘pension fund’ in section 1 of this Act, the deduction to be allowed in terms of subparagraph (a) or (b) of this paragraph shall be limited to the amount determined in accordance with ‘formula C’.”.
- (2) Subsection (1) shall be deemed to have come into operation on 1 March 1998.

voorts dat waar 'n jaargeld op of as gevolg van of na die dood van 'n lid of gewese lid van so 'n fonds betaalbaar geword het of mag word of wat voorsien word of voorsien mag word op of na 1 Julie 1983 deur 'n enkelbedrag vervang is, bedoelde enkelbedrag by die toepassing van hierdie paragraaf geag word 'n enkelbedragvoordeel te wees wat as gevolg van of na die dood van bedoelde lid of gewese lid verhaalbaar geword het.”.

**Wysiging van paragraaf 6 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 26 van Wet 90 van 1964 en gewysig deur artikel 18 van Wet 104 van 1979, artikel 5 van Wet 30 van 1984 en artikel 32 van Wet 141 van 1992**

10 **51.** (1) Paragraaf 6 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraawe (a) en (b) onderskeidelik deur die volgende subparagraawe te vervang:

15 “(a) soveel van enige enkelbedragvoordeel aldus deur die belastingpligtige verkry uit 'n [**fonds wat die Kommissaris as 'n**] pensioenfonds [**ten opsigte van die betrokke jaar van aanslag goedgekeur het**] as wat vir die voordeel van die belastingpligtige betaal word in 'n ander [**fonds wat die Kommissaris ten opsigte van daardie jaar as 'n**] pensioenfonds of uittredingannuïteitsfonds [**goedgekeur het**];

20 (b) soveel van enige enkelbedragvoordeel aldus deur die belastingpligtige verkry uit 'n [**fonds wat die Kommissaris as 'n**] voorsorgsfonds [**ten opsigte van die betrokke jaar van aanslag goedgekeur het**] as wat vir die voordeel van die belastingpligtige betaal word in 'n [**fonds wat die Kommissaris ten opsigte van daardie jaar as 'n**] pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds [**goedgekeur het**];” en

25 (b) deur die voorbehoudsbepalings deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat—

30 (i) ten opsigte van enige enkelbedragvoordele wat aldus uit enige pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds deur die belastingpligtige verkry is, die som van die aftrekkings ingevolge hierdie paragraaf nie minder is nie as die minste van óf die totale waarde van dié enkelbedragvoordele óf die som van die belastingpligtige se eie bydraes tot bedoelde fonds, met inbegrip van soveel van die bedrae in bedoelde fonds vir sy voordeel deur 'n ander pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds inbetaal, as wat sy eie bydraes aan sodanige ander fonds voorgestel het, maar uitgesonderd soveel van bedoelde bydraes en bedrae wat bydraes voorstel as wat ingevolge artikel 11(k) of (n) van hierdie Wet of die ooreenstemmende bepalinge van 'n vorige Inkomstebelastingwet teen die inkomste van die belastingpligtige as 'n aftrekking toelaatbaar was;

40 (ii) [**Met dien verstande voorts dat**] by die toepassing van hierdie paragraaf die afkoopwaarde van 'n assuransiepolis deur 'n voormelde fonds aan die belastingpligtige gesedeer of op ander wyse oorgedra en in die toepaslike omstandighede deur hierdie paragraaf beoog deur die belastingpligtige aan 'n ander sodanige fonds gesedeer of op ander wyse oorgedra, of 'n bedrag in bedoelde omstandighede in bedoelde ander fonds ter vervanging van of as voorstellende bedoelde afkoopwaarde of 'n gedeelte daarvan deur die belastingpligtige betaal, geag word, indien bedoelde afkoopwaarde ingevolge subparagraaf (2)bis van paragraaf 4 geag word 'n enkelbedragvoordeel te wees wat aan die belastingpligtige toeval, vir die belastingpligtige se voordeel in bedoelde ander fonds betaal te gewees het; en

55 (iii) waar die betrokke enkelbedragvoordeel verkry is as gevolg van of na die belastingpligtige se onttrekking of bedanking van 'n fonds in paragraaf (a) of (b) van die omskrywing van 'pensioenfonds' in artikel 1 van hierdie Wet bedoel, die aftrekking wat toegestaan moet word ingevolge subparagraaf (a) of (b) van hierdie paragraaf beperk tot die bedrag ingevolge 'formule C' vasgestel word.”.

60 (2) Subartikel (1) word geag op 1 Maart 1998 in werking te getree het.

**Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996 and section 44 of Act 28 of 1997** 5

**52.** (1) Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended— 10

(a) by the substitution for the definition of “labour broker” of the following definition: 10

“ ‘labour broker’ means any person who conducts or carries on [a labour broker’s office as defined in section 1 of the Labour Relations Act, 1956 (Act No. 28 of 1956), whether or not such labour broker’s office is registered under section 63 of that Act] any business whereby such person for reward provides a client of such business with other persons (other than any person who qualifies as a labour broker under this definition) to render a service or perform work for such client, or procures such other persons for the client, for which services or work such other persons are remunerated by such person;” and 15

(b) by the substitution for the expression “40 per cent” in paragraph (c) of the definition of “remuneration” of the expression “50 per cent”. 20

(2) Subsection (1)(b) shall be deemed to have come into operation on 1 April 1998.

**Amendment of paragraph 11B of Fourth Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991, section 34 of Act 141 of 1992, section 3 of Act 168 of 1993, section 40 of Act 21 of 1995, section 35 of Act 36 of 1996 and section 48 of Act 28 of 1997** 25

**53.** (1) Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding paragraph (a) of subparagraph (4) of the following words: 30

“Where the taxpayer is entitled to a deduction under section 11(k) or (n) of this Act in respect of any contribution to a pension fund or retirement annuity fund which has not been taken into account by his employer in the determination of the balance contemplated in the definition of ‘net remuneration’ in subparagraph (1), or to a deduction under section [16A or] 18 of this Act, and the taxpayer’s taxable income derived otherwise than from net remuneration cannot be reduced by the full amount of any such deduction, the Commissioner shall on application made by the taxpayer amend—”. 35

(2) Subsection (1) shall come into operation on the date of promulgation of this Act. 40

**Amendment of paragraph 2 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 27 of Act 96 of 1985, section 56 of Act 101 of 1990 and section 49 of Act 28 of 1997**

**54.** (1) Paragraph 2 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended— 45

(a) by the addition of the word “or” at the end of subparagraph (h); and

(b) by the addition of the following subparagraph: 50

“(i) the employer has during any period, directly or indirectly, made any contribution or payment to any fund contemplated in paragraph (b) of the definition of ‘benefit fund’ in section 1 of this Act, for the benefit of any employee or the dependants of any such employee, which exceeds two thirds of the total contribution or payment in relation to such employee or dependants to such fund during such period.”. 50

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1998. 55

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, artikel 6 van Wet 30 van 5 1984, artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991, artikel 33 van Wet 141 van 1992, artikel 48 van Wet 113 van 1993, artikel 16 van Wet 140 van 1993, artikel 37 van Wet 21 van 1995, artikel 34 van Wet 36 van 1996 en artikel 44 van Wet 28 van 1997

10 52. (1) Paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die omskrywing van “arbeidsmakelaar” deur die volgende omskrywing te vervang:

15 “‘arbeidsmakelaar’ ’n persoon wat ’n [arbeidsmakelaarskantoor] besigheid drywe of voortsit [soos in artikel 1 van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), omskryf, ongeag of bedoelde arbeidsmakelaarskantoor ingevolge artikel 63 van daardie Wet geregistreer is al dan nie] waardeur daardie persoon teen vergoeding ’n kliënt van daardie besigheid van ander persone voorsien (behalwe ’n persoon wat 20 ingevolge hierdie omskrywing as ’n arbeidsmakelaar kwalifiseer) om vir daardie kliënt ’n diens te lewer of werk te doen of daardie ander persone vir die kliënt werf, vir welke dienste of werk daardie ander persone deur daardie persoon vergoed word;” en

(b) deur die uitdrukking “40 persent” in paragraaf (c) van die omskrywing van 25 “besoldiging” deur die uitdrukking “50 persent” te vervang.

(2) Subartikel (1)(b) word geag op 1 April 1998 in werking te getree het.

Wysiging van paragraaf 11B van Vierde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 41 van Wet 90 van 1988 en gewysig deur artikel 22 van Wet 70 van 1989, artikel 47 van Wet 101 van 1990, artikel 46 van Wet 129 van 1991, artikel 30 34 van Wet 141 van 1992, artikel 3 van Wet 168 van 1993, artikel 40 van Wet 21 van 1995, artikel 35 van Wet 36 van 1996 en artikel 48 van Wet 28 van 1997

53. (1) Paragraaf 11B van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat paragraaf (a) van subparagraaf (4) voorafgaan deur die volgende woorde te vervang:

35 “Waar die belastingpligtige geregtig is op ’n aftrekking ingevolge artikel 11(k) of (n) van hierdie Wet ten opsigte van ’n bydrae aan ’n pensioen- of uittreding-annuïteitsfonds wat nie deur sy werkgewer by die vasstelling van die balans in die omskrywing van ‘netto besoldiging’ in subparagraaf (1) bedoel in aanmerking geneem is nie, of op ’n aftrekking ingevolge artikel [16A of] 18 van hierdie Wet, 40 en die belastingpligtige se belasbare inkomste wat anders as uit netto besoldiging verkry is nie met die volle bedrag van so ’n aftrekking verminder kan word nie, wysig die Kommissaris op aansoek van die belastingpligtige—”.

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet.

Wysiging van paragraaf 2 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg 45 deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 27 van Wet 96 van 1985, artikel 56 van Wet 101 van 1990 en artikel 49 van Wet 28 van 1997

54. (1) Paragraaf 2 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die woord “of” aan die einde van subparagraaf (h) by te voeg; en

50 (b) deur die volgende subparagraaf by te voeg:

55 “(i) die werkgewer gedurende enige tydperk regstreeks of onregstreeks enige bydrae of betaling aan ’n fonds in paragraaf (b) van die omskrywing van ‘bystandsfonds’ in artikel 1 van hierdie Wet bedoel, vir die voordeel van ’n werknemer of die afhanklikes van daardie werknemer gemaak het, wat twee derdes van die totale bydrae of betaling met betrekking tot daardie werknemer of afhanklikes aan daardie fonds gedurende daardie tydperk oorskry.”

(2) Subartikel (1) word geag op 1 April 1998 in werking te getree het.

**Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 van 1984 and amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994 and section 49 of Act 28 of 1997**

5

55. (1) Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (2) of the following subparagraph:

“(2) The cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph 2(d) shall be the rental value of such accommodation (as determined under subparagraph (3), (3A), (4) or (5) [or (9)] of this paragraph in respect of the year of assessment) less any rental consideration given by the employee for such accommodation in respect of such year, any rental consideration given by him in respect of household goods supplied with such accommodation and any charge made to the employee by the employer in respect of power or fuel provided with the accommodation.”;

(b) by the substitution for subparagraph (3) of the following subparagraph:

“(3) Subject to the provisions of subparagraph (3A), the rental value to be placed on such accommodation (other than accommodation referred to in subparagraph (4)) for any year of assessment shall be the greater of—

(a) an amount determined in accordance with the formula

$$(A - B) \times \frac{C}{100} \times \frac{D}{12},$$

in which formula—

[(a)] (i) ‘A’ represents the remuneration factor as determined in relation to the year of assessment;

[(b)](ii) ‘B’ represents an abatement equal to an amount of R20 000: Provided that in any case where—

[(i)](aa) the employer is a private company and the employee or his spouse controls the company or is one of the persons controlling the company, whether control is exercised directly as a shareholder in the company or as a shareholder in any other company; or

[(ii)](bb) the employee, his spouse or minor child has a right of option or pre-emption granted by the employer or by any other person by arrangement with the employer or any associated institution in relation to the employer whereby the employee, his spouse or minor child may become the owner of the accommodation, whether directly or indirectly by virtue of a controlling interest in a company or otherwise,

the said abatement shall be reduced to zero;

[(c)] (iii) ‘C’ represents a quantity of [16] 17: Provided that where the accommodation consists of a house, flat or apartment consisting of at least four rooms—

[(i)] (aa) ‘C’ represents a quantity of [17] 18 if—

[(aa)](A) such accommodation is unfurnished and power or fuel is supplied by the employer; or

[(bb)](B) such accommodation is furnished but power or fuel [are] is not supplied; or

[(ii)](bb) ‘C’ represents a quantity of [18] 19 if such accommodation is furnished and power or fuel is supplied by the employer; and

[(d)] (iv) ‘D’ represents the number of months in relation to a year of assessment during which the employee was entitled to occupation of such accommodation; or



Wysiging van paragraaf 9 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 31 van Wet 96 van 1985, artikel 34 van Wet 65 van 1986, artikel 29 van Wet 85 van 1987, artikel 59 van Wet 101 van 1990, artikel 53 van Wet 113 van 1993, artikel 33 van Wet 21 van 5 1994 en artikel 49 van Wet 28 van 1997

55. (1) Paragraaf 9 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

10 “(2) Die kontantekwivalent van die waarde van die belasbare voordeel verkry uit die bewoning van huisvesting soos in paragraaf 2(d) beoog, is die huurwaarde van bedoelde huisvesting (soos ingevolge subparagraaf (3), (3A), (4) of (5) [of (9)] van hierdie paragraaf vasgestel ten opsigte van die 15 jaar van aanslag) min enige huurvergoeding deur die werknemer vir bedoelde huisvesting ten opsigte van bedoelde jaar gegee, enige huurvergoeding deur hom gegee ten opsigte van huishoudelike goed wat saam met bedoelde huisvesting verskaf word en enige vordering teen die werknemer deur die werkgewer gemaak ten opsigte van krag of brandstof wat saam met die huisvesting verskaf word.”;

(b) deur subparagraaf (3) deur die volgende subparagraaf te vervang:

20 “(3) Behoudens die bepalings van subparagraaf (3A) is die huurwaarde wat op bedoelde huisvesting (behalwe huisvesting in subparagraaf (4) bedoel) vir ’n jaar van aanslag geplaas moet word, [is] die grootste van—

(a) ’n bedrag vasgestel ooreenkomstig die formule

$$25 \quad (A - B) \times \frac{C}{100} \times \frac{D}{12},$$

in welke formule—

[(a)](i) ‘A’ die besoldigingsfaktor voorstel soos met betrekking tot die jaar van aanslag vasgestel;

30 [(b)](ii) ‘B’ ’n korting gelyk aan ’n bedrag van R20 000 voorstel: Met dien verstande dat waar—

35 [(i)](aa) die werkgewer ’n private maatskappy is en die werknemer of sy gade die maatskappy beheer of een van die persone is wat die maatskappy beheer, hetsy beheer regstreeks as ’n aandeelhouer in die maatskappy of as ’n aandeelhouer in ’n ander maatskappy uitgeoefen word; of

40 [(ii)](bb) die werknemer, sy gade of minderjarige kind oor ’n opsie of reg van voorkoop, verleen deur die werkgewer of iemand anders in ooreenkoms met die werkgewer of ’n verwante inrigting met betrekking tot die werkgewer, beskik waarvolgens die werknemer, sy gade of minderjarige kind die eienaar van die huisvesting kan word, hetsy regstreeks of onregstreeks uit hoofde van ’n beheerende belang in ’n maatskappy of andersins,

45 genoemde korting na nul verminder moet word;

[(c)](iii) ‘C’ ’n grootheid van [16] 17 voorstel: Met dien verstande dat waar die huisvesting uit ’n huis, woonstel of apartement van minstens vier vertrekke bestaan—

50 [(i)](aa) ‘C’ ’n grootheid van [17] 18 voorstel indien—

[(aa)](A) bedoelde huisvesting ongemeubileerd is [of] en krag of brandstof deur die werkgewer verskaf is; of

55 [(bb)](B) bedoelde huisvesting gemeubileerd is maar krag of brandstof nie deur die werkgewer verskaf word nie; of

[(ii)](bb) ‘C’ ’n grootheid van [18] 19 voorstel indien bedoelde huisvesting gemeubileerd is en krag of brandstof deur die werkgewer verskaf word; en

60 [(d)](iv) ‘D’ die getal maande voorstel met betrekking tot ’n jaar van aanslag waartydens die werknemer op bewoning van bedoelde huisvesting geregtig was; of

- (b) the total amount of the rentals payable for such accommodation by the employer or associated institution in relation to the employer and any other expenditure defrayed by the employer or associated institution in respect of such accommodation.”;
- (c) by the insertion after subparagraph (3) of the following subparagraphs: 5  
 “(3A) Subject to subparagraph (3B), the value determined in accordance with the formula contemplated in subparagraph (3)(a) shall apply where—  
 (a) the full ownership of such accommodation vests in the employer or associated institution in relation to the employer; or  
 (b) the full ownership does not so vest in the employer or associated institution, and— 10  
 (i) it is customary for an employer in the industry concerned to provide free or subsidised accommodation to its employees; and  
 (ii) it is necessary for the particular employer, having regard to the particular kind of employment, to provide free or subsidised accommodation— 15  
 (aa) for the proper performance by the employees of their duties; or  
 (bb) as a result of the frequent movement of employees; or  
 (cc) as a result of the lack of employer-owned accommodation; and  
 (iii) the benefit is provided solely for *bona fide* business purposes, other than the obtaining of a tax benefit. 20  
 (3B) Where the employee has an interest in the accommodation in question, subparagraph (3) shall apply.”;
- (d) by the substitution for subparagraph (5) of the following subparagraph: 25  
 “(5) Where, by reason of the situation, nature or condition of the accommodation or any other factor, the Commissioner is satisfied that the rental value of such accommodation is less than the rental value thereof [**determinable under**] determined in accordance with the formula contemplated in subparagraph (3)(a) or the rental value determinable under subparagraph (4), he may determine such rental value at such lower amount as to him appears fair and reasonable.”; 30
- (e) by the substitution for subparagraph (9) of the following subparagraph: 35  
 “(9) [**Notwithstanding the provisions of subparagraph (3)**] Where the employee has been provided with residential accommodation by his employer or any associated institution in relation to the employer and such employee has an interest in the accommodation in question, as contemplated in subparagraph (10), and the accommodation has been let to the employer or to any associated institution in relation to the employer, [**the rental value of the accommodation shall be deemed to be the greater of—**  
 (i) **the total amount of the rentals payable therefore by the employer or associated institution in relation to the employer and any other expenditure defrayed by the employer or associated institution in respect of such accommodation; or** 40  
 (ii) **the rental value determined in accordance with subparagraph (3), and in such case**] the said rental shall for the purposes of this Act (excluding this subparagraph) be deemed not to have been received by or to have accrued to the employee or any connected person in relation to the employee.”; and 45
- (f) by the substitution for the words preceding item (a) of subparagraph (10) of the following words: 50  
 “For the purposes of [**subparagraph**] subparagraphs (3B) and (9), an employee shall be deemed to have an interest in accommodation if—”.
- (2) Subsection (1) shall come into operation on 1 March 1999.

#### Insertion of paragraph 12A in Seventh Schedule to Act 58 of 1962

56. (1) The following paragraph is hereby inserted in the Seventh Schedule to the Income Tax Act, 1962, after paragraph 12: 55

- (b) die totale bedrag aan huurgeld deur die werkgewer of verwante inrigting met betrekking tot die werkgewer betaalbaar vir daardie huisvesting en enige ander onkoste wat die werkgewer of verwante inrigting ten opsigte van daardie huisvesting bestry het.”;
- 5 (c) deur die volgende subparagraawe na subparagraaf (3) in te voeg:
- “(3A) Behoudens subparagraaf (3B) is die waarde vasgestel ooreen-  
 komstig die formule beoog in subparagraaf (3)(a) van toepassing waar—
- (a) die volle eiendomsreg van daardie huisvesting in die werkgewer of  
 verwante inrigting met betrekking tot die werkgewer vestig; of
- 10 (b) die volle eiendomsreg nie aldus in die werkgewer of verwante inrigting  
 vestig nie, en—
- (i) dit gebruiklik is vir ’n werkgewer in die betrokke bedryf om gratis  
 of gesubsidieerde huisvesting aan sy werknemers te verskaf; en
- (ii) dit, inaggenome die spesifieke tipe diens, noodsaaklik vir die  
 15 betrokke werkgewer is om gratis of gesubsidieerde huisvesting te  
 verskaf—
- (aa) vir die behoorlike verrigting deur die werknemers van hulle  
 pligte; of
- (bb) as gevolg van die gereelde rondbeweeg van werknemers; of
- 20 (cc) as gevolg van die gebrek aan huisvesting deur die werkgewer  
 besit; en
- (iii) die voordeel slegs vir *bona fide*-besigheidsdoeleindes, behalwe die  
 verkryging van ’n belastingvoordeel, verskaf word.
- (3B) Waar die werknemer ’n belang in die betrokke huisvesting het, is  
 25 subparagraaf (3) van toepassing.”.
- (d) deur subparagraaf (5) deur die volgende subparagraaf te vervang:
- “(5) Waar vanweë die ligging, aard of toestand van die huisvesting of  
 enige ander faktor, die Kommissaris oortuig is dat die huurwaarde van  
 bedoelde huisvesting minder is as die huurwaarde daarvan wat **[ingevolge]**  
 30 ooreenkomstig die formule beoog in subparagraaf (3)(a) bepaal is of die  
huurwaarde bepaalbaar ingevolge subparagraaf (4) **[bepaalbaar is]**, kan hy  
 bedoelde huurwaarde bepaal teen sodanige mindere bedrag as wat vir hom  
 billik en redelik blyk te wees.”;
- (e) deur subparagraaf (9) deur die volgende subparagraaf te vervang:
- 35 “**(9) [Ondanks die bepalinge van subparagraaf (3)]** Waar die werk-  
 nemer van residensiële huisvesting voorsien is deur sy werkgewer of ’n  
 verwante inrigting met betrekking tot die werkgewer en daardie werknemer  
 ’n belang in die betrokke huisvesting, soos beoog in subparagraaf (10) het en  
 die huisvesting aan die werkgewer of ’n verwante inrigting met betrekking  
 40 tot die werkgewer verhuur is, **[word die huurwaarde van die huisvesting**  
**geag die grootste te wees van—**
- (i) die totale bedrag van die huurgelde wat die werkgewer of verwante  
 inrigting met betrekking tot die werkgewer daarvoor betaal en  
 enige ander onkoste wat die werkgewer of verwante inrigting ten  
 45 opsigte van bedoelde huisvesting bestry het; of
- (ii) die huurwaarde ooreenkomstig subparagraaf (3) bepaal, en in so ’n  
 geval] word genoemde huurgeld by die toepassing van hierdie Wet  
 (behalwe hierdie subparagraaf) geag nie ontvang te gewees het deur of  
 toe te geval het aan die werknemer of enige **[verwante] verbonde**  
 50 persoon met betrekking tot die werknemer nie.”; en
- (f) deur die woorde wat item (a) van subparagraaf (10) voorafgaan deur die  
 volgende woorde te vervang:
- “By die toepassing van **[subparagraaf]** subparagraawe (3B) en (9), word ’n  
 werknemer geag ’n belang by huisvesting te hê indien—”.
- 55 (2) Subartikel (1) tree op 1 Maart 1999 in werking.

### Invoeging van paragraaf 12A in Sewende Bylae by Wet 58 van 1962

56. (1) Die volgende paragraaf word hierby na paragraaf 12 van die Sewende Bylae by die Inkomstebelastingwet, 1962, ingevoeg:

“CONTRIBUTION TO BENEFIT FUND

12A. (1) The cash equivalent of the value of the taxable benefit contemplated in paragraph 2(i) shall be the amount by which the contribution or payment by the employer, directly or indirectly, to any fund, contemplated in paragraph (b) of the definition of ‘benefit fund’ in section 1 of this Act, for the benefit of any employee or dependants of such employee for any period, exceeds two thirds of the total contribution or payment in relation to such employee or dependants of such employee to such fund during such period.

(2) Where any contribution or payment made by an employer contemplated in subparagraph (1) is made in such a manner that an appropriate portion thereof cannot be attributed to the relevant employee or dependants of such employee for whose benefit it is made, the cash equivalent of the value of the taxable benefit contemplated in paragraph 2(i) in relation to such employee shall be determined in accordance with the formula

$$A = \frac{B + C}{3 \times D} - E,$$

in which formula—

- (a) ‘A’ represents the value of the taxable benefit in relation to an employee;
- (b) ‘B’ represents the total contribution or payment by the employer to the fund for the benefit of all employees or dependants of such employees in respect of whom such payment is made in such a manner that an appropriate portion thereof cannot be attributed to the relevant employees or their dependants;
- (c) ‘C’ represents the total contribution or payment by all employees contemplated in symbol ‘B’;
- (d) ‘D’ represents the number of employees contemplated in symbol ‘B’; and
- (e) ‘E’ represents the contribution or payment by the relevant employee.

(3) If the Commissioner is in any case satisfied that the apportionment of the cash equivalent of the value of the benefit amongst all members of any fund in accordance with the formula contemplated in subparagraph (2) does not reasonably represent a fair apportionment of such value amongst the members, he may direct that such apportionment be made in such other manner as to him appears fair and reasonable.

(4) The exercise by the Commissioner of his discretion contemplated in subparagraph (3) shall be subject to objection and appeal.

(5) No value shall be placed in terms of this paragraph on the taxable benefit derived from an employer by—

- (a) a person who by reason of superannuation, ill-health or other infirmity retired from the employ of such employer; or
- (b) the dependants of a person after such person’s death, if such person was in the employ of such employer on the date of death; or
- (c) the dependants of a person after such person’s death, if such person retired from the employ of such employer by reason of superannuation, ill-health or other infirmity.”

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1998 and shall apply to any contribution or payment made by an employer on or after that date.

## "BYDRAE TOT BYSTANDSFONDS

5 **12A.** (1) Die kontantekwivalent van die waarde van die belasbare voordeel in paragraaf 2(i) beoog, is die bedrag waarmee die bydrae of betaling deur die werkgewer aan 'n fonds, in paragraaf (b) van die omskrywing van 'bystandsfonds' in artikel 1 van hierdie Wet beoog, regstreeks of onregstreeks, vir die voordeel van 'n werknemer of afhanklikes van bedoelde werknemer vir enige tydperk, twee derdes van die totale bydrae of betaling met betrekking tot bedoelde werknemer of afhanklikes van bedoelde werknemer tot daardie fonds gedurende be-  
10 doelde tydperk oorskry.

(2) Waar enige bydrae of betaling deur 'n werkgewer in subparagraaf (1) beoog, op so 'n wyse gemaak is dat 'n toepaslike gedeelte daarvan nie toegedeel kan word aan die betrokke werknemer of afhanklikes van daardie werknemer vir wie se voordeel dit gemaak is nie, word die  
15 kontantekwivalent van die waarde van die belasbare voordeel in paragraaf 2(i) beoog, met betrekking tot daardie werknemer, bereken ingevolge die formule

$$A = \frac{B + C}{3 \times D} - E,$$

20 in welke formule—

- (a) 'A' die waarde van die belasbare voordeel met betrekking tot 'n werknemer verteenwoordig;
- (b) 'B' die totale bydrae of betaling deur die werkgewer aan die fonds vir die voordeel van alle werknemers of afhanklikes van daardie werknemers, ten opsigte van wie die betaling op sodanige wyse gedoen is dat  
25 'n toepaslike gedeelte daarvan nie aan die betrokke werknemers of hulle afhanklikes toegedeel kan word nie, verteenwoordig;
- (c) 'C' die totale bydrae of betaling deur alle werknemers in simbool 'B' beoog, verteenwoordig;
- (d) 'D' die aantal werknemers in simbool 'B' beoog, verteenwoordig; en  
30 (e) 'E' die bydrae of betaling deur die betrokke werknemer verteenwoordig.

(3) Indien die Kommissaris in enige geval tevrede is dat die verdeling van die kontantekwivalent van die waarde van die voordeel onder die lede van 'n fonds ooreenkomstig met die formule in subparagraaf (2) beoog nie redelikerwys 'n regverdige verdeling van daardie waarde onder die lede verteenwoordig nie, kan hy gelas dat die verdeling op die ander wyse  
35 gedoen word as wat vir hom billik en redelik blyk te wees.

(4) Die uitoefening deur die Kommissaris van sy diskresie in subparagraaf (3) beoog, is aan beswaar en appèl onderhewig.

(5) Geen waarde word ingevolge hierdie paragraaf geplaas nie op die belasbare voordeel verkry vanaf 'n werkgewer deur—

- (a) 'n persoon wat weens ouderdom, swak gesondheid of ander gebrek uit die diens van daardie werkgewer getree het; of  
45 (b) die afhanklikes van 'n persoon na die dood van daardie persoon, indien daardie persoon in die diens van daardie werkgewer op die datum van dood was; of
- (c) die afhanklikes van 'n persoon na daardie persoon se dood, indien daardie persoon uit die diens van daardie werkgewer getree het weens  
50 ouderdom, swak gesondheid of 'n ander gebrek."

(2) Subartikel (1) word geag op 1 April 1998 in werking te getree het en is van toepassing op enige bydrae of betaling op of na daardie datum deur 'n werkgewer gemaak.

**Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987, section 1 of Act 68 of 1989, section 1 of Act 59 of 1990 and section 1 of Act 19 of 1994** 5

57. Section 1 of the Customs and Excise Act, 1964, is hereby amended by the substitution for the definition of "agricultural distiller" in subsection (1) of the following definition:

- " 'agricultural distiller' means any owner or occupier of a farm in the [Province of Northern Cape, Eastern Cape, the Western Cape, Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, North West, or the Orange Free State] Republic who—
- (a) is licensed to keep a still on such farm; and
  - (b) [in the Province of Northern Cape, Eastern Cape or the Western Cape] is licensed to distill spirits exclusively from [grapes grown by him on such farm; or
  - (c) in the Province of Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, or the Orange Free State is licensed to distil spirits on such farm from grapes or other] prescribed fresh fruit grown by him on such farm;".

**Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979, sections 3 and 15 of Act 98 of 1980, section 2 of Act 84 of 1987, section 4 of Act 59 of 1990, section 1 of Act 105 of 1992, section 1 of Act 98 of 1993, section 2 of Act 45 of 1995 and section 34 of Act 34 of 1997** 25

58. Section 4 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the addition to subsection (3) of the following paragraph:
 

"(c) such information in relation to any person as may be required by the Chief of the Central Statistical Services in connection with the collection of statistics in complying with the provisions of the Statistics Act, 1976 (Act No. 66 of 1976), or any regulation thereunder."; and
- (b) by the substitution for subsection (3A) of the following subsection:
 

"(3A) The Chief of the Central Statistical Services or any person acting under the direction and control of such Chief, shall not disclose any information supplied under subsection (3)(c) to any person or permit any person to have access thereto, except in the exercise of that Chief's powers or the carrying out of that person's duties under the direction and control of such Chief, to collect statistics or to publish statistics in any anonymous form.".

**Amendment of section 20 of Act 91 of 1964, as amended by section 4 of Act 95 of 1965, section 8 of Act 105 of 1969, section 15 of Act 98 of 1980, section 1 of Act 86 of 1982, section 6 of Act 84 of 1987 and section 14 of Act 59 of 1990** 40

59. Section 20 of the Customs and Excise Act, 1964, is hereby amended by the substitution for the proviso to subsection (5) of the following proviso:

- "Provided that in the case of goods manufactured in any customs and excise manufacturing warehouse or in the case of goods in the process of manufacture and removal from one customs and excise manufacturing warehouse to another such warehouse, the Commissioner may [subject to the provisions of section 35(2)] allow working, pumping, handling, processing and similar losses and losses due to natural causes, between the time when liability for duty first arises and the time of removal of such goods from the warehouse in which the goods are so manufactured or in which such process of manufacture is completed, to the extent specified in

Wysiging van artikel 1 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 95 van 1965, artikel 1 van Wet 57 van 1966, artikel 1 van Wet 105 van 1969, artikel 1 van Wet 98 van 1970, artikel 1 van Wet 71 van 1975, artikel 1 van Wet 112 van 1977, artikel 1 van Wet 110 van 1979, artikels 1 en 15 van Wet 98 van 1980, artikel 5 1 van Wet 89 van 1984, artikel 1 van Wet 84 van 1987, artikel 1 van Wet 68 van 1989, artikel 1 van Wet 59 van 1990 en artikel 1 van Wet 19 van 1994

57. Artikel 1 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur in subartikel (1) die omskrywing van "landboudistilleerder" deur die volgende omskrywing te vervang:

- 10 "landboudistilleerder" enige eienaar of okkupeerder van 'n plaas in die [Provinsie Noord-Kaap, Oos-Kaap, Wes-Kaap, Pretoria-Witwatersrand-Vereeniging, Oos-Transvaal, Noord-Transvaal, Noordwes of Oranje-Vrystaat] Republiek wat—
- 15 (a) gelisensieer is om 'n distilleerketel op sodanige plaas aan te hou; en
- (b) [in die Provinsie Noord-Kaap, Oos-Kaap of Wes-Kaap] gelisensieer is om spiritus te distilleer uitsluitlik van [druie wat deur hom op sodanige plaas verbou word; of
- 20 (c) in die Provinsie Pretoria-Witwatersrand-Vereeniging, Oos-Transvaal, Noord-Transvaal, Noordwes of Oranje-Vrystaat gelisensieer is om spiritus van druie of ander] voorgeskrewe vars vrugte wat deur hom op sodanige plaas verbou word [op sodanige plaas te distilleer];".

Wysiging van artikel 4 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 105 van 1969, artikel 2 van Wet 110 van 1979, artikels 3 en 15 van Wet 98 van 25 1980, artikel 2 van Wet 84 van 1987, artikel 4 van Wet 59 van 1990, artikel 1 van Wet 105 van 1992, artikel 1 van Wet 98 van 1993, artikel 2 van Wet 45 van 1995 en artikel 34 van Wet 34 van 1997

58. Artikel 4 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur die volgende paragraaf by subartikel (3) te voeg:
- 30 "(c) die inligting met betrekking tot 'n persoon wat deur die Hoof van die Sentrale Statistiekdiens vereis word met betrekking tot die insameling van statistieke by die nakoming van die bepalings van die Wet op Statistieke, 1976 (Wet No. 66 van 1976), of enige regulasie daarkragtens."; en
- 35 (b) deur subartikel (3A) deur die volgende subartikel te vervang:
- "(3A) Die Hoof van die Sentrale Statistiekdiens of enige persoon wat in opdrag en onder die beheer van daardie Hoof optree, mag nie enige inligting wat ingevolge subartikel (3)(c) verskaf is, aan enige persoon openbaar nie of toelaat dat enige persoon toegang daartoe verkry nie, behalwe in die uitoefening van daardie Hoof se bevoegdhede of die uitvoering van daardie persoon se pligte om in opdrag en onder die beheer van daardie Hoof statistieke te versamel of statistieke in 'n naamlose vorm te publiseer.".
- 40

Wysiging van artikel 20 van Wet 91 van 1964, soos gewysig deur artikel 4 van Wet 45 95 van 1965, artikel 8 van Wet 105 van 1969, artikel 15 van Wet 98 van 1980, artikel 1 van Wet 86 van 1982, artikel 6 van Wet 84 van 1987 en artikel 14 van Wet 59 van 1990

59. Artikel 20 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die voorbehoudsbepaling by subartikel (5) deur die volgende voorbehoudsbepaling te 50 vervang:

- "Met dien verstande dat in die geval van goedere wat in enige doeane- en aksynsvervaardigingspakhuis vervaardig word of in die geval van goedere wat in die proses van vervaardiging is en van een doeane- en aksynsvervaardigingspakhuis na 'n ander sodanige pakhuis vervoer word, die Kommissaris [behoudens die bepalings van artikel 35(2)] werks-, pomp-, hanterings-, 55 proses- en soortgelyke verliese en verliese te wyte aan natuurlike oorsake tussen die tyd wanneer aanspreeklikheid vir belasting die eerste keer ontstaan en die tyd van verwydering van sodanige goedere uit die pakhuis waarin die goedere aldus vervaardig word of waarin sodanige proses van vervaardiging

Schedule No. 4 or 6, if he is satisfied that no part of such loss was willfully or negligently caused.”.

**Amendment of section 34 of Act 91 of 1964, as amended by section 15 of Act 98 of 1980, section 3 of Act 86 of 1982, section 1 of Act 69 of 1988, section 2 of Act 19 of 1994 and section 22 of Act 45 of 1995**

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60. Section 34 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Spirits manufactured by an agricultural distiller in the [province of Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, or the Orange Free State] Republic from any prescribed fruit [other than grapes] shall be solely for his private use on the farm where such fruit was produced and such spirits were manufactured.”.

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**Amendment of section 37 of Act 91 of 1964, as amended by section 8 of Act 95 of 1965, section 12 of Act 105 of 1969, sections 7 and 15 of Act 98 of 1980, section 8 of Act 84 of 1987, section 17 of Act 59 of 1990 and section 27 of Act 45 of 1995**

15

61. Section 37 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

“Notwithstanding the provisions of subsection (1), but subject to the provisions of subsection (4), the Commissioner may, on such conditions as he may in each case impose, for the purpose of preserving any goods in a customs and excise storage warehouse or of reconditioning such goods which, as a result of contamination or deterioration or for any other reason, have become unsaleable or not readily saleable or for the purpose of fulfilling special orders, permit such goods, excluding any marked goods referred to in section 37A, to be reconditioned or to be mixed or blended in such warehouse with other goods, and in that event duty shall be paid, in lieu of the duties prescribed in subsection (1), according to the first account taken of any such goods or the total quantity of such reconditioned, mixed or blended goods, whichever quantity is the greater, as follows, namely—”; and

(b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) Notwithstanding anything to the contrary in this Chapter contained, the Commissioner may, on such conditions as he may in each case impose, permit the mixing or blending in such circumstances and at such place as he may specify of any mineral oil products, including fuel levy goods, but excluding any marked goods referred to in section 37A, with one another or with other goods whether or not such products or goods are in a customs and excise warehouse or have been entered for home consumption and have passed out of customs and excise control for any purpose, including that of rendering such goods saleable or more readily saleable or of fulfilling special orders.”.

#### **Insertion of section 37A in Act 91 of 1964**

62. (1) The following section is hereby inserted in the Customs and Excise Act, 1964, after section 37:

#### **“Special provisions in respect of marked goods and certain goods that are free of duty**

**37A.** (1) (a) Notwithstanding anything to the contrary in this Act contained, any goods classified under any heading or subheading of Chapter 27 of Part 1 of Schedule No. 1 which are also classified under any item of Part 2 and Part 5 of Schedule No. 1 where such goods are specified

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voltooi word, kan toelaat, in die mate in Bylae No. 4 of 6 vermeld, mits geen deel van sodanige verlies op moedswillige of nalatige wyse veroorsaak is nie.”.

**Wysiging van artikel 34 van Wet 91 van 1964, soos gewysig deur artikel 15 van 5 Wet 98 van 1980, artikel 3 van Wet 86 van 1982, artikel 1 van Wet 69 van 1988, artikel 2 van Wet 19 van 1994 en artikel 22 van Wet 45 van 1995**

60. Artikel 34 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

10 “(5) Spiritus wat deur ’n landboudistilleerder in die [provisie Pretoria-Witwatersrand-Vereeniging, Oos-Transvaal, Noord-Transvaal, Noordwes of Oranje-Vrystaat] Republiek van enige voorgeskrewe vrugte [behalwe druiwe] vervaardig is, is slegs vir sy private gebruik op die plaas waar daardie vrugte geproduseer en daardie spiritus vervaardig is.”.

15 **Wysiging van artikel 37 van Wet 91 van 1964, soos gewysig deur artikel 8 van Wet 95 van 1965, artikel 12 van Wet 105 van 1969, artikels 7 en 15 van Wet 98 van 1980, artikel 8 van Wet 84 van 1987, artikel 17 van Wet 59 van 1990 en artikel 27 van Wet 45 van 1995**

61. Artikel 37 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

20 (a) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:

“Ondanks die bepalings van subartikel (1), maar behoudens die bepalings van subartikel (4), kan die Kommissaris, op die voorwaardes wat hy in elke geval oplê, vir die doel van preservering van enige goedere in ’n doeane- en aksynsopslagpakhuis of van hernuwing van 25 sodanige goedere wat as gevolg van besoedeling of bederf of om enige ander rede onverkoopbaar of nie gereedelik verkoopbaar geword het of vir die doel van uitvoering van spesiale bestellings toestemming verleen dat sodanige goedere, uitgesonderd enige gemerkte goedere in artikel 37A bedoel, in sodanige pakhuis hernuwe of met ander goedere gemeng 30 of vermeng word en in daardie geval word reg betaal, in die plek van die regte in subartikel (1) voorgeskryf, volgens die eerste opname van enige sodanige goedere of die totale hoeveelheid van sodanige hernude, gemengde of vermengde goedere, na gelang van watter hoeveelheid die grootste is, soos volg, naamlik—”; en

35 (b) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

“(a) Ondanks andersluidende bepalings van hierdie Hoofstuk, kan die Kommissaris, op die voorwaardes wat hy in elke geval oplê, die menging of vermenging toelaat in sodanige omstandighede en op 40 sodanige plek as wat hy bepaal van enige mineraalolieprodukte, met inbegrip van brandstofheffinggoedere, maar uitgesonderd enige gemerkte goedere in artikel 37A bedoel met mekaar of met ander goedere hetsy sodanige produkte of goedere in ’n doeane- en aksynsopslagpakhuis is al dan nie of vir binnelandse gebruik geklaar is en uit doeane- en aksynsbeheer gegaan het vir enige doel, met inbegrip daarvan om 45 sodanige goedere verkoopbaar of meer gereedelik verkoopbaar te maak of dat spesiale bestellings uitgevoer kan word.”.

#### **Invoeging van artikel 37A in Wet 91 van 1964**

62. (1) Die volgende artikel word hierby na artikel 37 in die Doeane- en Aksynswet, 1964, ingevoeg:

50 “**Spesiale bepalings ten opsigte van gemerkte goedere en sekere goedere wat vry van reg is**

37A. (1) (a) Ondanks andersluidende bepalings van hierdie Wet word 55 enige goedere wat ingedeel word onder enige pos of subpos van Hoofstuk 27 van Deel 1 van Bylae No. 1 wat ook ingedeel word onder enige item van Deel 2 en Deel 5 van Bylae No. 1 waar sodanige goedere gespesifiseer

and such heading or subheading is expressly quoted for which a free rate of duty is prescribed, in respect of each such heading or subheading and item, shall on importation into or manufacture in the Republic be entered for storage and be stored in a customs and excise warehouse.

(b) For the purposes of this section the Commissioner may regard any licensed customs and excise manufacturing warehouse as a licensed customs and excise storage warehouse.

(2)(a) If any goods are described in any such heading or subheading or item as marked, the goods concerned shall be marked by the licensee in a customs and excise warehouse before removal therefrom by the addition of a marker in such proportion, and in accordance with such procedure, as may be prescribed by rule.

(b) Any goods so marked and any other goods to which the provisions of subsection (1) apply shall, as may be prescribed by rule, be stored separately from any other goods and shall be subject to the provisions of this Act relating to dutiable goods stored in and removed from a customs and excise warehouse.

(c) Notwithstanding anything to the contrary in this Act contained—

(i) any reference to 'marked goods' or 'marker' in this or any other section or in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or 5 of Schedule No. 1 or in any note to such Chapter or Part or in any rule shall be regarded as a reference to goods marked as contemplated in paragraph (a);

(ii) any reference to 'unmarked goods' in this or any other section or in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or 5 of Schedule No. 1 or in any note to such Chapter or Part or in any rule shall be regarded as a reference to goods which, except for the reference to marked, are of the same description as marked goods and are specified as unmarked goods of such description in any such heading, subheading or item;

(iii) whenever it is necessary for the purposes of this section to establish the presence of marked goods in any goods, any such goods shall be regarded as containing marked goods when such goods contain a proportion of the marker exceeding that as may be prescribed by rule.

(d) The addition of such marker shall not constitute mixing or blending for the purposes of section 37, except as provided in this section for the purposes of classification of any goods under any heading, subheading or item of any Schedule.

(e) The application of the free rate of duty specified in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 and Part 5 of Schedule No. 1 in respect of any goods described as marked goods shall be subject to the provisions of this section.

(3)(a) Any person who sells or disposes of in any manner, whether or not for any consideration, any marked goods at any one time in excess of the quantity prescribed by rule, shall issue to the purchaser, or to any other person to whom the goods are so disposed of, an invoice containing such statement and such other particulars as may be prescribed by rule.

(b) Any person who so sells or disposes of marked goods shall keep a copy of such invoice and any person to whom such invoice is issued shall keep such invoice for such period as may be prescribed by rule.

(c) Any person who, at any time, so sells or disposes of or is at any time in possession of or has under his control any marked goods in excess of the quantity prescribed by rule shall complete and keep such books, accounts and other documents in such form and reflecting such particulars and for such period as may be prescribed by rule.

word en sodanige pos of subpos uitdruklik aangehaal word en waarvoor 'n skaal vry van reg in elke sodanige pos of subpos en item voorgeskryf is, by invoer in of vervaardiging in die Republiek vir opslag geklaar en opgeslaan in 'n doeane- en aksynspakhuis.

5 (b) By die toepassing van hierdie artikel kan die Kommissaris enige gelisensieerde doeane- en aksynsvervaardigingspakhuis as 'n gelisensieerde doeane- en aksynsopslagpakhuis beskou.

10 (2)(a) Indien enige goedere in enige sodanige pos of subpos of item beskryf word as gemerk, moet die betrokke goedere deur die gelisensieerde in 'n doeane- en aksynspakhuis voor verwydering daaruit gemerk word deur die byvoeging van 'n merker in die verhouding en in ooreenstemming met die prosedure by reël bepaal.

15 (b) Enige goedere aldus gemerk en enige ander goedere waarop die bepalings van subartikel (1) van toepassing is, word, soos by reël voorgeskryf, afsonderlik van enige ander goedere opgeslaan en is onderhewig aan die bepalings van hierdie Wet met betrekking tot belasbare goedere wat in 'n doeane- en aksynspakhuis opgeslaan en daaruit verwyder word.

20 (c) Ondanks andersluidende bepalings van hierdie Wet—

(i) word enige verwysing na 'gemerkte goedere' of (merker) in hierdie of enige ander artikel of in enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 of 5 van Bylae No. 1 of in enige opmerking by sodanige Hoofstuk of Deel of in enige reël, geag 'n verwysing te wees na enige goedere gemerk soos in paragraaf (a) beoog;

25 (ii) word enige verwysing na (ongemerkte goedere) in hierdie of enige ander artikel of in enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 of 5 van Bylae No. 1 of in enige opmerking by sodanige Hoofstuk of Deel of in enige reël, geag 'n verwysing te wees na goedere wat, behalwe vir die verwysing na gemerk, van dieselfde beskrywing as gemerkte goedere is en as ongemerkte goedere van daardie beskrywing in enige sodanige pos, subpos of item gespesifiseer is;

30 (iii) wanneer dit by die toepassing van hierdie artikel nodig is om die teenwoordigheid van gemerkte goedere in enige goedere vas te stel, word daardie goedere geag gemerkte goedere te bevat wanneer daardie goedere 'n verhouding van die merker bevat wat dit wat by reël voorgeskryf word, oorskry.

35 (d) Die byvoeging van sodanige merker maak by die toepassing van artikel 37 nie menging of vermenging uit nie, behalwe soos bepaal in hierdie artikel, vir die doeleindes van indeling van enige goedere onder enige pos, subpos of item van enige Bylae.

40 (e) Die toepassing van die skaal vry van reg vermeld in enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 en Deel 5 van Bylae No. 1 ten opsigte van enige goedere wat beskryf word as gemerkte goedere, is onderhewig aan die bepalings van hierdie artikel.

45 (3)(a) 'n Persoon wat enige gemerkte goedere by 'n enkele geleentheid verkoop of op enige wyse vervreem, hetsy vir enige teenprestasie al dan nie, in 'n hoeveelheid wat meer is as wat by reël voorgeskryf is, moet aan die koper of enige ander persoon aan wie die goedere aldus vervreem word, 'n faktuur uitreik wat die verklaring en die ander besonderhede bevat wat by reël voorgeskryf word.

50 (b) Enige persoon wat gemerkte goedere aldus verkoop of vervreem, moet 'n afskrif van sodanige faktuur hou en iemand aan wie sodanige faktuur uitgereik word, moet sodanige faktuur hou vir die tydperk wat by reël voorgeskryf word.

55 (c) Iemand wat te eniger tyd gemerkte goedere aldus verkoop of vervreem of wat te eniger tyd sodanige gemerkte goed in sy besit of onder sy beheer het wat meer is as die hoeveelheid wat by reël voorgeskryf word, moet die boeke, rekeninge en ander dokumente voltooi en hou in die vorm en met die besonderhede weergegee en vir die tydperk wat by reël voorgeskryf word.

- (4)(a) No person shall—
- (i) mix any marked goods in any proportion with distillate fuel, petrol or any lubricity agent;
  - (ii) use any marked goods, whether or not mixed with any other goods in any proportion, as fuel in any engine; 5
  - (iii) sell or dispose of in any manner whether or not for any consideration or acquire any marked goods for use as fuel in any engine;
  - (iv) be in possession of any marked goods mixed in any proportion with distillate fuel, petrol or any lubricity agent; 10
  - (v) be in possession of any marked goods as fuel in any engine; or
  - (vi) remove or neutralise or attempt to remove or neutralise any marker in any marked goods.
- (b) Any person who so mixes or uses or sells or disposes or acquires or possesses any marked goods or so removes or neutralises or attempts to remove or to neutralise any marker, shall, in addition to any other liability incurred in terms of this Act, be liable for the payment of an amount equal to treble the sum of such duties as may be leviable on any distillate fuel, petrol, lubricity agent or unmarked goods in accordance with the provisions of Schedule No. 1, whichever yields the greater amount of duty, in respect of all marked goods which— 15
- (i) are in the possession or under the control of such person or on any premises in the possession or under the control of such person; and
  - (ii) if the Commissioner so determines, were previously sold or disposed of or purchased or were in the possession or under the control of such person or on any premises in the possession or under the control of such person at any time, unless it is proved within 30 days from the date of any demand for payment of duty in terms of this section that the goods concerned have not been dealt with contrary to the provisions of paragraph (a). 25 30
- (c)(i) If different rates of duty on such distillate fuel, petrol, lubricity agents or unmarked goods were in force during any period in respect of which the duties are calculated for the purposes of the payment referred to in paragraph (b), the highest rate in force at the relevant time shall be applied for the purposes of calculating the duty payable as provided in paragraph (b). 35
- (ii) If any tank, including the fuel tank of any engine, or other container is found to contain any marked goods mixed with distillate fuel, petrol or any lubricity agent, duty shall be payable on the total quantity of such mixed goods as calculated in accordance with paragraph (b). 40
- (d) Notwithstanding anything to the contrary in this Act contained, any person who, contrary to subsection (3) and the rules, fails to—
- (i) issue any invoice;
  - (ii) keep any invoice issued or copy thereof; 45
  - (iii) complete and keep the books, accounts and documents; or
  - (iv) forthwith furnish any officer at such officer's request with such invoice or copy thereof and with the books, accounts and documents, required to be completed and kept,
- shall, in addition to any other liability incurred in terms of this Act, be liable in respect of the goods to which such invoice, books, accounts or documents relate for the payment of an amount equal to treble the sum of such duties as may be leviable on any distillate fuel, petrol, lubricity agents or unmarked goods in accordance with the provisions of Schedule No. 1, whichever yields the greater amount of duty, unless it is proved within 30 days of the date of any demand for payment of duty in terms of the section that the goods concerned have not been dealt with contrary to the provisions of this section. 50 55

(4)(a) Niemand mag—

- (i) enige gemerkte goedere in enige verhouding met distillaatbrandstof, petrol of enige smeermiddel meng nie;
- (ii) enige gemerkte goedere, hetsy in enige verhouding gemeng met enige ander goedere al dan nie, as brandstof in enige enjin gebruik nie;
- (iii) enige gemerkte goedere verkoop of op enige wyse vervreem nie, hetsy vir enige teenprestasie al dan nie, of enige gemerkte goedere vir gebruik as brandstof in enige enjin verkry nie;
- (iv) in besit wees van enige gemerkte goedere in enige verhouding gemeng met distillaatbrandstof, petrol of enige smeermiddel nie;
- (v) in besit wees van enige gemerkte goedere as brandstof in enige enjin nie; of
- (vi) enige merker in enige gemerkte goedere verwyder of neutraliseer of poog om dit te verwyder of te neutraliseer nie.

(b) 'n Persoon wat enige gemerkte goedere aldus meng of gebruik of verkoop of vervreem of verkry of besit of aldus enige merker verwyder of neutraliseer of poog om dit te verwyder of te neutraliseer, is, benewens enige ander aanspreeklikheid opgeloopte ingevolge hierdie Wet, aanspreeklik vir die betaling van 'n bedrag gelyk aan drie keer die som van die regte wat hefbaar mag wees op enige distillaatbrandstof, petrol, smeermiddel of ongemerkte goedere in ooreenstemming met die bepalinge van Bylae No. 1, welke ook al die grootste bedrag aan reg oplewer, ten opsigte van alle gemerkte goedere wat—

- (i) in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon is; en
- (ii) indien die Kommissaris so bepaal, voorheen verkoop of vervreem of gekoop is of in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon te eniger tyd was, tensy sover sodanige persoon binne 30 dae vanaf die datum van enige aanvraag vir betaling van reg ingevolge hierdie artikel dit bewys word dat daar nie strydig met die bepalinge van paragraaf (a) met die betrokke goedere gehandel is nie.

(c)(i) Indien verskillende skale van reg op sodanige distillaatbrandstof, petrol, smeermiddels of ongemerkte goedere van krag was gedurende enige tydperk ten opsigte waarvan die regte bereken word vir die doeleindes van die betaling in paragraaf (b) bedoel, word die hoogste geldende skaal op die betrokke tydstip vir die doeleindes van die berekening van die reg betaalbaar soos in paragraaf (b) bepaal, toegepas.

(ii) Indien enige tenk, met inbegrip van die brandstoftenk van enige enjin, of ander houer bevind word gemerkte goedere gemeng met distillaatbrandstof, petrol of enige smeermiddel te bevat, is die reg betaalbaar op die totale hoeveelheid van sodanige gemengde goedere soos ooreenkomstig paragraaf (b) bereken.

(d) Ondanks andersluidende bepalinge van hierdie Wet, is iemand wat, strydig met subartikel (3) en die reëls, versuim om—

- (i) 'n faktuur uit te reik;
- (ii) 'n uitgereikte faktuur of 'n afskrif daarvan te hou; of
- (iii) boeke, rekeninge en dokumente te voltooi en te hou; of
- (iv) onverwyld aan enige beampte op sodanige beampte se versoek sodanige faktuur of afskrif daarvan en die boeke, rekeninge en dokumente wat vereis word voltooi en gehou te word, te verstrek,

benewens enige ander aanspreeklikheid opgeloopte ingevolge hierdie Wet, aanspreeklik ten opsigte van die goedere waarop die faktuur, boeke, rekeninge of dokumente betrekking het, vir die betaling van 'n bedrag gelyk aan drie keer die som van die regte wat hefbaar mag wees op enige distillaatbrandstof, petrol, smeermiddels of ongemerkte goedere ooreenkomstig die bepalinge van Bylae No. 1, welke ook al die grootste bedrag aan reg oplewer, tensy binne 30 dae vanaf die datum van enige aanvraag vir betaling van reg dit bewys word dat daar nie strydig met die bepalinge van hierdie artikel met die betrokke goedere gehandel is nie.

(e) Any amount for which any person is liable in terms of this subsection shall be payable upon demand by the Commissioner.

(f) Payment of any amount in respect of the goods referred to in subparagraph (b)(i) shall not absolve the person concerned from compliance with the provisions of paragraph (a).

(5)(a) For the purposes of this section an officer may—

- (i) take samples of any goods in any tank or other container or in any fuel tank of any engine;
- (ii) analyse or send any such samples to any designated institution for analysis;
- (iii) stop any vehicle or mobile apparatus with or without the assistance of any traffic officer or member of the South African Police Service or the South African National Defence Force.

(b) The provisions of section 106(2) shall *mutatis mutandis* apply to any sample taken under this subsection.

(c) The Commissioner may by rule—

- (i) prescribe the method to be used for the taking and analysing of samples by an officer;
- (ii) prescribe the form of recording any results of such analyses;
- (iii) designate any institution to analyse such samples;
- (iv) prescribe the method to be used for such analysis and the form of report of such analysis;
- (v) prescribe the method of sealing any tank or container.

(6)(a) If any report by any institution designated by rule reveals facts that indicate that the goods concerned have been dealt with contrary to the provisions of this section—

- (i) such goods and any container thereof;
- (ii) any vehicle used in the removal or carriage of such goods or in which such goods are used as fuel, subject to the provisions of section 87(2);
- (iii) any engine, or any apparatus operated by such engine, in which such goods are used as fuel,

shall be liable to forfeiture.

(b) For the purposes of this section, any such report shall be regarded as a correct analysis of the composition of such goods unless the contrary is proved.

(7) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer or any person who assists him under the provisions of this section.

(8) For the purposes of this section—

‘engine’ referred to in subsection (4)(a) and (c)(ii) and subsection (5)(a)(i) includes any engine of any machine, machinery, plant, equipment, apparatus or vehicle, classified under any heading or subheading of Chapters 84 to 87 of Schedule No. 1;

‘vehicle’ includes any vehicle as classified under any heading or subheading of Chapters 86 and 87 of Schedule No. 1.”

(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

**Amendment of section 47 of Act 91 of 1964, as amended by section 11 of Act 95 of 1965, section 17 of Act 105 of 1969, section 2 of Act 7 of 1974, section 7 of Act 105 of 1976, section 10 of Act 112 of 1977, section 6 of Act 110 of 1979, sections 9 and 15 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1986, section 15 of Act 84 of 1987, section 4 of Act 69 of 1988, section 6 of Act 68 of 1989, section 22 of Act 59 of 1990, section 3 of Act 61 of 1992, section 37 of Act 45 of 1995 and section 4 of Act 44 of 1996**

**63.** Section 47 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution for the words preceding the proviso to subsection (1) of the following words:

“Subject to the provisions of this Act, duty shall be paid for the benefit of the [State] National Revenue Fund on all imported goods, all excisable

(e) Enige bedrag waarvoor enigiemand ingevolge hierdie artikel aanspreeklik is, is betaalbaar op aanvraag deur die Kommissaris.

(f) Betaling van enige bedrag ten opsigte van die goedere in paragraaf (b)(i) bedoel, skeld nie die betrokke persoon vry van die nakoming van die bepalings van paragraaf (a) nie.

(5)(a) By die toepassing van hierdie artikel kan 'n beampte—

(i) monsters neem van enige goedere in enige tenk of ander houer of in enige brandstoftenk van enige enjin;

(ii) sodanige monsters ontleed of na enige aangewese instelling vir ontleding stuur;

(iii) enige voertuig of enige mobiele apparaat stop met of sonder die hulp van enige verkeersbeampte of lid van die Suid-Afrikaanse Polisiediens of die Suid-Afrikaanse Nasionale Weermag.

(b) Die bepalings van artikel 106(2) is *mutatis mutandis* van toepassing op enige monster wat kragtens hierdie subartikel geneem is.

(c) Die Kommissaris kan by reël—

(i) die metode wat gebruik moet word in die neem en ontleding van monsters deur 'n beampte voorskryf;

(ii) die vorm van optekening van die uitslag van sodanige ontledings voorskryf;

(iii) enige instelling aanwys om sodanige monsters te ontleed;

(iv) die metode wat vir sodanige ontleding gebruik moet word en die vorm van die verslag van sodanige ontleding voorskryf;

(v) die metode van seëling van 'n tenk of houer voorskryf.

(6)(a) Indien enige verslag deur enige instelling wat by reël aangewys is, feite openbaar wat aandui dat daar strydig met die bepalings van hierdie artikel met die betrokke goedere gehandel is, is—

(i) sodanige goedere en enige houer daarvan;

(ii) behoudens die bepalings van artikel 87(2), enige voertuig wat gebruik is by die verwydering of vervoer van sodanige goedere of waarin sodanige goedere as brandstof gebruik word;

(iii) enige enjin of enige apparaat deur sodanige enjin gedryf waarin sodanige goedere as brandstof gebruik word,

aan verbeuring onderhewig.

(b) By die toepassing van hierdie artikel word so 'n verslag as 'n korrekte ontleding van die samestelling van sodanige goedere beskou tensy die teendeel bewys word.

(7) Niemand is geregtig op enige vergoeding vir enige verlies of skade wat ontstaan uit enige *bona fide*-handeling van 'n beampte of enigiemand wat hom bystaan kragtens die bepalings van hierdie artikel nie.

(8) By die toepassing van hierdie artikel beteken—

'enjin' bedoel in subartikel (4)(a) en (c)(ii) en subartikel (5)(a)(i), ook enige enjin van enige masjien, masjinerie, installasie, toerusting, apparaat of voertuig ingedeel onder enige pos of subpos van Hoofstukke 84 tot 87 van Bylae No. 1;

'voertuig' ook enige voertuig ingedeel onder enige pos of subpos van Hoofstukke 86 en 87 van Bylae No. 1."

(2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

50 **Wysiging van artikel 47 van Wet 91 van 1964, soos gewysig deur artikel 11 van Wet 95 van 1965, artikel 17 van Wet 105 van 1969, artikel 2 van Wet 7 van 1974, artikel 7 van Wet 105 van 1976, artikel 10 van Wet 112 van 1977, artikel 6 van Wet 110 van 1979, artikels 9 en 15 van Wet 98 van 1980, artikel 8 van Wet 86 van 1982, artikel 6 van Wet 52 van 1986, artikel 15 van Wet 84 van 1987, artikel 4 van Wet**  
 55 **69 van 1988, artikel 6 van Wet 68 van 1989, artikel 22 van Wet 59 van 1990, artikel 3 van Wet 61 van 1992, artikel 37 van Wet 45 van 1995 en artikel 4 van Wet 44 van 1996**

63. Artikel 47 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

(a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan deur die volgende woorde te vervang:

"Behoudens die bepalings van hierdie Wet, word reg ten bate van die [Staatsinkomstefonds] Nasionale Inkomstefonds betaal op alle inge-

goods, all surcharge goods and all fuel levy goods in accordance with the provisions of Schedule No. 1 at the time of entry for home consumption of such goods.”;

- (b) by the substitution for subsections (5) and (6) of the following subsections, respectively:

“(5) Any export duty which may become payable in terms of section 48(4) shall be paid for the benefit of the [State] National Revenue Fund, at the time of entry for export, on such goods as may be specified in Part 6 of Schedule No. 1 in terms of the provisions of the said section.

(6) Any duty payable in terms of section 53, any anti-dumping duty payable in terms of section 56, any countervailing duty payable in terms of section 56A and any safeguard duty payable in terms of section 57 shall be paid for the benefit of the [State] National Revenue Fund in accordance with the provisions of the said sections.”; and

- (c) by the substitution for paragraph (c) of subsection (9) of the following paragraph:

“(c) The Commissioner may [within 90 days from the date of] publish any such determination [publish it] by notice in the *Gazette*.”.

**Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, sections 10 and 15 of Act 98 of 1980, section 9 of Act 86 of 1982, section 18 of Act 84 of 1987, section 7 of Act 68 of 1989, section 23 of Act 59 of 1990, section 4 of Act 61 of 1992, section 3 of Act 19 of 1994 and section 39 of Act 45 of 1995**

**64.** Section 48 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (c) of subsection (4A) of the following paragraph:

“(c) Any such ordinary levy shall be paid for the benefit of the [State] National Revenue Fund as specified in section 47(1) and shall, for the purposes of that section, be deemed to be a duty paid in accordance with the provisions of Schedule No. 1.”.

**Substitution of section 49 of Act 91 of 1964, as substituted by section 12 of Act 27 of 1997**

**65.** The following section is hereby substituted for section 49 of the Customs and Excise Act, 1964:

**“Agreements in respect of rates of duty lower than the general rates of duty**

**49. (1)** Notwithstanding anything to the contrary in this Act contained, the National Executive may conclude agreements with the government of any country—

(a) whereby goods produced or manufactured in or imported into the Republic are admitted into that country free of duty or at special rates of duty and goods produced or manufactured in or imported into that country are admitted into the Republic free of duty or at special rates of duty; or

(b) for the exchange of information and the rendering of mutual and technical assistance in respect of customs co-operation between the Republic and such other country.

(2) Notwithstanding anything to the contrary in this Act contained, the Commissioner may by rule prescribe such conditions as may be required to comply with and give effect to the specific provisions of the agreements contemplated in subsection (1)(a).”.

**Insertion of section 50 in Act 91 of 1964**

**66.** The following section is hereby inserted in the Customs and Excise Act, 1964, after section 49:



voerde goedere, alle synsbare goedere, alle bobelastinggoedere en alle brandstofheffinggoedere ooreenkomstig die bepalings van Bylae No. 1 ten tyde van klaring van sodanige goedere vir binnelandse verbruik.”;

(b) deur subartikels (5) en (6) onderskeidelik deur die volgende subartikels te vervang:

“(5) Enige uitvoerreg wat betaalbaar word ingevolge artikel 48 (4), word ten bate van die [Staatsinkomstefonds] Nasionale Inkomstefonds betaal ten tyde van die klaring vir uitvoer op die goedere wat vermeld word in Deel 6 van Bylae No. 1 ingevolge die bepalings van genoemde artikel.

(6) Enige reg betaalbaar ingevolge artikel 53, enige anti-dumpingreg betaalbaar ingevolge artikel 56, enige kontrareg betaalbaar ingevolge artikel 56A en enige beveiligingsreg betaalbaar ingevolge artikel 57 word ooreenkomstig die bepalings van bedoelde artikels ten bate van die [Staatsinkomstefonds] Nasionale Inkomstefonds betaal.”; en

(c) deur paragraaf (c) van subartikel (9) deur die volgende paragraaf te vervang:

“(c) Die Kommissaris kan so ’n bepaling [binne 90 dae van die datum daarvan] by kennisgewing in die *Staatskoerant* publiseer.”.

Wysiging van artikel 48 van Wet 91 van 1964, soos gewysig deur artikel 6 van Wet 57 van 1966, artikel 18 van Wet 105 van 1969, artikel 3 van Wet 98 van 1970, artikel 1 van Wet 68 van 1973, artikel 8 van Wet 105 van 1976, artikel 11 van Wet 112 van 1977, artikels 10 en 15 van Wet 98 van 1980, artikel 9 van Wet 86 van 1982, artikel 18 van Wet 84 van 1987, artikel 7 van Wet 68 van 1989, artikel 23 van Wet 59 van 1990, artikel 4 van Wet 61 van 1992, artikel 3 van Wet 19 van 1994 en artikel 39 van Wet 45 van 1995

64. Artikel 48 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (c) van subartikel (4A) deur die volgende paragraaf te vervang:

“(c) Enige sodanige gewone heffing word ten bate van die [Staatsinkomstefonds] Nasionale Inkomstefonds soos vermeld in artikel 47(1) betaal en, by die toepassing van daardie artikel, geag ’n reg ooreenkomstig die bepalings van Bylae No. 1 betaal, te wees.”.

Vervanging van artikel 49 van Wet 91 van 1964, soos vervang deur artikel 12 van Wet 27 van 1997

65. Artikel 49 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

**“Ooreenkomste ten opsigte van skale van reg laer as die algemene skale van reg**

49. (1) Ondanks andersluidende bepalings van hierdie Wet kan die Nasionale Uitvoerende Gesag ooreenkomste sluit met die regering van enige land—

(a) waarby goedere geproduseer of vervaardig of ingevoer in die Republiek, vry van reg of teen spesiale skale van reg in daardie land toegelaat word, en goedere in daardie land geproduseer of vervaardig of daarin ingevoer, vry van reg of teen spesiale skale van reg in die Republiek toegelaat word; of

(b) vir die uitruil van inligting en die lewering van onderlinge en tegniese bystand ten opsigte van doeane-samewerking tussen die Republiek en sodanige ander land.

(2) Ondanks andersluidende bepalings van hierdie Wet, kan die Kommissaris die voorwaardes wat nodig mag wees ter nakoming van en om gevolg te gee aan die besondere bepalings van die ooreenkomste in subartikel (1)(a) beoog, by reël voorskryf.”.

Invoeging van artikel 50 in Wet 91 van 1964

66. Die volgende artikel word hierby in die Doeane- en Aksynswet, 1962, na artikel 49 ingevoeg:

**“Disclosure of information and rendering of mutual assistance in terms of convention or agreement**

**50.** Notwithstanding the provisions of section 4(3), the Commissioner may in accordance with any convention or agreement in respect of customs co-operation to which the Republic is a party—

- (a) disclose or authorize any officer to disclose any information relating to any person, firm or business acquired by that officer in the carrying out of his duties;
- (b) render mutual and technical assistance in accordance with such convention or agreement; and
- (c) authorize any officer to exercise any powers under this Act which may be considered necessary for the purposes of rendering such assistance.”.

**Insertion of sections 76B and 76C in Act 91 of 1964**

**67.** (1) The following sections are hereby inserted in the Customs and Excise Act, 1964, after section 76A:

**“Limitation on refund claims**

**76B.** (1) Where any person became entitled to any refund of any duty arising from any determination, new determination or amendment of any such determination in terms of section 47(9), 65 or 69, any such refund shall, notwithstanding the provisions of section 40, 47(9), 65, 69, 75, 76 or 77 be limited to refunds in respect of goods entered for home consumption during a period of two years immediately preceding the date of such determination, new determination or any amendment of such determination, whichever date occurs last.

(2) Where a person has appealed against any determination, new determination or amendment the period referred to in subsection (1) shall, notwithstanding the fact that a court may amend any determination of the Commissioner, or the Commissioner, as a result of a finding of such court, amends such determination, be calculated from the last date contemplated in subsection (1).

**Set-off of refund against amounts owing**

**76C.** Where any refund of duty is in terms of this Act due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person in terms of this Act.”.

(2) Subsection (1) shall in so far as it inserts section 76B in the Customs and Excise Act, 1964, come into operation on the date of promulgation of this Act and shall apply to all refund claims based on a determination, new determination or amendment made on or after that date.

**Amendment of section 80 of Act 91 of 1964, as amended by section 10 of Act 85 of 1968, section 27 of Act 105 of 1969, section 28 of Act 112 of 1977, section 22 of Act 86 of 1982, section 7 of Act 89 of 1984, section 12 of Act 52 of 1986, section 27 of Act 84 of 1987, section 32 of Act 59 of 1990, section 8 of Act 105 of 1992 and section 8 of Act 98 of 1993**

**68.** Section 80 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution for paragraph (h) of subsection (1) of the following paragraph:

**“Openbaarmaking van inligting en lewering van onderlinge bystand ingevolge konvensie of ooreenkoms**

**50.** Ondanks die bepalings van artikel 4(3) kan die Kommissaris ooreenkomstig met enige konvensie of ooreenkoms met betrekking tot doeane-samewerking waarby die Republiek 'n party is—

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- (a) enige inligting openbaar of enige beampte magtig om inligting te openbaar met betrekking tot enige persoon, firma of besigheid wat deur daardie beampte in die uitvoering van sy pligte verkry is;
  - (b) onderlinge en tegniese bystand in ooreenstemming met sodanige konvensie of ooreenkoms lewer; en
  - (c) enige beampte magtig om enige bevoegdhede kragtens hierdie Wet uit te oefen wat nodig geag word vir die doeleindes van lewering van sodanige bystand.”.

**Invoeging van artikels 76B en 76C in Wet 91 van 1964**

- 15 **67.** (1) Die volgende artikels word hierby na artikel 76A in die Doeane- en Aksynswet, 1964, ingevoeg:

**“Beperking op terugbetalingseise**

**76B.** (1) Waar enige persoon geregtig geraak het op enige terugbetaling van enige reg wat voortspruit uit enige bepaling, nuwe bepaling of wysiging van enige sodanige bepaling ingevolge artikel 47(9), 65 of 69, word enige sodanige terugbetaling, ondanks die bepalings van artikel 40, 47(9), 65, 69, 75, 76 of 77 beperk tot terugbetalings ten opsigte van goedere wat geklaar is vir binnelandse gebruik gedurende 'n tydperk van twee jaar wat die datum van sodanige bepaling, nuwe bepaling of wysiging van sodanige bepaling, watter datum ook al laaste voorkom, onmiddellik voorafgaan.

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- (2) Waar 'n persoon geappelleer het teen enige bepaling, nuwe bepaling of wysiging, word die tydperk in subartikel (1) bedoel, ondanks die feit dat die hof enige bepaling van die Kommissaris mag wysig of die Kommissaris as gevolg van 'n bevinding van sodanige hof sodanige bepaling wysig, bereken vanaf die laaste datum in subartikel (1) beoog.

**Verrekening van terugbetaling teen bedrae verskuldig**

**76C.** Waar enige terugbetaling van reg ingevolge hierdie Wet aan enige persoon verskuldig is wat versuim het om enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete gehef of opgelê kragtens enige ander wet wat deur die Kommissaris geadmistreer word binne die voorgeskrewe tydperk vir betaling van sodanige bedrag te betaal, kan die Kommissaris die bedrag wat aan daardie persoon ingevolge hierdie Wet terugbetaalbaar geword het teen enige bedrag wat daardie persoon versuim het om te betaal, verreken.”.

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- (2) Subartikel (1) tree, vir sover dit artikel 76B in die Doeane- en Aksynswet, 1964, invoeg, in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van alle terugbetalingseise wat ontstaan uit 'n bepaling, nuwe bepaling of wysiging wat gegee word op of na daardie datum.

- 45 **Wysiging van artikel 80 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 85 van 1968, artikel 27 van Wet 105 van 1969, artikel 28 van Wet 112 van 1977, artikel 22 van Wet 86 van 1982, artikel 7 van Wet 89 van 1984, artikel 12 van Wet 52 van 1986, artikel 27 van Wet 84 van 1987, artikel 32 van Wet 59 van 1990, artikel 8 van Wet 105 van 1992 en artikel 8 van Wet 98 van 1993**

- 50 **68.** Artikel 80 van die Doeane- en Aksynswet, 1964, word hierby gewysig—  
(a) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:

- “(h) without lawful excuse (the proof of which shall lie upon him), brings into the Republic, produces or has in his possession any blank or incomplete invoice or any billhead or other similar document capable of being **[filled up]** completed and used as an invoice for goods from outside the Republic;” and 5
- (b) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(o) contravenes the provisions of section 18(13), 18A(9), 20(4)*bis*, 35A(4), 37(9), 37A(4)(a), 60(1), 63(1), 75(7A), 75(19), 88(1)(bA), 113(2), 113(8)(c) or 114(2A); or”.
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#### Insertion of section 86A in Act 91 of 1964

69. (1) The following section is hereby inserted in the Customs and Excise Act, 1964, after section 86:

##### “Publication of names of offenders

**86A.** (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of— 15

(a) sections 78 to 86, inclusive, or the rules;

(b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a), 20

after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify—

(a) the name and address of the offender;

(b) such particulars of the offence as the Commissioner may think fit; 25

(c) the amount or estimated amount of duty involved;

(d) the particulars of the fine or sentence imposed.”.

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date.

#### Amendment of section 92 of Act 91 of 1964, as amended by section 11 of Act 98 of 1993 and section 61 of Act 45 of 1995 30

70. (1) Section 92 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any fine or penalty recovered under this Act shall be paid to the Controller in the area where such fine or penalty is recovered, and shall be paid by him into the **[Consolidated]** National Revenue Fund, and the proceeds of sale of anything forfeited, or seized and condemned under this Act shall also be paid into the said fund: Provided that the Commissioner may withhold a sum not exceeding one-third of any such fine, penalty or proceeds which he may then award to any person, **[including]** excluding any officer or person employed by the South African Revenue Service, by whose means or information the fine or penalty or forfeiture was imposed or the seizure made.”.

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(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette* and no award to any officer or person employed by the South African Revenue Service shall be paid by the Commissioner after such date. 45

#### Amendment of section 99 of Act 91 of 1964, as amended by section 15 of Act 95 of 1965, section 17 of Act 85 of 1968, section 7 of Act 98 of 1970, section 34 of Act 112 of 1977, section 12 of Act 110 of 1979, section 24 of Act 86 of 1982 and section 62 of Act 45 of 1995 50

71. Section 99 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

- “(h) sonder wettige verontskuldiging (waarvan die bewyslas op hom rus) enige blanko of onvolledige faktuur of enige rekeningvorm of ander dergelike dokument wat geskik is om as ’n faktuur vir goedere van buite die Republiek ingevul en gebruik te word, in die Republiek inbring, vervaardig of in sy besit het;” en
- 5 (b) deur paragraaf (o) van subartikel (1) deur die volgende paragraaf te vervang: “(o) die bepalings van artikel 18(13), 18A(9), 20(4)*bis*, 35A(4), 37(9), 37A(4)(a), 60(1), 63(1), 75(7A), 75(19), 88(1)(bA), 113(2), 113(8)(c) of 114(2A); of”.

#### 10 Invoeging van artikel 86A in Wet 91 van 1964

69. (1) Die volgende artikel word hierby na artikel 86 in die Doeane- en Aksynswet, 1964, ingevoeg:

##### “Publikasie van name van oortreders

- 15 **86A.** (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die *Staatskoerant* ’n lys van persone publiseer wat aan ’n misdryf skuldig bevind is ingevolge—
- (a) artikels 78 tot en met 86 of die reëls;
- (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met ’n misdryf in paragraaf (a) bedoel,
- 20 nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- (2) Elke sodanige lys kan vermeld—
- (a) die naam en adres van die oortreder;
- (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
- 25 (c) die bedrag of geskatte bedrag aan reg betrokke;
- (d) die besonderhede van die boete of vonnis opgelê.”.

(2) Subartikel (1) word geag op 11 Maart 1998 in werking te getree het en is van toepassing ten opsigte van enige persoon wat op of na daardie datum skuldig bevind is.

#### 30 Wysiging van artikel 92 van Wet 91 van 1964, soos gewysig deur artikel 11 van Wet 98 van 1993 en artikel 61 van Wet 45 van 1995

70. (1) Artikel 92 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 35 “(1) Enige boete of pene wat ingevolge hierdie Wet verhaal word, word aan die Kontroleur in die gebied waar sodanige boete of pene verhaal word, betaal, en word deur hom in die [Gekonsolideerde] Nasionale Inkomstefonds gestort, en die opbrengs van die verkoping van enigiets wat ingevolge hierdie Wet verbeur of in beslag geneem en prysverklaar is, word ook in bedoelde fonds gestort: Met dien verstande dat die Kommissaris ’n bedrag van hoogstens een derde van enige sodanige boete, pene of opbrengs kan
- 40 terughou wat hy dan kan toeken aan enige persoon, [met inbegrip van] uitgesonderd ’n beampte, of enige persoon in diens van die Suid-Afrikaanse Inkomstediens, deur die bemiddeling of inligting van wie die boete, pene of verbeuring opgelê is of beslaglegging geskied het.”.

45 (2) Subartikel (1) tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal en geen toekenning aan enige beampte of persoon in diens van die Suid-Afrikaanse Inkomstediens word na daardie datum deur die Kommissaris betaal nie.

#### 50 Wysiging van artikel 99 van Wet 91 van 1964, soos gewysig deur artikel 15 van Wet 95 van 1965, artikel 17 van Wet 85 van 1968, artikel 7 van Wet 98 van 1970, artikel 34 van Wet 112 van 1977, artikel 12 van Wet 110 van 1979, artikel 24 van Wet 86 van 1982 en artikel 62 van Wet 45 van 1995

71. Artikel 99 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) An agent appointed by any master, container operator or pilot, and any person who represents himself to any officer as the agent of any master, container operator or pilot, and is accepted as such by that officer, shall be liable for the fulfillment, in respect of the matter in question, of all obligations, including the payment of duty and charges, imposed on such master, container operator or pilot by this Act and to any penalties or **[forfeitures]** amounts demanded under section 88(2)(a) which may be incurred in respect of that matter.”;
- (b) by the substitution for the words preceding the proviso to subsection (2)(a) of the following words:
- “An agent appointed by any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal and any person who represents himself to any officer as the agent of any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal, and is accepted as such by that officer, shall be liable for the fulfillment, in respect of the matter in question, of all obligations, including the payment of duty and charges, imposed on such importer, exporter, manufacturer, licensee, remover of goods in bond or other principal by this Act and to any penalties or amounts demanded under section 88(2)(a) which may be incurred in respect of that matter.”;
- (c) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) No importer, exporter, manufacturer, licensee, remover of goods in bond or other principal shall by virtue of the provisions of paragraph (a) be relieved from liability for the fulfillment of any obligation imposed on him by this Act and to any penalty or amounts demanded under section 88(2)(a) which may be incurred in respect thereof.”; and
- (d) by the substitution for the words preceding the proviso to paragraph (a) of subsection (4) of the following words:
- “An agent (including a representative or associate of the principal) representing or acting for or on behalf of any exporter, manufacturer, supplier, shipper or other principal outside the Republic who exports goods to the Republic, shall be liable, in respect of any goods ordered through him or obtained by an importer by means of his services, for the fulfillment of all obligations imposed upon such exporter, manufacturer, supplier, shipper or other principal by this Act, and to any penalties or **[forfeitures]** amounts demanded under section 88(2)(a) which may be incurred by such exporter, manufacturer, supplier, shipper or other principal under this Act.”.

**Amendment of section 105 of Act 91 of 1964, as substituted by section 2 of Act 111 of 1991 and amended by section 65 of Act 45 of 1995**

72. Section 105 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (f) of the following paragraph:

“(f) any such interest recovered shall be paid into the **[State]** National Revenue Fund.”.

**Amendment of section 113 of Act 91 of 1964, as amended by section 17 of Act 95 of 1965, section 14 of Act 57 of 1966, section 11 of Act 103 of 1972, section 5 of Act 68 of 1973, section 49 of Act 42 of 1974, section 25 of Act 86 of 1982, section 7 of Act 89 of 1983, section 31 of Act 84 of 1987, section 17 of Act 68 of 1989, section 14 of Act 105 of 1992, section 12 of Act 98 of 1993 and section 71 of Act 45 of 1995**

73. Section 113 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the deletion of paragraph (g) of subsection (1); and  
 (b) by the substitution for subsection (2) of the following subsection:

- 5 “(1) ’n Agent wat deur enige gesagvoerder, houerbediener of loods aangestel is, en enigiemand wat aan ’n beampte voorgee dat hy die agent van ’n gesagvoerder, houerbediener of loods is, en as sodanig deur daardie beampte aanvaar word, is ten opsigte van die betrokke saak aanspreeklik vir die nakoming van alle verpligtings, met inbegrip van die betaling van reg en vorderings wat sodanige gesagvoerder, houerbediener of loods ingevolge hierdie Wet opgelê is, en vir enige penes of [verbeurings] bedrae wat kragtens artikel 88(2)(a) geëis word wat ten opsigte van daardie saak opgeloop word.”;
- 10 (b) deur die woorde wat die voorbehoudsbepaling by subartikel (2)(a) voorafgaan deur die volgende woorde te vervang:  
 “ ’n Agent wat deur enige invoerder, uitvoerder, vervaardiger, lisensiehouer, vervoerder van goedere onder waarborg of ander prinsipaal aangestel is en enigeen wat aan ’n beampte voorgee dat hy die agent van enige invoerder, uitvoerder, vervaardiger, lisensiehouer, vervoerder van goedere onder waarborg of ander prinsipaal is, en as sodanig deur daardie beampte aanvaar word, is ten opsigte van die betrokke saak aanspreeklik vir die nakoming van alle verpligtings, met inbegrip van die betaling van reg en vorderings, wat sodanige invoerder, uitvoerder, vervaardiger, lisensiehouer, vervoerder van goedere onder waarborg of ander prinsipaal by hierdie Wet opgelê is en vir enige pene of bedrae wat kragtens artikel 88(2)(a) geëis word wat ten opsigte van daardie saak opgeloop word.”;
- 15 (c) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:  
 “(b) Geen invoerder, uitvoerder, vervaardiger, lisensiehouer, vervoerder van goedere onder waarborg of ander prinsipaal word uit hoofde van die bepalings van paragraaf (a) onthef van aanspreeklikheid nie vir die nakoming van enige verpligting wat hom by hierdie Wet opgelê is en vir enige pene of bedrae wat kragtens artikel 88(2)(a) geëis word wat ten opsigte daarvan opgeloop word.”; en
- 20 (d) die woorde wat die voorbehoudsbepaling by paragraaf (a) van subartikel (4) voorafgaan deur die volgende woorde te vervang:  
 “ ’n Agent (met inbegrip van ’n verteenwoordiger of geassosieerde van die prinsipaal) wat enige uitvoerder, vervaardiger, leweransier, verskeper of ander prinsipaal buite die Republiek wat goedere na die Republiek uitvoer, verteenwoordig of namens of ten behoeve van hom optree, is ten opsigte van enige goedere wat deur bemiddeling van hom bestel word of deur ’n invoerder deur middel van sy dienste verkry word, aanspreeklik vir die nakoming van alle verpligtings wat sodanige uitvoerder, vervaardiger, leweransier, verskeper of ander prinsipaal deur hierdie Wet opgelê is en vir enige penes of [verbeurings] bedrae wat kragtens artikel 88(2)(a) geëis word wat deur sodanige uitvoerder, vervaardiger, leweransier, verskeper of ander prinsipaal ingevolge hierdie Wet opgeloop word.”.

45 **Wysiging van artikel 105 van Wet 91 van 1964, soos vervang deur artikel 2 van Wet 111 van 1991 en gewysig deur artikel 65 van Wet 45 van 1995**

72. Artikel 105 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (f) deur die volgende paragraaf te vervang:

- 50 “(f) word enige sodanige rente wat verhaal word in die [Staatsinkomstefonds] Nasionale Inkomstefonds gestort.”.

55 **Wysiging van artikel 113 van Wet 91 van 1964, soos gewysig deur artikel 17 van Wet 95 van 1965, artikel 14 van Wet 57 van 1966, artikel 11 van Wet 103 van 1972, artikel 5 van Wet 68 van 1973, artikel 49 van Wet 42 van 1974, artikel 25 van Wet 86 van 1982, artikel 7 van Wet 89 van 1983, artikel 31 van Wet 84 van 1987, artikel 17 van Wet 68 van 1989, artikel 14 van Wet 105 van 1992, artikel 12 van Wet 98 van 1993 en artikel 71 van Wet 45 van 1995.**

73. Artikel 113 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur paragraaf (g) van subartikel (1) te skrap; en  
 (b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Goods which purport to have been imported under a permit, certificate or other authority [referred to in subsection (1)] in terms of any provision of this Act or any other law shall be deemed to have been imported in contravention of [the provisions of that subsection] such provision unless the permit, certificate or other authority in question is produced to the Controller.” 5

**Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 15 of Act 98 of 1980, section 35 of Act 84 of 1987, section 39 of Act 59 of 1990, section 11 of Act 19 of 1994 and section 73 of Act 45 of 1995**

74. Section 120 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph: 10

“(d) as to the control of the storage or manufacture of goods in customs and excise warehouses (including the suitability of any buildings, plant and method of manufacture for the purposes of this Act, the hours of conducting any or all operations, the securing or marking of such plant, the inspection of such warehouses and the removal of goods from such warehouses), the testing of the output of stills, the conditions on which stills may be made, possessed, imported, disposed of or used and the fresh fruit which may be used by an agricultural distiller in the [Province of Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, North West or the Orange Free State] Republic for the distillation of spirits;” 15 20

**Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996 and section 15 of Act 27 of 1997** 25 30

75. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Schedule 2 to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, this section shall be deemed to have come into operation on 11 March 1998. 35

**Continuation of certain amendments of Schedules Nos. 1 to 6 to Act 91 of 1964**

76. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, to the Customs and Excise Act, 1964, made under section 48, 56 or 75(15) of that Act during the calendar year ending on 31 December 1997 shall not lapse by virtue of the provisions of section 48(6), 56(3) or 75(16) of that Act. 40

(2) The amendment of Part 2B and Part 5 of Schedule No. 1 to the Customs and Excise Act, 1964, made under section 48 of that Act by Government Notices No. R.373 and No. R.374, respectively, of 12 March 1998, shall not lapse by virtue of the provisions of section 48(6) of that Act. 45



5 “(2) Goedere wat kragtens ’n [in subartikel (1) bedoelde] permit, sertifikaat of ander magtiging ingevoelge ’n bepaling van hierdie Wet of enige ander wet heet ingevoer te gewees het, word geag in stryd met die bepalings van daardie [subartikel] bepaling ingevoer te gewees het, tensy die betrokke permit, sertifikaat of ander magtiging aan die Kontroleur voorgelê word.”.

**Wysiging van artikel 120 van Wet 91 van 1964, soos gewysig deur artikel 36 van Wet 105 van 1969, artikel 15 van Wet 98 van 1980, artikel 35 van Wet 84 van 1987, artikel 39 van Wet 59 van 1990, artikel 11 van Wet 19 van 1994 en artikel 73 van Wet 45 van 1995**

10 **74.** Artikel 120 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

15 “(d) aangaande die beheer van die opslag of vervaardiging van goedere in doeane- en aksynspakhuse (met inbegrip van die geskiktheid van enige geboue, installasies en vervaardigingsmetodes vir die doeleindes van hierdie Wet, die ure waartydens enige of alle werksaamhede in enige sodanige pakhuis verrig moet word, die toesig deur beamptes oor enige sodanige werksaamhede, die beveiliging of merk van sodanige installasies, die inspeksie van sodanige pakhuse en die verwydering van goedere uit sodanige pakhuse), die toets van die produksie van distilleerketels, die voorwaardes waarop distilleerketels gemaak, besit, ingevoer, van die hand gesit of gebruik mag word en die  
20 vars vrugte wat deur ’n landboudistilleerder in die [Provinsie Pretoria-Witwatersrand-Vereeniging, Oos-Transvaal, Noord-Transvaal, Noordwes of Oranje-Vrystaat] Republiek gebruik mag word om spiritus te distilleer;”.

25 **Wysiging van Bylae No. 1 by Wet 91 van 1964, soos gewysig deur artikel 19 van Wet 95 van 1965, artikel 15 van Wet 57 van 1966, artikel 2 van Wet 96 van 1967, artikel 22 van Wet 85 van 1968, artikel 37 van Wet 105 van 1969, artikel 9 van Wet 98 van 1970, artikel 2 van Wet 89 van 1971, artikel 12 van Wet 103 van 1972, artikel 6 van Wet 68 van 1973, artikel 3 van Wet 64 van 1974, artikel 13 van Wet  
30 71 van 1975, artikel 13 van Wet 105 van 1976, artikel 38 van Wet 112 van 1977, artikel 3 van Wet 114 van 1981, artikel 27 van Wet 86 van 1982, artikel 10 van Wet 89 van 1984, artikel 14 van Wet 101 van 1985, artikel 11 van Wet 69 van 1988, artikel 19 van Wet 68 van 1989, artikel 40 van Wet 59 van 1990, artikel 3 van Wet 111 van 1991, artikel 15 van Wet 105 van 1992, artikel 13 van Wet 98 van 1993,  
35 artikel 12 van Wet 19 van 1994, artikel 74 van Wet 45 van 1995, artikel 8 van Wet 44 van 1996 en artikel 15 van Wet 27 van 1997**

**75.** (1) Bylae No. 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig soos in Bylae 2 by hierdie Wet uiteengesit.

40 (2) Behoudens die bepalings van artikel 58(1) van die Doeane- en Aksynswet, 1964, word hierdie artikel geag op 11 Maart 1998 in werking te getree het.

#### **Verlenging van sekere wysigings van Bylaes Nos. 1 tot 6 by Wet 91 van 1964**

**76.** (1) Elke wysiging of intrekking van of invoeging in Bylaes Nos. 1 tot en met 6 by die Doeane- en Aksynswet, 1964, kragtens artikel 48, 56 of 75(15) van daardie Wet aangebring gedurende die kalenderjaar wat op 31 Desember 1997 geëindig het, verval  
45 nie uit hoofde van die bepalings van artikel 48(6), 56(3) of 75(16) van daardie Wet nie.

(2) Die wysiging van Deel 2B en Deel 5 van Bylae No. 1 by die Doeane- en Aksynswet, 1964, wat kragtens artikel 48 van daardie Wet onderskeidelik by Goewermentskennisgewings No. R.373 en No. R.374 van 12 Maart 1998 aangebring is, verval nie uit hoofde van die bepalings van artikel 48(6) van daardie Wet nie.

**Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, section 19 of Act 106 of 1980, section 3 of Act 118 of 1984, section 17 of Act 87 of 1988, section 36 of Act 9 of 1989, section 3 of Act 69 of 1989, section 5 of Act 136 of 1991 and section 4 of Act 20 of 1994**

5

77. (1) Section 1 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the definition of “fixed deposit” of the following definition:

“‘fixed deposit’ means a deposit of money for a definite period of at least 89 days and includes a deposit of money for an indefinite period which is withdrawable after the expiration of a period of notice equal to at least 89 days;”

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any deposit made on or after that date.

**Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 4 of Act 69 of 1989, section 5 of Act 136 of 1992 and section 13 of Act 97 of 1993**

15

78. (1) Section 4 of the Stamp Duties Act, 1968, is hereby amended—

20

- (a) by the addition of the word “or” at the end of subparagraph (ix) of paragraph (b) of subsection (1); and  
(b) by the addition to paragraph (b) of subsection (1) of the following subparagraph:

“(x) the Commission for Conciliation, Mediation and Arbitration established by section 112 of the Labour Relations Act, 1995 (Act No. 66 of 1995);”

25

(2) Subsection (1) shall be deemed to have come into operation on 1 January 1996.

**Amendment of section 5 of Act 77 of 1968, as amended by section 9 of Act 89 of 1972, section 7 of Act 66 of 1973, section 9 of Act 114 of 1977, section 5 of Act 118 of 1984, section 10 of Act 86 of 1987, section 19 of Act 87 of 1988, section 6 of Act 136 of 1991 and section 6 of Act 136 of 1992**

30

79. Section 5 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the substitution for the words preceding the proviso to subsection (1) of the following words:

35

“The payment of any duty or of any penalty incurred under section 9 shall, save as is otherwise specially provided in this Act, be denoted by means of adhesive revenue stamps for the amount of such duty or adhesive penalty stamps for the amount of such penalty where the amount of such duty or penalty does not exceed an amount of R400, and such stamps shall be affixed to the instrument chargeable with the duty or penalty and be defaced as prescribed by this Act;”

40

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) Where the amount of duty or penalty payable exceeds an amount of R400, the payment of such duty or penalty may, having regard to the circumstances of the case, be denoted in any manner referred to in paragraph (i), (ii) or (iii) of the proviso to subsection (1).”

45

**Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 66 of 1973, section 10 of Act 88 of 1974, section 20 of Act 106 of 1980, section 6 of Act 87 of 1982, section 5 of Act 92 of 1983, section 25 of Act 87 of 1988, section 8 of Act 69 of 1989 and section 7 of Act 136 of 1991**

50

80. Section 23 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the expression “six months” in paragraph (b) of the definition of “lending arrangement” in subsection (1) of the expression “12 months”.

55

Wysiging van artikel 1 van Wet 77 van 1968, soos gewysig deur artikel 16 van Wet 103 van 1969, artikel 5 van Wet 66 van 1973, artikel 7 van Wet 88 van 1974, artikel 19 van Wet 106 van 1980, artikel 3 van Wet 118 van 1984, artikel 17 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989, artikel 3 van Wet 69 van 1989, artikel 5 van Wet 136 van 1991 en artikel 4 van Wet 20 van 1994

77. (1) Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig deur die omskrywing van "vaste deposito" deur die volgende omskrywing te vervang:

"'vaste deposito' 'n gelddeposito vir 'n bepaalde tydperk van minstens 89 dae en ook 'n gelddeposito vir 'n onbepaalde tydperk wat na die verstryking van 'n kennisteryn gelyk aan minstens 89 dae opgevra kan word;"

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van 'n deposito op of na daardie datum gemaak.

Wysiging van artikel 4 van Wet 77 van 1968, soos gewysig deur artikel 17 van Wet 103 van 1969, artikel 5 van Wet 72 van 1970, artikel 6 van Wet 66 van 1973, artikel 8 van Wet 88 van 1974, artikel 4 van Wet 95 van 1978, artikel 7 van Wet 99 van 1981, artikel 4 van Wet 87 van 1982, artikel 4 van Wet 118 van 1984, artikel 10 van Wet 81 van 1985, artikel 18 van Wet 87 van 1988, artikel 4 van Wet 69 van 1989, artikel 5 van Wet 136 van 1992 en artikel 13 van Wet 97 van 1993

78. (1) Artikel 4 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur die woord "of" aan die einde van subparagraaf (ix) van paragraaf (b) van subartikel (1) by te voeg; en

(b) deur die volgende subparagraaf by paragraaf (b) van subartikel (1) te voeg: "(x) die Kommissie vir Versoening, Bemiddeling en Arbitrasie, by artikel 112 van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), ingestel;"

(2) Subartikel (1) word geag op 1 Januarie 1996 in werking te getree het.

Wysiging van artikel 5 van Wet 77 van 1968, soos gewysig deur artikel 9 van Wet 89 van 1972, artikel 7 van Wet 66 van 1973, artikel 9 van Wet 114 van 1977, artikel 5 van Wet 118 van 1984, artikel 10 van Wet 86 van 1987, artikel 19 van Wet 87 van 1988, artikel 6 van Wet 136 van 1991 en artikel 6 van Wet 136 van 1992

79. Artikel 5 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan deur die volgende woorde te vervang:

"Die betaling van 'n seëlreg of van 'n boete wat ingevolge artikel 9 opgehoop is, moet, behalwe vir sover hierdie Wet uitdruklik anders bepaal, aangedui word deur middel van inkomsteplakseëls vir die bedrag van bedoelde seëlreg of boeteplakseëls vir die bedrag van bedoelde boete waar die bedrag van bedoelde seëlreg of boete nie 'n bedrag van R400 te bowe gaan nie, en bedoelde seëls moet op die aan die seëlreg of boete onderhewige stuk vasgeplak word en volgens voorskrif van hierdie Wet gerojear word;" en

(b) deur die volgende subartikel na subartikel (1) in te voeg:

"(1A) Waar die bedrag van die seëlreg of boete betaalbaar 'n bedrag van R400 te bowe gaan, word betaling van bedoelde seëlreg of boete, inagnome die omstandighede van die geval, aangedui op 'n wyse in paragraaf (i), (ii) of (iii) van die voorbehoudsbepaling by subartikel (1) bedoel."

Wysiging van artikel 23 van Wet 77 van 1968, soos gewysig deur artikel 20 van Wet 103 van 1969, artikel 13 van Wet 92 van 1971, artikel 11 van Wet 89 van 1972, artikel 10 van Wet 66 van 1973, artikel 10 van Wet 88 van 1974, artikel 20 van Wet 106 van 1980, artikel 6 van Wet 87 van 1982, artikel 5 van Wet 92 van 1983, artikel 25 van Wet 87 van 1988, artikel 8 van Wet 69 van 1989 en artikel 7 van Wet 136 van 1991

80. Artikel 23 van die Wet op Seëlregte, 1968, word hierby gewysig deur die uitdrukking "ses maande" in paragraaf (b) van die omskrywing van "leningsreëling" in subartikel (1) deur die uitdrukking "12 maande" te vervang.

**Amendment of section 31 of Act 77 of 1968, as substituted by section 18 of Act 46 of 1996**

81. Section 31 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the definition of "judge" in subsection (1) of the following definition:

" 'judge' means a judge of the [Supreme] High Court and includes a judge in chambers;". 5

**Amendment of section 31D of Act 77 of 1968, as inserted by section 18 of Act 46 of 1996**

82. Section 31D of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words "Supreme Court" in paragraph (a) of subsection (9) of the words "High Court". 10

**Amendment of section 32 of Act 77 of 1968**

83. Section 32 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words: 15

"The Commissioner may, subject to the provisions of subsection (4), make, or authorize to be made, a refund in respect of—"; and

(b) by the addition of the following subsection:

"(4) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section." 20  
25

**Insertion of section 32A in Act 77 of 1968**

84. (1) The following section is hereby inserted in the Stamp Duties Act, 1968, after section 32:

**"Publication of names of offenders**

32A. (1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of— 30

(a) section 26, 27, 28A or 28B;

(b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a), after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor. 35

(2) Every such list may specify—

(a) the name and address of the offender;

(b) such particulars of the offence as the Commissioner may think fit; 40

(c) the particulars of the fine or sentence imposed." 40

(2) Subsection (1) shall be deemed to have come into operation on 11 March 1998 and shall apply in respect of any person convicted on or after that date."

**Amendment of Item 13 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 92 of 1983 and section 12 of Act 108 of 1986** 45

85. Item 13 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the deletion of paragraph (b) of the *Exemptions*.

**Wysiging van artikel 31 van Wet 77 van 1968, soos vervang deur artikel 18 van Wet 46 van 1996**

81. Artikel 31 van die Wet op Seëlregte, 1968, word hierby gewysig deur die omskrywing van "regter" in subartikel (1) deur die volgende omskrywing te vervang:
- 5 " 'regter' 'n regter van die [Hooggeregshof] Hoë Hof en ook 'n regter [op kamerhof] in kamers."

**Wysiging van artikel 31D van Wet 77 van 1968, soos ingevoeg deur artikel 18 van Wet 46 van 1996**

82. Artikel 31D van die Wet op Seëlregte, 1968, word hierby gewysig deur die woord "Hooggeregshof" in paragraaf (a) van subartikel (9) deur die woorde "Hoë Hof" te vervang.

**Wysiging van artikel 32 van Wet 77 van 1968**

83. Artikel 32 van die Wet op Seëlregte, 1968, word hierby gewysig—
- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
- 15 "Die Kommissaris kan, behoudens die bepalings van subartikel (4), 'n terugbetaling maak of magtig ten opsigte van—"; en
- (b) deur die volgende subartikel by te voeg:
- 20 "(4) Waar enige terugbetaling in subartikel (1) beoog aan enige persoon verskuldig is wat versuim om enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete gehef of opgelê kragtens hierdie Wet of enige ander wet deur die Kommissaris geadministreer, binne die tydperk voorgeskryf vir betaling van die bedrag te betaal, kan die Kommissaris enige bedrag wat kragtens hierdie artikel aan die persoon terugbetaalbaar geword het, teen die bedrag wat daardie persoon versuim het om te betaal, verreken."
- 25

**Invoeging van artikel 32A in Wet 77 van 1968**

84. (1) Die volgende artikel word hierby na artikel 32 van die Wet op Seëlregte, 1968, ingevoeg:

30 "Publikasie van name van oortreders

- 32A. (1) Die Kommissaris kan van tyd tot tyd by kennisgewing in die Staatskoerant 'n lys van persone publiseer wat aan 'n misdryf skuldig bevind is ingevolge—
- (a) artikel 26, 27, 28A of 28B;
- 35 (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem met 'n misdryf in paragraaf (a) bedoel, nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.
- (2) Elke sodanige lys kan vermeld—
- 40 (a) die naam en adres van die oortreder;
- (b) die besonderhede van die misdryf wat die Kommissaris goedvind;
- (c) die besonderhede van die boete of vonnis opgelê."
- (2) Subartikel (1) word geag in werking te getree het op 11 Maart 1998 en is van toepassing ten opsigte van enige persoon wat op of na daardie datum skuldig bevind
- 45 is.

**Wysiging van item 13 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 12 van Wet 92 van 1983 en artikel 12 van Wet 108 van 1986**

85. Item 13 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (b) van die *Vrystellings* te skrap.

**Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993, section 17 of Act 140 of 1993 and section 8 of Act 20 of 1994**

86. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion of paragraph (vi);
- (b) by the deletion of the word “and” at the end of paragraph (xv);
- (c) by the addition of the word “and” at the end of paragraph (xvi); and
- (d) by the addition of the following paragraph:
  - “(xvii) the National Housing Finance Corporation Limited.”.

(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 26 June 1998.

(b) Subsection (1)(b), (c) and (d) shall be deemed to have come into operation on 10 May 1996.

**Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996 and section 24 of Act 27 of 1997**

87. (1) Section 2 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for the proviso to subsection (1) of the following proviso:
  - “Provided that the activities contemplated in paragraphs (a), (b), (c), (d) and (f) shall not be deemed to be financial services to the extent that the consideration payable in respect thereof is any fee, commission, merchant’s discount or similar charge, excluding any discounting cost.”;
  - and
- (b) by the insertion after the definition of “long-term insurance policy” in subsection (2) of the following definition:
  - “(vA) ‘merchant’s discount’ means a charge made to merchants for accepting a credit or debit card as payment for the supply of goods or services, or a similar charge made by a buying organisation.”.

(2) Subsection (1) shall come into operation on 1 March 1999.

**Amendment of section 6 of Act 89 of 1991, as amended by section 20 of Act 37 of 1996 and section 34 of Act 34 of 1997**

88. Section 6 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraphs (c) and (d) of subsection (2) of the following paragraphs:

- “(c) **[disclosing to the Head: Central Statistical Services the names and addresses of vendors who, according to the Commissioner’s records, carry on enterprises falling within categories designated by the said Head]** disclosing to the Chief of the Central Statistical Services such information in relation to any person as may be required by such Chief in connection with the collection of statistics in carrying out the provisions of the Statistics Act, 1976 (Act No. 66 of 1976), or any regulation thereunder;
- (d) confirming to [the recipient or intended recipient of a] any party to an agreement for the supply of goods or services whether the [supplier] other party is registered in terms of this Act or not.”.

Wysiging van item 15 van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 13 van Wet 89 van 1972 en gewysig deur artikel 16 van Wet 66 van 1973, artikel 21 van Wet 88 van 1974, artikel 3 van Wet 104 van 1976, artikel 20 van Wet 114 van 1977, artikel 8 van Wet 95 van 1978, artikel 8 van Wet 102 van 1979, artikel 21 van Wet 106 van 1980, artikel 9 van Wet 99 van 1981, artikel 7 van Wet 87 van 1982, artikel 14 van Wet 92 van 1983, artikel 11 van Wet 118 van 1984, artikel 11 van Wet 81 van 1985, artikel 5 van Wet 71 van 1986, artikel 13 van Wet 108 van 1986, artikel 11 van Wet 86 van 1987, artikel 33 van Wet 87 van 1988, artikel 14 van Wet 69 van 1989, artikel 9 van Wet 136 van 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993, artikel 17 van Wet 140 van 1993 en artikel 8 van Wet 20 van 1994

86. (1) Item 15 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig—  
 (a) deur paragraaf (vi) te skrap;  
 (b) deur die woord “en” aan die einde van paragraaf (xv) te skrap;  
 15 (c) deur die woord “en” aan die einde van paragraaf (xvi) by te voeg; en  
 (d) deur die volgende paragraaf by te voeg:  
 “(xvii) die ‘National Housing Finance Corporation Limited’.”  
 (2) (a) Subartikel (1)(a) word geag op 26 Junie 1998 in werking te getree het.  
 (b) Subartikel (1)(b), (c) en (d) word geag op 10 Mei 1996 in werking te getree het.

20 Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet 136 van 1991, paragraaf 2 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 13 van Wet 136 van 1992, artikel 10 van Wet 20 van 1994, artikel 19 van Wet 37 van 1996 en artikel 24 van Wet 27 van 1997

87. (1) Artikel 2 van die Wet op Belasting op Toegevoegde Waarde, 1991, word  
 25 hierby gewysig—  
 (a) deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbe-  
 houdsbepaling te vervang:  
 “Met dien verstande dat die aktiwiteite beoog in paragrawe (a), (b), (c),  
 (d) en (f) nie geag word finansiële dienste te wees nie in die mate wat  
 30 die vergoeding wat ten opsigte daarvan betaalbaar is enige gelde,  
 kommissie, handelaarskorting of soortgelyke vordering is, maar nie ook  
 enige verdiskonteringskoste nie.”; en  
 (b) deur die volgende omskrywing na die omskrywing van “ekwiteitseffek” in  
 subartikel (2) in te voeg:  
 35 “(iiiA) ‘handelaarskorting’ die vordering vanaf handelaars vir die aanvaar-  
 ding van ’n krediet- of debietkaart as betaling vir die lewering van  
 goed of dienste, of ’n soortgelyke vordering deur ’n kooporgani-  
 siasie.”  
 (2) Subartikel (1) tree op 1 Maart 1999 in werking.

40 Wysiging van artikel 6 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 37 van 1996 en artikel 34 van Wet 34 van 1997

88. Artikel 6 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby  
 gewysig deur paragrawe (c) en (d) van subartikel (2) deur die volgende paragrawe te  
 45 vervang:  
 “(c) [die name en adresse van ondernemers wat, volgens die Kommissaris se  
 aantekeninge, ondernemings bedryf wat in kategorieë val wat deur die  
 Hoof: Sentrale Statistiekdiens aangedui is, aan bedoelde Hoof te verskaf]  
 die inligting met betrekking tot ’n persoon aan die Hoof van die Sentrale  
 50 Statistiekdiens te verskaf wat deur daardie Hoof vereis word met betrekking  
 tot die insameling van statistieke in die nakoming van die bepalings van die  
 Wet op Statistieke, 1976 (Wet No. 66 van 1976), of enige regulasie  
 daarkragtens;  
 (d) aan [die ontvanger of voornemende ontvanger van ’n] enige party tot ’n  
 55 ooreenkoms vir die lewering van goed of dienste te bevestig of die  
 [leweraar] ander party ingevolge hierdie Wet geregistreer is al dan nie.”

**Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, paragraph 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994 and section 28 of Act 27 of 1997**

89. Section 11 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (l) of subsection (2) of the following paragraph: 5

- “(l) the services are supplied [**for the benefit of and contractually**] to a person who is not a resident of the Republic [**and who is outside the Republic at the time the services are rendered**], not being services which are supplied directly [**in connection with**]— 10
- (i) in connection with land or any improvements thereto situated inside the Republic; or
  - (ii) in connection with movable property situated inside the Republic at the time the services are rendered, except movable property which— 15
    - (aa) is exported to the said person subsequent to the supply of such services; or
    - (bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or
  - (iii) to the said person or any other person, other than in circumstances 20 contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time the services are supplied, and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic; or”. 25

**Amendment of section 15 of Act 89 of 1991, as amended by paragraph 8 of Government Notice 2695 of 8 November 1991, section 20 of Act 136 of 1992 and section 31 of Act 27 of 1997**

90. Section 15 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the insertion in paragraph (b) of subsection (2) before subparagraph (i) of the following words: 30
 

“the vendor is a natural person (other than the trustee of a trust fund) or an unincorporated body of persons of which all the members are natural persons, and—”; and
- (b) by the addition to subsection (5) of the following proviso: 35
 

“Provided that where a vendor changes from a payments basis to an invoice basis for the sole reason that such vendor is not a natural person (other than a trustee of a trust fund) or an unincorporated body of persons of which all the members are natural persons, the vendor shall pay to the Commissioner the tax payable as calculated in accordance with this section in equal instalments within the period allowed under this Act for the payment of tax in respect of so many tax periods as the Commissioner may allow, the last of which shall not end on a date later than 10 March 1999.”. 40

**Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996 and section 32 of Act 27 of 1997** 45

91. Section 16 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the addition to subsection (1) of the following proviso: 50
 

“Provided that the Commissioner may authorise a vendor to calculate the tax payable in accordance with a method which the Minister may prescribe by regulation.”;



**Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, paragraaf 6 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993, artikel 13 van Wet 20 van 1994 en artikel 28 van Wet 27 van 1997**

- 5 **89.** Artikel 11 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (l) van subartikel (2) deur die volgende paragraaf te vervang:
- “(l) die dienste gelewer word **[tot die voordeel van en kontraktueel]** aan ’n persoon wat nie ’n inwoner van die Republiek is nie **[en wat buite die Republiek is op die tydstip waarop die dienste gelewer word]**, behalwe
- 10 dienste gelewer regstreeks **[in verband met]**—
- (i) in verband met grond of verbeterings daarop geleë in die Republiek; of
- (ii) in verband met roerende eiendom wat in die Republiek geleë is op die tydstip waarop die dienste gelewer word, behalwe roerende eiendom
- 15 wat—
- (aa) ná die lewering van daardie dienste na daardie persoon uitgevoer word; of
- (bb) deel uitmaak van ’n lewering deur daardie persoon aan ’n geregistreerde ondernemer en daardie dienste aan daardie
- 20 persoon gelewer word vir doeleindes van daardie lewering aan die geregistreerde ondernemer; of
- (iii) aan daardie persoon of enige ander persoon, behalwe in omstandighede beoog in subparagraaf (ii)(bb), indien daardie persoon of bedoelde ander persoon in die Republiek is op die tydstip waarop die dienste gelewer word,
- 25 en wat nie dienste is nie wat bestaan uit die aanvaarding van ’n verpligting deur iemand om hom te weerhou van die bedryf van ’n onderneming, vir sover die bedryf van daardie onderneming binne die Republiek sou plaasgevind het; of”.

30 **Wysiging van artikel 15 van Wet 89 van 1991, soos gewysig deur paragraaf 8 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 20 van Wet 136 van 1992 en artikel 31 van Wet 27 van 1997**

- 90.** Artikel 15 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- 35 (a) deur in paragraaf (b) van subartikel (2) die volgende woorde voor subparagraaf (i) in te voeg:
- “die ondernemer ’n natuurlike persoon (behalwe die trustee van ’n trustfonds) of ’n oningelyfde liggaam van persone is waarvan al die lede natuurlike persone is, en—”; en
- 40 (b) deur die volgende voorbehoudsbepaling by subartikel (5) te voeg:
- “Met dien verstande dat waar ’n ondernemer van ’n betalingsbasis na ’n faktuurbasis oorgaan slegs omdat bedoelde ondernemer nie ’n natuurlike persoon (behalwe ’n trustee van ’n trustfonds) of ’n oningelyfde liggaam van persone is waarvan al die lede natuurlike persone is nie, die ondernemer die belasting betaalbaar, soos bereken ooreenkomstig hierdie artikel, in gelyke paaieimente aan die Kommissaris moet betaal binne die tydperk toegelaat kragtens hierdie Wet vir die betaling van belasting ten opsigte van soveel belastingtydperke as wat die Kommissaris mag toelaat, waarvan die laaste nie op ’n datum na 10 Maart 1999 mag eindig nie.”.
- 50

**Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur artikel 30 van Wet 136 van 1991, artikel 21 van Wet 136 van 1992, artikel 30 van Wet 97 van 1993, artikel 16 van Wet 20 van 1994, artikel 23 van Wet 37 van 1996 en artikel 32 van Wet 27 van 1997**

- 55 **91.** Artikel 16 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- (a) deur die volgende voorbehoudsbepaling by subartikel (1) te voeg:
- “Met dien verstande dat die Kommissaris ’n ondernemer kan magtig om die belasting betaalbaar te bereken ooreenkomstig ’n metode deur die Minister by regulasie voorgeskryf.”;
- 60

- (b) by the addition to subsection (2) of the following proviso:  
 “Provided further that no deduction of input tax in relation to that supply or importation shall be made in respect of any tax period which ends more than five years after the end of the tax period during which the vendor for the first time became entitled to such deduction.”; and 5
- (c) by the deletion of the word “and” at the end of paragraph (h) of subsection (3) and the addition to that paragraph of the following proviso:  
 “Provided that where such goods consist of second-hand goods contemplated in the proviso to paragraph (b) of the definition of ‘input tax’ in section 1, the amount determined in terms of this subsection shall not exceed the amount of transfer duty or stamp duty, as the case may be, which was or would have been payable, less any amount which has previously been deducted in terms of the provisions of subsection (3)(a)(ii) or (b)(i) of this section or section 18(4) or (5), in respect of such acquisition, original issue or registration of transfer, as the case may be;”. 10 15

**Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, paragraph 9 of Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993, section 17 of Act 20 of 1994 and section 33 of Act 27 of 1997** 20

92. Section 17 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for the words preceding the proviso to subsection (1) of the following words:  
 “Where goods or services are acquired or imported by a vendor partly for consumption, use or supply (hereinafter referred to as the intended use) 25  
 in the course of making taxable supplies and partly for another intended use, **[and] the extent to which any tax which has become payable in respect of the supply to him or the importation by him, as the case may be, of such goods or services or in respect of such goods under section 7(3) or [where tax is the tax fraction of an amount or consideration in 30  
 respect of a supply contemplated in] any amount determined in accordance with paragraph (b) or (c) of the definition of ‘input tax’ in section 1, [the extent to which the tax concerned] is input tax, [as contemplated in the definition of ‘input tax’ in section 1] shall be an amount which bears to the full amount of such tax or amount, as the case 35  
 may be, the same ratio (as determined in accordance with a general written ruling by the Commissioner or a written ruling given by the Commissioner to such vendor) as the intended use of such goods or services in the course of making taxable supplies bears to the total intended use of such goods or services;” 40**
- (b) by the deletion of the word “and” at the end of paragraph (i) of the proviso to subsection (1) and the addition of the word “and” at the end of paragraph (ii) of that proviso; and
- (c) by the addition to the proviso to subsection (1) of the following paragraph:  
 “(iii) where a method for determining the ratio referred to in this 45  
 subsection has been approved by the Commissioner, by way of a general written ruling or a written ruling given to such vendor, that method may only be changed with effect from a future tax period, or from such other date as the Commissioner may consider equitable.” 50

- (b) deur die volgende voorbehoudsbepaling by subartikel (2) te voeg:  
 “Met dien verstande voorts dat geen aftrekking van insetbelasting  
 gedoen word met betrekking tot daardie lewering of invoer ten opsigte  
 van ’n belastingtydperk wat eindig meer as vyf jaar na die einde van die  
 5 belastingtydperk waartydens die ondernemer vir die eerste keer op  
 daardie aftrekking geregtig geword het nie.”; en
- (c) deur die woord “en” aan die einde van paragraaf (h) van subartikel (3) te  
 skrap en die volgende voorbehoudsbepaling by daardie paragraaf te voeg:  
 “Met dien verstande dat waar bedoelde goed bestaan uit tweedehandse  
 10 goed soos beoog in die voorbehoudsbepaling by paragraaf (b) van die  
 omskrywing van ‘insetbelasting’ in artikel 1, die bedrag vasgestel  
 ingevolge hierdie subartikel nie die bedrag hereregte of seëlreg, na  
 gelang van die geval, wat betaalbaar was of sou gewees het, min enige  
 15 bedrag wat voorheen ingevolge die bepalings van subartikel (3)(a)(ii) of  
 (b)(i) van hierdie artikel of artikel 18(4) of (5), ten opsigte van sodanige  
 verkryging, oorspronklike uitreiking of registrasie van oordrag, na  
 gelang van die geval, afgetrek is, oorskry nie;”.

Wysiging van artikel 17 van Wet 89 van 1991, soos gewysig deur artikel 31 van  
 Wet 136 van 1991, paragraaf 9 van Goewermentskennisgewing 2695 van 8  
 20 November 1991, artikel 22 van Wet 136 van 1992, artikel 31 van Wet 97 van 1993,  
 artikel 17 van Wet 20 van 1994 en artikel 33 van Wet 27 van 1997

92. Artikel 17 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby  
 gewysig—

- (a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan  
 25 deur die volgende woorde te vervang:  
 “Waar goed of dienste deur ’n ondernemer verkry of ingevoer word  
 gedeeltelik vir verbruik, gebruik of lewering (hieronder die voorgename  
 gebruik genoem) in die loop van die doen van belasbare lewerings en  
 gedeeltelik vir ’n ander voorgename gebruik, [en] is die mate waarin  
 30 enige belasting wat betaalbaar geword het ten opsigte van die lewering  
 aan hom of die invoer deur hom, na gelang van die geval, van bedoelde  
 goed of dienste of ten opsigte van bedoelde goed ingevolge artikel 7(3)  
 of [waar belasting die belastingbreukdeel van ’n bedrag of vergoe-  
 ding ten opsigte van ’n lewering beoog in] enige bedrag vasgestel  
 35 ooreenkomstig paragraaf (b) of (c) van die omskrywing van ‘insetbelas-  
 ting’ in artikel 1 [is die mate waarin die betrokke belasting]  
 insetbelasting is, [soos in die omskrywing van ‘insetbelasting’ in  
 artikel 1 beoog] ’n bedrag wat, tot die volle bedrag van bedoelde  
 belasting of bedrag, na gelang van die geval, in dieselfde verhouding  
 40 staan as die verhouding (vasgestel ooreenkomstig ’n algemene skrifte-  
 like beslissing deur die Kommissaris of ’n skriftelike beslissing wat deur  
 die Kommissaris aan bedoelde ondernemer gegee is) waarin die  
 voorgename gebruik van bedoelde goed of dienste in die loop van die  
 doen van belasbare lewerings tot die totale voorgename gebruik van  
 45 bedoelde goed of dienste, staan:”;
- (b) deur aan die einde van paragraaf (i) van die voorbehoudsbepaling by  
 subartikel (1) die woord “en” te skrap en aan die einde van paragraaf (ii) van  
 daardie voorbehoudsbepaling die woord “en” by te voeg; en
- (c) deur die volgende paragraaf by die voorbehoudsbepaling by subartikel (1) te  
 50 voeg:  
 “(iii) waar ’n metode vir die vasstelling van die verhouding in hierdie  
 subartikel bedoel deur die Kommissaris by wyse van ’n al-  
 gemene skriftelike beslissing of ’n skriftelike beslissing wat aan  
 bedoelde ondernemer gegee is, goedgekeur is, mag daardie  
 55 metode slegs met ingang van ’n toekomstige belastingtydperk  
 verander word, of van die ander datum wat die Kommissaris  
 billik ag.”.

**Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, paragraph 10 of Government Notice 2695 of 8 November 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993, section 18 of Act 20 of 1994 and section 34 of Act 27 of 1997**

93. Section 18 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for the definition of symbol "D" in subsection (4) of the following definition: 5

"D" where paragraph (c) applies, other than in respect of second-hand goods to which the proviso to paragraph (b) of the definition of 'input tax' in section 1 applies, represents the ratio that the amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in future) in respect of or consequent upon, whether directly or indirectly, the consideration in money for the supply of second-hand goods, bears to the total consideration in money, expressed as a percentage." 10 15

**Amendment of section 20 of Act 89 of 1991, as amended by paragraph 11 of Government Notice 2695 of 8 November 1991, section 25 of Act 136 of 1992, section 33 of Act 97 of 1993 and section 35 of Act 27 of 1997**

94. Section 20 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 20

"Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice shall be in the currency of the Republic and shall contain the following particulars:";

(b) by the addition to subsection (4) of the following proviso: 25

"Provided that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.";

(c) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words: 30

"Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed R500, a tax invoice shall be in the currency of the Republic and shall contain the particulars specified in that subsection or the following particulars:";

(d) by the addition to subsection (5) of the following proviso: 35

"Provided further that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.";

and  
(e) by the substitution for the words preceding paragraph (a) of subsection (8) of the following words: 40

"Notwithstanding anything in this section, where a supplier makes a supply (not being a taxable supply) of second-hand goods or of goods as contemplated in section 8(10) to a recipient, being a registered vendor, the recipient shall, where the value of the supply is R1 000 or more, obtain and maintain a declaration by the supplier stating whether the supply is a taxable supply or not and shall further maintain sufficient records to enable the following particulars to be ascertained." 45

**Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, paragraph 13 of Government Notice 2695 of 8 November 1991, section 27 of Act 136 of 1992, section 25 of Act 37 of 1996 and section 36 of Act 27 of 1997** 50

95. Section 22 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

**Wysiging van artikel 18 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1991, paragraaf 10 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 23 van Wet 136 van 1992, artikel 32 van Wet 97 van 1993, artikel 18 van Wet 20 van 1994 en artikel 34 van Wet 27 van 1997**

- 5 93. Artikel 18 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (4) die omskrywing van simbool "D" deur die volgende omskrywing te vervang:

10 "D" waar paragraaf (c) van toepassing is, behalwe ten opsigte van tweedehandse goed waarop die voorbehoudsbepaling by paragraaf (b) van die omskrywing van 'insetbelasting' in artikel I van toepassing is, die verhouding voorstel waarin die bedrag betaal, welke betaling 'n verpligting (hetsy 'n bestaande verpligting of 'n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, hetsy regstreeks of onregstreeks, die vergoeding in geld vir die lewering van tweedehandse goed verminder of nakom, tot die totale vergoeding in geld staan, uitgedruk as 'n persentasie:".

**Wysiging van artikel 20 van Wet 89 van 1991, soos gewysig deur paragraaf 11 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 25 van Wet 136 van 1992, artikel 33 van Wet 97 van 1993 en artikel 35 van Wet 27 van 1997**

- 20 94. Artikel 20 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur die woorde wat paragraaf (a) van subartikel (4) voorafgaan deur die volgende woorde te vervang:

25 "Behalwe waar die Kommissaris anders toelaat, en behoudens hierdie artikel, moet 'n belastingfaktuur in die geldeenheid van die Republiek wees en moet dit die volgende besonderhede bevat:";

(b) deur die volgende voorbehoudsbepaling by subartikel (4) te voeg:

30 "Met dien verstande dat die vereiste dat die vergoeding of die waarde van die lewering, na gelang van die geval, in die geldeenheid van die Republiek moet wees, nie van toepassing is nie op 'n lewering wat ingevolge artikel 11 aan belasting onderworpe is.";

(c) deur die woorde wat paragraaf (a) van subartikel (5) voorafgaan deur die volgende woorde te vervang:

35 "Ondanks die bepaling van subartikel (4), waar 'n vergoeding in geld vir 'n lewering hoogstens R500 is, moet 'n belastingfaktuur in die geldeenheid van die Republiek wees en moet dit die besonderhede vermeld in daardie subartikel of die volgende besonderhede bevat:";

(d) deur die volgende voorbehoudsbepaling by subartikel (5) te voeg:

40 "Met dien verstande voorts dat die vereiste dat die vergoeding of die waarde van die lewering, na gelang van die geval, in die geldeenheid van die Republiek moet wees, nie van toepassing is nie op 'n lewering wat ingevolge artikel 11 aan belasting onderworpe is."; en

(e) deur die woorde wat paragraaf (a) van subartikel (8) voorafgaan deur die volgende woorde te vervang:

45 "Ondanks enige bepaling van hierdie artikel, waar 'n leweraar 'n lewering maak (wat nie 'n belasbare lewering is nie) van tweedehandse goed of van goed soos in artikel 8(10) beoog aan 'n ontvanger wat 'n geregistreerde ondernemer is, moet die ontvanger, waar die waarde van die lewering R1 000 of meer is, 'n verklaring deur die leweraar verkry en behou wat meld of die lewering 'n belasbare lewering is al dan nie en moet verder voldoende aantekeninge behou waaruit die volgende besonderhede vasgestel kan word:".

- 55 **Wysiging van artikel 22 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1991, paragraaf 13 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 27 van Wet 136 van 1992, artikel 25 van Wet 37 van 1996 en artikel 36 van Wet 27 van 1997**

95. Artikel 22 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

“(b) has, within a period of [36] 12 months after the expiry of the tax period within which such deduction was made, not paid the full consideration in respect of such supply.”.

#### Amendment of section 25 of Act 89 of 1991

96. Section 25 of the Value-Added Tax Act, 1991, is hereby amended by the addition 5  
to the following paragraph:

“(e) any change in the composition of the members of a partnership or joint  
venture:”.

#### Amendment of section 32 of Act 89 of 1991, as amended by section 38 of Act 27 of 1997 10

97. Section 32 of the Value-Added Tax Act, 1991, is hereby amended by the addition to paragraph (a) of subsection (1) of the following subparagraph:

“(iv) refusing to approve a method for determining the ratio contemplated in  
section 17(1); or”.

#### Amendment of section 41 of Act 89 of 1991, as amended by paragraph 18 of 15 Government Notice 2695 of 8 November 1991, section 32 of Act 136 of 1992, section 36 of Act 97 of 1993 and section 41 of Act 27 of 1997

98. Section 41 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraphs (a), (b) and (c) and the words following thereon of the following paragraphs and words, respectively: 20

“(a) no amount of tax otherwise properly chargeable and payable by any person or not deductible by him under this Act, shall be recoverable by the Commissioner in respect of any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to [the 25  
**promulgation of the Taxation Laws Amendment Act, 1993**] 9 July 1993 which had not been withdrawn by him at the time at which the said person became contractually obliged to supply or receive such goods or services, as the case may be, no tax was payable or a deduction was allowed in respect of such supply or importation; 30

(b) no further amount of tax shall be recoverable by the Commissioner in respect of or in relation to any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to [the date of promulgation of the 35  
**Taxation Laws Amendment Act, 1993**] 9 July 1993 which had not been withdrawn by him at the time of such supply or importation, the tax payable or deductible in respect of such supply or importation had been calculated and paid or had been deducted in accordance with such ruling, as the case may be;

(c) where any written decision or, prior to [the date of promulgation of the 40  
**Taxation Laws Amendment Act, 1993**] 9 July 1993 an oral decision has been given by the Commissioner—

- (i) to the effect that any person is required or not required to be registered as a vendor in terms of the provisions of this Act; or
- (ii) as to the taxable or non-taxable nature of any supply of goods or services by any person or of the importation of goods by any person (including 45  
any decision as to the applicability of any exemption or rate of zero per cent) or as to the deductibility or non-deductibility in terms of section 16(3) of tax in respect of the supply to any person of goods or services or the importation by any person of goods,

and such decision is subsequently withdrawn, such withdrawal shall, as 50  
respects any contractual obligation incurred in accordance with the decision given by the Commissioner by the person concerned before such withdrawal

“(b) binne ’n tydperk van [36] 12 maande na die verstryking van die belasting-tydperk waarin sodanige aftrekking gedoen is, nie die volle vergoeding ten opsigte van sodanige lewering betaal het nie.”.

#### Wysiging van artikel 25 van Wet 89 van 1991

- 5 96. Artikel 25 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende paragraaf by te voeg:

“(e) enige verandering in die samestelling van die lede van ’n vennootskap of gesamentlike onderneming:”.

#### 10 Wysiging van artikel 32 van Wet 89 van 1991, soos gewysig deur artikel 38 van Wet 27 van 1997

97. Artikel 32 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subparagraaf by paragraaf (a) van subartikel (1) te voeg:

“(iv) van ’n weiering om ’n metode vir die vasstelling van die verhouding beoog in artikel 17(1) goed te keur; of”.

#### 15 Wysiging van artikel 41 van Wet 89 van 1991, soos gewysig deur paragraaf 18 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 32 van Wet 136 van 1992, artikel 36 van Wet 97 van 1993 en artikel 41 van Wet 27 van 1997

98. Artikel 41 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragrawe (a), (b) en (c) en die woorde wat daarop volg deur onderskeidelik die volgende paragrawe en woorde te vervang:

“(a) is geen bedrag aan belasting wat andersins ingevolge hierdie Wet behoorlik vorderbaar en deur ’n persoon betaalbaar of nie deur hom aftrekbaar is nie deur die Kommissaris verhaalbaar nie ten opsigte van ’n lewering van goed of dienste in die verlede of die invoer van goed in die verlede indien, ingevolge ’n algemene skriftelike beslissing deur die Kommissaris, of ’n  
25 algemene mondelinge beslissing wat deur hom gegee is voor **[die datum van afkondiging van die Wysigingswet op Belastingwette, 1993] 9 Julie 1993** wat nie deur hom ingetrek is nie op die tydstip waarop bedoelde persoon kontraktueel verplig geword het om die goed of dienste te lewer of te  
30 ontvang, na gelang van die geval, geen belasting ten opsigte van genoemde lewering of invoer betaalbaar was nie of ’n aftrekking toelaatbaar was;

(b) is geen verdere bedrag aan belasting deur die Kommissaris verhaalbaar nie ten opsigte van of met betrekking tot ’n lewering van goed of dienste in die verlede of ’n invoer van goed in die verlede indien, ingevolge ’n algemene skriftelike beslissing deur die Kommissaris, of ’n algemene mondelinge  
35 beslissing wat deur hom gegee is voor **[die datum van afkondiging van die Wysigingswet op Belastingwette, 1993] 9 Julie 1993** wat nie deur hom ingetrek is nie ten tyde van genoemde lewering of invoer, die belasting betaalbaar of aftrekbaar ten opsigte van genoemde lewering of invoer  
40 ooreenkomstig bedoelde beslissing bereken en betaal was of afgetrek was, na gelang van die geval;

(c) waar ’n skriftelike beslissing of, voor **[die datum van afkondiging van die Wysigingswet op Belastingwette, 1993] 9 Julie 1993** ’n mondelinge beslissing deur die Kommissaris gegee is—

45 (i) ten effekte dat ’n persoon as ’n ondernemer ingevolge die bepalings van hierdie Wet geregistreer moet word of nie geregistreer moet word nie; of

(ii) aangaande die belasbare of nie-belasbare aard van ’n lewering van goed of dienste deur ’n persoon of die invoer van goed deur ’n  
50 persoon (met inbegrip van ’n beslissing betreffende die toepasbaarheid van ’n vrystelling of koers van nul persent) of aangaande die aftrekbaarheid of nie-aftrekbaarheid ingevolge artikel 16(3) van belasting ten opsigte van die lewering aan ’n persoon van goed of dienste of die invoer van goed deur ’n persoon,

- 55 en daardie beslissing daarna ingetrek is, raak die intrekking van die beslissing, soos dit betrekking het op ’n kontraktuele verpligting wat die betrokke persoon vóór bedoelde intrekking, ooreenkomstig die beslissing

to supply or receive the goods or services concerned, not affect the liability or non-liability of that person for the payment of tax in accordance with such decision or his entitlement or otherwise to a deduction of tax, as determined in accordance with such decision, as the case may be, provided such decision was accepted by the said person and all the material facts were known to the Commissioner when the decision was given;” 5

**Amendment of section 43 of Act 89 of 1991**

99. Section 43 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Commissioner may, in the case of any vendor— 10

(a) who has been convicted of any offence under this Act or who has repeatedly failed to pay amounts of tax due [to] by him or to carry out other obligations imposed upon him by this Act; or

(b) who is under the management or control of a person who is or was a vendor contemplated in paragraph (a); or 15

(c) who is under the management or control of a person, where that person is or was managing or controlling another person who is or was a vendor contemplated in paragraph (a),

by written notice to such vendor require him, within such period as the Commissioner may allow, to furnish to or deposit with the Commissioner security for the payment of any tax, additional tax, penalty or interest which has or may become payable by [the] such vendor in terms of this Act.” 20

**Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993, section 27 of Act 37 of 1996 and section 42 of Act 27 of 1997**

100. Section 44 of the Value-Added Tax Act, 1991, is hereby amended— 25

(a) by the substitution for paragraph (i) of the proviso to subsection (1) of the following paragraph:

“(i) the Commissioner shall not make a refund under this subsection unless the claim for the refund is [made] received by the Commissioner within five years after the end of the said tax period; or”; and 30

(b) by the substitution for subsection (6) of the following subsection:

“(6) Where any refund contemplated in this section is due to any vendor who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed in terms of this Act or any other law administered by the Commissioner within the period prescribed for payment of such amount, the Commissioner may set off against such amount which such vendor has failed to pay, the amount which has become refundable under this section or any interest which has become payable to the vendor in terms of section 45.” 35

**Amendment of section 45 of Act 89 of 1991, as amended by section 33 of Act 136 of 1992, section 4 of Act 61 of 1993, section 24 of Act 20 of 1994 and section 43 of Act 27 of 1997** 40

101. Section 45 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution for subparagraphs (aa) and (bb) and the words following thereon of paragraph (i) of the proviso to subsection (1) of the following subparagraphs and words, respectively: 45

“(aa) the vendor rectifies the return and satisfies the Commissioner in writing that the incompleteness or defectiveness of the return does not affect the amount refundable; or

(bb) information is received by the Commissioner [makes] to enable him to 50



5 deur die Kommissaris gegee, aangegaan het om die betrokke goed of dienste te lewer of te ontvang, nie die aanspreeklikheid of nie-aanspreeklikheid van daardie persoon nie vir die betaling van belasting ooreenkomstig daardie beslissing of sy geregtigheid of andersins op 'n aftrekking van belasting, soos vasgestel ooreenkomstig daardie beslissing, na gelang van die geval, mits daardie beslissing deur genoemde persoon aanvaar is en al die ter sake dienende feite aan die Kommissaris bekend was toe die beslissing gegee is;”.

#### Wysiging van artikel 43 van Wet 89 van 1991

10 99. Artikel 43 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Kommissaris kan, in die geval van 'n ondernemer—

- 15 (a) wat skuldig bevind is aan 'n misdryf kragtens hierdie Wet of wat herhaaldelik versuim het om bedrae aan belasting te betaal wat deur hom verskuldig is of om ander verpligtinge na te kom wat hom deur hierdie Wet opgelê word; of
- (b) wat onder die bestuur of beheer is van 'n persoon wat 'n ondernemer beoog in paragraaf (a) is of was; of
- 20 (c) wat onder die bestuur of beheer is van 'n persoon, waar daardie persoon 'n ander persoon wat 'n ondernemer beoog in paragraaf (a) is of was, bestuur of beheer of bestuur of beheer het,

25 by skriftelike kennisgewing aan daardie ondernemer vereis dat hy, binne die tydperk wat die Kommissaris toelaat, aan of by die Kommissaris sekuriteit verstrek of deponeer vir die betaling van belasting, addisionele belasting, boete of rente wat ingevolge hierdie Wet deur [die] daardie ondernemer betaalbaar geword het of betaalbaar mag word.”.

#### Wysiging van artikel 44 van Wet 89 van 1991, soos gewysig deur artikel 37 van Wet 97 van 1993, artikel 27 van Wet 37 van 1996 en artikel 42 van Wet 27 van 1997

30 100. Artikel 44 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur paragraaf (i) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

35 “(i) die Kommissaris nie 'n terugbetaling ingevolge hierdie subartikel doen nie tensy die eis om die terugbetaling binne vyf jaar na die end van bedoelde belastingtydperk [gedoen] deur die Kommissaris ontvang word; of”; en

(b) deur subartikel (6) deur die volgende subartikel te vervang:

40 “(6) Waar enige terugbetaling in hierdie artikel beoog aan 'n ondernemer verskuldig is wat versuim het om binne die tydperk vir betaling van die bedrag voorgeskryf enige bedrag belasting, addisionele belasting, reg, heffing, tarief, rente of boete wat ingevolge hierdie Wet of enige ander wet wat deur die Kommissaris uitgevoer word, te betaal, kan die Kommissaris die bedrag wat kragtens hierdie artikel terugbetaalbaar geword het of die rente wat aan die ondernemer ingevolge artikel 45 betaalbaar geword het, teen die bedrag wat daardie ondernemer versuim het om te betaal, verreken.”.

45

#### Wysiging van artikel 45 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1992, artikel 4 van Wet 61 van 1993, artikel 24 van Wet 20 van 1994 en artikel 43 van Wet 27 van 1997

50 101. Artikel 45 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur subparagraawe (aa) en (bb) en die woorde wat daarop volg van paragraaf (i) van die voorbehoudsbepaling by subartikel (1) deur onderskeidelik die volgende subparagraawe en woorde te vervang:

55 “(aa) die ondernemer die opgawe regstel en die Kommissaris skriftelik oortuig dat die onvolledigheid of gebrekkigheid van die opgawe nie die bedrag terugbetaalbaar beïnvloed nie; of

(bb) die Kommissaris inligting ontvang wat hom in staat stel om 'n aanslag

- make an assessment upon the vendor reflecting the amount properly refundable to the vendor; **[whichever date is earlier]**”;
- (b) by the substitution for paragraphs (iA) and (ii) of the proviso to subsection (1) of the following paragraphs:
- “(iA) where the vendor is in default in respect of any of his obligations under this Act to furnish a return for any tax period **[preceding the said tax period]** as required by this Act, the said period of 21 business days shall be reckoned from the date on which any such outstanding return or returns furnished by the vendor as required by this Act are received by such a Receiver of Revenue;
- (ii) where the Commissioner is prevented from satisfying himself as to the amount refundable in terms of section 44(1) by reason of not being able to gain access to the books and records of the vendor concerned after having, within a reasonable time, made a request by registered post, facsimile transmission, electronic means or personal delivery, to the vendor for access to such books and records during the period of 21 business days contemplated in this subsection, the said period of 21 business days shall be suspended from the date of despatch of such request by registered post, facsimile transmission, electronic means or the date of delivery of the personal delivery, until the date on which such access is granted;”.

**Amendment of section 55 of Act 89 of 1991, as amended by section 35 of Act 136 of 1992 and section 38 of Act 97 of 1993**

**102.** Section 55 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

- “(a) a record of all goods and services supplied by or to the vendor showing the goods and services, the rate of tax applicable to the supply and the suppliers or their agents, in sufficient detail to enable the goods and services, the rate of tax, the suppliers or the agents to be readily identified by the Commissioner, and all invoices, tax invoices, credit notes, debit notes, bank statements, deposit slips, stock lists and paid cheques relating thereto: Provided that a vendor’s records do not have to show the rate of tax where the vendor has been authorised by the Commissioner to calculate the tax payable by him in accordance with a method prescribed by regulation, as contemplated in section 16(1)”.

**Amendment of section 62 of Act 89 of 1991**

**103.** Section 62 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The Commissioner **[shall]** may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of **[offences under]** any offence in terms of—
- (a) section 58 or 59(1);
- (b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a), after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.”; and
- (b) by the substitution for paragraph (e) of subsection (2) of the following paragraph:
- “(e) the amount (if any) of the additional tax imposed and the particulars of the fine or sentence imposed.”.

op die ondernemer te doen wat die bedrag regmatig terugbetaalbaar aan die ondernemer weergee; **[watter datum ook al die vroegste is]**”;  
 (b) deur paragrawe (iA) en (ii) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragrawe te vervang:

- 5 “(iA) waar die ondernemer in gebreke is ten opsigte van enige van sy verpligtinge ingevolge hierdie Wet om ’n opgawe vir ’n belastingtydperk **[wat bedoelde belastingtydperk voorafgaan]** volgens die voorskrifte van hierdie Wet te verstrek, bedoelde tydperk van 21 besigheidsdae bereken word vanaf die datum waarop enige bedoelde  
 10 opgawe of opgawes wat deur die ondernemer verstrekkend word volgens die voorskrifte van hierdie Wet, deur so ’n **[bedoelde]** Ontvanger van Inkomste ontvang word;
- 15 (ii) waar die Kommissaris verhinder word om homself te oortuig van die bedrag terugbetaalbaar ingevolge artikel 44(1) omrede hy nie in staat is om toegang te verkry tot die boeke en aantekeninge van die betrokke ondernemer nadat hy, binne ’n redelike tyd, die ondernemer by wyse van geregistreerde pos, faksimileversending, elektroniese medium of persoonlike aflewering, versoek het om toegang tot daardie boeke en aantekeninge gedurende die tydperk van 21 besigheidsdae beoog in hierdie subartikel, word die bedoelde tydperk van  
 20 21 besigheidsdae opgeskort vanaf die datum van versending van daardie versoek by wyse van geregistreerde pos, faksimileversending, elektroniese medium of die datum van persoonlike aflewering daarvan, tot die datum waarop daardie toegang verleen word;”.

#### 25 **Wysiging van artikel 55 van Wet 89 van 1991, soos gewysig deur artikel 35 van Wet 136 van 1992 en artikel 38 van Wet 97 van 1993**

**102.** Artikel 55 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

- 30 “(a) aantekeninge van alle goed en dienste gelewer deur of aan die ondernemer, waarin die goed en dienste, die koers van belasting wat op die lewering van toepassing is en die leweraars of hul agente noukeurig genoeg aangetoon word om die Kommissaris in staat te stel om die goed en dienste, die koers van belasting en die leweraars of die agente geredelik te identifiseer, en alle  
 35 fakture, belastingfakture, kredietnotas, debetnotas, bankstate, inlegstrokie, inventarisse en betaalde tjeks wat daarop betrekking het: Met dien verstande dat ’n ondernemer se aantekeninge nie die koers van belasting hoef te toon nie waar die ondernemer deur die Kommissaris gemagtig is om die belasting deur hom betaalbaar, te bereken ooreenkomstig ’n metode voorgeskryf by regulasie, soos in artikel 16(1) beoog;”.

#### **Wysiging van artikel 62 van Wet 89 van 1991**

**103.** Artikel 62 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:  
 45 “(1) Die Kommissaris **[publiseer]** kan van tyd tot tyd by kennisgewing in die *Staatskoerant* ’n lys van persone publiseer wat aan **[misdrywe]** ’n misdryf skuldig bevind is ingevolge—  
 (a) artikel 58 of 59(1) **[skuldig bevind is]**;  
 (b) die gemene reg, waar die strafbare gedrag wesenlik ooreenstem  
 50 met ’n misdryf in paragraaf (a) bedoel, nadat enige appèl- of hersieningsverrigtinge met betrekking daartoe afgehandel is of nie binne die tydperk daarvoor toegelaat, ingestel is nie.”; en
- (b) deur paragraaf (e) van subartikel (2) deur die volgende paragraaf te vervang:  
 55 “(e) die bedrag (as daar is) van die addisionele belasting gehef en die besonderhede van die boete of vonnis opgelê.”.

**Amendment of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, paragraph 25 of Government Notice 2695 of 8 November 1991, section 44 of Act 136 of 1992, section 45 of Act 97 of 1993 and section 33 of Act 20 of 1994**

**104.** PART B of Schedule 2 to the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution for Items 9 and 10 of paragraph 1 of the following Items, respectively: 5

“Item 9 Milk powder: unflavoured, being the powder obtained by the removal of water from milk and which falls under the following classifications determined by the Minister of Agriculture under the [Marketing Act, 1968 (Act No. 59 of 1968)] Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or any regulation under that Act: 10

High-fat milk powder  
Full-fat milk powder  
Medium-fat milk powder 15  
Low-fat milk powder  
Fat-free milk powder,

provided that the fat or protein content of such milk powder consists solely of milk fat or milk protein.

Item 10 Dairy powder blend, being any dairy powder blend which falls under the following classifications determined by the Minister of Agriculture under the [Marketing Act, 1968 (Act No. 59 of 1968)] Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or any regulation under that Act: 20

High-fat dairy powder blend 25  
Full-fat dairy powder blend  
Medium-fat dairy powder blend  
Low-fat dairy powder blend  
Fat-free dairy powder blend.”; and

(b) by the substitution for Item 16 of paragraph 1 of the following Item: 30

“Item 16 Cultured milk, being cultured milk as classified under the [Marketing Act, 1968 (Act No. 59 of 1968)] Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), with the following class designation:

Cultured high-fat milk 35  
Cultured full-fat milk  
Cultured low-fat milk  
Cultured fat-free milk.”.

**Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993, section 4 of Act 168 of 1993, section 34 of Act 20 of 1994, section 6 of Act 37 of 1995, section 34 of Act 37 of 1995 and section 55 of Act 27 of 1997** 40

**105.** Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution in the Afrikaans text for subsection (3) of the following subsection:

“(3) Die registrasie van oordrag van enige uitkeerbare aandele in die naam van ’n kwalifiserende aandeelhouer ooreenkomstig ’n uitkering *in specie* van uitkeerbare aandele in die loop van ’n ontbondelingstransaksie word van seëlreg vrygestel.”. 45

**Amendment of section 8 of Act 36 of 1996, as amended by section 52 of Act 28 of 1997**

**106.** (1) Section 8 of the Income Tax Act, 1996, is hereby amended by the substitution for the expression “section 13” in paragraph (b) of subsection (2) of the expression “section 12”. 50

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1998.

**Wysiging van Bylae 2 by Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 136 van 1991, paragraaf 25 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 44 van Wet 136 van 1992, artikel 45 van Wet 97 van 1993 en artikel 33 van Wet 20 van 1994**

5 **104.** DEEL B van Bylae 2 by die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur Items 9 en 10 van paragraaf 1 deur onderskeidelik die volgende Items te vervang:

10 “Item 9 Melkpoeier: ongegeurd, synde die poeier verkry deur die ontwatering van melk en wat ressorteer onder die volgende klassifikasies soos bepaal deur die Minister van Landbou kragtens die [**Bemarkingswet, 1968 (Wet No. 59 van 1968)**] Wet op Landbouprodukstandaarde, 1990 (Wet No. 119 van 1990), of enige regulasie kragtens daardie Wet:

15 Hoëvet-melkpoeier  
 Volvet-melkpoeier  
 Mediumvet-melkpoeier  
 Laevet-melkpoeier  
 Vetvrye-melkpoeier,

20 mits die vet- of proteïeninhoud van bedoelde melkpoeier uitsluitlik uit melkvet of melkproteïen bestaan.

Item 10 Suiwelpoeiermengsel, synde ’n suiwelpoeiermengsel wat ressorteer onder die volgende klassifikasies soos bepaal deur die Minister van Landbou kragtens die [**Bemarkingswet, 1968 (Wet No. 59 van 1968)**] Wet op Landbouprodukstandaarde, 1990 (Wet No. 119 van 1990), of enige regulasie kragtens daardie Wet:

30 Hoëvet-suiwelpoeiermengsel  
 Volvet-suiwelpoeiermengsel  
 Mediumvet-suiwelpoeiermengsel  
 Laevet-suiwelpoeiermengsel  
 Vetvrye-suiwelpoeiermengsel.”; en

(b) deur Item 16 van paragraaf 1 deur die volgende Item te vervang:

35 “Item 16 Aangesuurde melk, synde aangesuurde melk soos geklassifiseer kragtens die [**Bemarkingswet, 1968 (Wet No. 59 van 1968)**] Wet op Landbouprodukstandaarde, 1990 (Wet No. 119 van 1990), met die volgende klasbenaming:

40 Aangesuurde hoëvetmelk  
 Aangesuurde volvetmelk  
 Aangesuurde laevetmelk  
 Aangesuurde vetvrye melk.”.

45 **Wysiging van artikel 60 van Wet 113 van 1993, soos gewysig deur artikel 20 van Wet 140 van 1993, artikel 4 van Wet 168 van 1993, artikel 34 van Wet 20 van 1994, artikel 6 van Wet 37 van 1995, artikel 34 van Wet 37 van 1995 en artikel 55 van Wet 27 van 1997**

**105.** Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

50 “(3) Die registrasie van oordrag van enige uitkeerbare aandele in die naam van ’n kwalifiserende aandeelhouer ooreenkomstig ’n uitkering *in specie* van uitkeerbare aandele in die loop van ’n ontbondelingstransaksie word van seëlreg vrygestel.”.

**Wysiging van artikel 8 van Wet 36 van 1996, soos gewysig deur artikel 52 van Wet 28 van 1997**

55 **106.** (1) Artikel 8 van die Inkomstebelastingwet, 1996, word hierby gewysig deur die uitdrukking “artikel 13” in paragraaf (b) van subartikel (2) deur die uitdrukking “artikel 12” te vervang.

(2) Subartikel (1) word geag op 1 Maart 1998 in werking te getree het.

**Amendment of section 2 of Act 38 of 1996**

**107.** (1) Section 2 of the Tax on Retirement Funds Act, 1996, is hereby amended by the substitution for the expression "17 per cent" of the expression "25 per cent".

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1998.

**Short title and commencement**

5

**108.** (1) This Act shall be called the Taxation Laws Amendment Act, 1998.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment 10 ending on or after 1 January 1999.

**Wysiging van artikel 2 van Wet 38 van 1996**

**107.** (1) Artikel 2 van die Wet op Belasting op Uittreefondse, 1996, word hierby gewysig deur die uitdrukking "17 persent" deur die uitdrukking "25 persent" te vervang.

5 (2) Subartikel (1) word geag op 1 Maart 1998 in werking te getree het.

**Kort titel en inwerkingtreding**

**108.** (1) Hierdie Wet heet die Wysigingswet op Belastingwette, 1998.

(2) Behalwe vir sover in hierdie Wet anders bepaal of uit die samehang anders blyk, word die wysigings aan die Inkomstebelastingwet, 1962, by hierdie Wet aangebring, vir  
10 die doeleindes van aanslae ten opsigte van normale belasting ingevolge die Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 Januarie 1999 eindig.

### SCHEDULE 1

**RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1999 AND 30 JUNE 1999, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1999**

(SECTION 18)

1. The rates of normal tax referred to in section 18 of this Act in respect of persons (other than companies) are as follows:—

(a) In respect of the taxable income of any person (other than a company or a person in respect of which subparagraph (b) applies), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income—	
does not exceed R31 000 .....	19 per cent of each R1 of the taxable income;
exceeds R31 000 but does not exceed R46 000	R5 890 plus 30 per cent of the amount by which the taxable income exceeds R31 000;
“ R46 000 “ “ “ “ R60 000	R10 390 plus 39 per cent of the amount by which the taxable income exceeds R46 000;
“ R60 000 “ “ “ “ R70 000	R15 850 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
“ R70 000 “ “ “ “ R120 000	R20 150 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
“ R120 000 .....	R42 150 plus 45 per cent of the amount by which the taxable income exceeds R120 000.

(b) in respect of the taxable income of any trust (other than a special trust), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income—	
does not exceed R100 000 .....	35 per cent of each R1 of the taxable income;
exceeds R100 000 .....	R35 000 plus 45 per cent of the amount by which the taxable income exceeds R100 000.

2. The rates of normal tax referred to in section 18 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—

(a) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e) and (f)), 35 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 42 cents;

(b) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of the Income Tax Act, 1962), a percentage determined in accordance with the formula:



## BYLAE 1

**SKALE VAN NORMALE BELASTING BETAALBAAR DEUR PERSONE (BEHALWE MAATSKAPPE) TEN OPSIGTE VAN DIE JARE VAN AANSLAG EINDIGENDE OP 28 FEBRUARIE 1999 EN 30 JUNIE 1999, EN DEUR MAATSKAPPE TEN OPSIGTE VAN JARE VAN AANSLAG WAT EINDIG GEDURENDE DIE TYDPERK VAN 12 MAANDE EINDIGENDE OP 31 MAART 1999**

## (ARTIKEL 18)

1. Die skale van normale belasting bedoel in artikel 18 van hierdie Wet ten opsigte van persone (behalwe maatskappe) is soos volg:—

- (a) Ten opsigte van die belasbare inkomste van 'n persoon (behalwe 'n maatskappy of 'n persoon ten opsigte waarvan subparagraaf (b) van toepassing is), 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare Inkomste	Skale van Belasting
Waar die belasbare inkomste—	
R31 000 nie te bowe gaan nie .....	19 persent van elke R1 van die belasbare inkomste;
R31 000 te bowe gaan, maar nie R46 000 nie	R5 890 plus 30 persent van die bedrag waarmee die belasbare inkomste R31 000 oorskry;
R46 000 " " " " " R60 000 "	R10 390 plus 39 persent van die bedrag waarmee die belasbare inkomste R46 000 oorskry;
R60 000 " " " " " R70 000 "	R15 850 plus 43 persent van die bedrag waarmee die belasbare inkomste R60 000 oorskry;
R70 000 " " " " " R120 000 "	R20 150 plus 44 persent van die bedrag waarmee die belasbare inkomste R70 000 oorskry;
R120 000 te bowe gaan .....	R42 150 plus 45 persent van die bedrag waarmee die belasbare inkomste R120 000 oorskry.

- (b) ten opsigte van die belasbare inkomste van 'n trust (behalwe 'n spesiale trust), 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare Inkomste	Skale van Belasting
Waar die belasbare inkomste—	
R100 000 nie te bowe gaan nie .....	35 persent van elke R1 van die belasbare inkomste;
R100 000 te bowe gaan .....	R35 000 plus 45 persent van die bedrag waarmee die belasbare inkomste R100 000 oorskry.

2. Die skale van normale belasting bedoel in artikel 18 van hierdie Wet ten opsigte van maatskappe is, behoudens die bepalings van paragraaf 4, soos volg:—

- (a) Op elke rand van die belasbare inkomste van 'n maatskappy (met uitsondering van belasbare inkomste in subparagraawe (b), (c), (d), (e) en (f) bedoel), 35 sent, of, in die geval van 'n maatskappy wat vir goud myn op 'n goudmyn en wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappe vrygestel is, 42 sent;
- (b) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die myn van goud op 'n goudmyn verkry word (met uitsluiting van soveel van die belasbare inkomste as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, maar na die verrekening van enige vasgestelde verlies ingevolge artikel 20(1) van die Inkomstebelastingwet, 1962), 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 43 - \frac{215}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 51 - \frac{255}{x}$$

in which formulae  $y$  represents such percentage and  $x$  the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (c) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (d) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of—
- (i) its individual policyholder fund, 30 cents; and
  - (ii) its company policyholder fund and corporate fund, 35 cents;
- (e) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d) and (f)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 40 cents;
- (f) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of such section, zero cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (f), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. That the rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax Act, 1962.

4. For the purposes of—

- (a) paragraph 1 a "special trust" means a trust created solely for the benefit of a person who suffers from—
- (i) any mental illness as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973); or
  - (ii) any serious physical disability, where such illness or disability incapacitates such person from earning sufficient income for the maintenance of such person; and
- (b) paragraph 2 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which results directly from mining for gold.

$$y = 43 - \frac{215}{x}$$

of, in die geval van 'n maatskappy wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, ooreenkomstig die formule:

$$y = 51 - \frac{255}{x}$$

in welke formules  $y$  bedoelde persentasie voorstel en  $x$  die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreë belasbare inkomste (met genoemde uitsluiting, maar voor die verreken van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde goudmyn toeskryfbaar is nie) staan tot die aldus verkreë inkomste (met genoemde uitsluiting);

- (c) op elke rand van die belasbare inkomste van 'n maatskappy wie se enigste of vernaamste besigheid in die Republiek die myn van goud is of was en waarvan die vasstelling van die belasbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by sy bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, 'n skaal gelyk aan die gemiddelde skaal van normale belasting of 35 sent, watter ook al die hoogste is: Met dien verstande dat vir die doeleindes van hierdie subparagraaf die gemiddelde skaal van normale belasting vasgestel word deur die totale normale belasting (met uitsondering van die belasting wat vir die tydperk van aanslag ooreenkomstig hierdie subparagraaf vasgestel is) wat deur die maatskappy betaal is ten opsigte van sy totale belasbare inkomste uit die myn van goud vir die tydperk vanaf 1 Julie 1916 tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal rande wat genoemde totale belasbare inkomste bevat;
- (d) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die dryf van langtermynversekeringsbesigheid verkry word ten opsigte van—
- (i) sy individuele polishouerfonds, 30 sent; en
  - (ii) sy maatskappypolishouerfonds en korporatiewe fonds, 35 sent;
- (e) op elke rand van die belasbare inkomste (uitgesonderd belasbare inkomste bedoel in subparagraawe (b), (c), (d) en (f)) wat deur 'n maatskappy verkry word wie se plek van effektiewe bestuur buite die Republiek geleë is en wat 'n bedryf deur 'n tak of agentskap binne die Republiek beoefen, 40 sent;
- (f) op elke rand van die belasbare inkomste wat deur 'n kwalifiserende maatskappy, soos beoog in artikel 37H van die Inkomstebelastingwet, 1962, verkry word, onderhewig aan die bepalinge van gemelde artikel, nul sent:

Met dien verstande dat die belasting ooreenkomstig enige van subparagraawe (a) tot en met (f) vasgestel, benewens die belasting vasgestel ooreenkomstig enige ander van genoemde subparagraawe betaalbaar is.

3. Dat die skale uiteengesit in paragraawe 1 en 2 die skale is wat deur die Parlement ooreenkomstig die bepalinge van artikel 5(2) van die Inkomstebelastingwet, 1962, vasgestel moet word.

4. By die toepassing van—

- (a) paragraaf 1 beteken 'n "spesiale trust" 'n trust geskep alleenlik vir die voordeel van 'n persoon wat aan 'n—
- (i) geestesongesteldheid soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973); of
  - (ii) ernstige liggaamsgebrek, ly, waar sodanige ongesteldheid of gebrek daardie persoon buite staat stel om genoegsame inkomste vir daardie persoon se onderhoud te verdien; en
- (b) paragraaf 2 sluit inkomste uit die myn van goud verkry inkomste in wat verkry is van silwer, osmiridium, uraan, piriët of ander minerale wat in die loop van die myn van goud gewin word, en enige ander inkomste wat regstreeks uit die myn van goud voortvloei.

**Act No. 30, 1998**

TAXATION LAWS AMENDMENT ACT, 1998

5. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned.

5. In hierdie Bylae, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan daar in die Inkomstebelastingwet, 1962, 'n betekenis toegeskryf is, die betekenis aldus daaraan toegeskryf.

Act No. 30, 1998

TAXATION LAWS AMENDMENT ACT, 1998

## SCHEDULE 2

## AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964

(SECTION 75)

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.00		By the substitution for tariff item 104.00 of the following:		
"104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
.10		Preparations based on sorghum flour, put up for making beverages	33c/kg	33c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		
.10		Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/l	15,98c/l
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/l	15,98c/l
.30		Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/l	15,98c/l

## BYLAE 2

## WYSIGINGS AAN BYLAE NO. 1 BY DIE DOEANE- EN AKSYNSWET, 1964

## (ARTIKEL 75)

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
104.00		Deur tariefitem 104.00 deur die volgende te vervang:		
"104.00		BEREIDE VOEDSELS; DRANKE, SPIRITUS EN ASYN; TABAK		
104.01	19.01	MOUTEKSTRAK; VOEDSELBEREIDINGE VAN MEELBLOM, MEEL, STYSEL OF MOUTEKSTRAK, WAT NIE KAKAOPOEIER BEVAT NIE OF WAT KAKAOPOEIER MET 'N VERHOUDING, VOLGENS MASSA, VAN MINDER AS 50 PERSENT BEVAT, NIE ELDERS VERMELD OF INGESLUIT NIE; VOEDSELBEREIDINGE VAN GOEDERE VAN POSTE NOS. 04.01 TOT 04.04, WAT NIE KAKAOPOEIER BEVAT NIE OF WAT KAKAOPOEIER MET 'N VERHOUDING, VOLGENS MASSA, VAN MINDER AS 10 PERSENT BEVAT, NIE ELDERS VERMELD OF INGESLUIT NIE:		
.10		Preparate op sorghummeelblom gebaseer, vir die maak van drankie bemark	33c/kg	33c/kg
104.05	22.01	WATER, MET INBEGRIP VAN NATUURLIKE OF KUNSMATIGE MINERAALWATER EN SPUITWATER, WAT NIE BYGEVOEGDE SUIKER OF ANDER VERSOETINGSMIDDELS OF GEURMIDDELS BEVAT NIE; YS EN SNEEU		
	22.02	WATER, MET INBEGRIP VAN MINERAALWATER EN SPUITWATER, WAT BYGEVOEGDE SUIKER OF ANDER VERSOETINGSMIDDELS OF GEURMIDDELS BEVAT, EN ANDER NIE-ALKOHOLIESE DRANKE (UITGESONDERD VRUGTE- OF GROENTESAPPE WAT IN POS NO. 20.09 VERMELD WORD):		
.10		Mineraalwater, met inbegrip van mineraalbad- en spuitwater, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/l	15,98c/l
.20		Limonade en gegeurde mineraalwater, met inbegrip van gegeurde mineraalbad- en spuitwater, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/l	15,98c/l
.30		Nie-alkoholiese drankie nie elders in hierdie tariefitem vermeld of ingesluit nie, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/l	15,98c/l

## Act No. 30, 1998

## TAXATION LAWS AMENDMENT ACT, 1998

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.10	22.03	BEER MADE FROM MALT WITH AN ALCOHOL CONTENT BY VOLUME:		
.10		Exceeding 0,5% but not exceeding 1,5%	7 597c/ 100l	7 597c/ 100l
.20		Exceeding 1,5% but not exceeding 2,5%	8 282c/ 100l	8 282c/ 100l
.30		Exceeding 2,5% but not exceeding 3,5%	8 968c/ 100l	8 968c/ 100l
.40		Exceeding 3,5% but not exceeding 4,5%	9 653c/ 100l	9 653c/ 100l
.50		Exceeding 4,5% but not exceeding 5,5%	10 339c/ 100l	10 339c/ 100l
.60		Exceeding 5,5% but not exceeding 6,5%	11 024c/ 100l	11 024c/ 100l
.70		Exceeding 6,5% but not exceeding 7,5%	11 709c/ 100l	11 709c/ 100l
.80		Exceeding 7,5%	12 395c/ 100l	12 395c/ 100l
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST, OTHER THAN THAT OF HEADING NO. 20.09		
	22.05	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		
.05		Sorghum beer (excluding beer made from preparations based on sorghum flour)	745c/100l	745c/100l
.10		Unfortified still wine	6 100c/ 100l	6 100c/ 100l
.40		Fortified still wine	13 800c/ 100l	13 800c/ 100l
.50		Other still fermented beverages, unfortified	10 000c/ 100l	10 000c/ 100l
.60		Other still fermented beverages, fortified	18 160c/ 100l	18 160c/ 100l
.70		Sparkling wine	16 900c/ 100l	16 900c/ 100l
.80		Other fermented beverages (excluding sorghum beer)	21 600c/ 100l	21 600c/ 100l
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARA-		



## WYSIGINGSWET OP BELASTINGWETTE, 1998

## Wet No. 30, 1998

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
104.10	22.03	BIER VAN MOUT GEMAAK MET 'N ALKOHOL-INHOUD VOLGENS VOLUME VAN:		
.10		Meer as 0,5% maar hoogstens 1,5%	7 597c/ 100l	7 597c/ 100l
.20		Meer as 1,5% maar hoogstens 2,5%	8 282c/ 100l	8 282c/ 100l
.30		Meer as 2,5% maar hoogstens 3,5%	8 968c/ 100l	8 968c/ 100l
.40		Meer as 3,5% maar hoogstens 4,5%	9 653c/ 100l	9 653c/ 100l
.50		Meer as 4,5% maar hoogstens 5,5%	10 339c/ 100l	10 339c/ 100l
.60		Meer as 5,5% maar hoogstens 6,5%	11 024c/ 100l	11 024c/ 100l
.70		Meer as 6,5% maar hoogstens 7,5%	11 709c/ 100l	11 709c/ 100l
.80		Meer as 7,5%	12 395c/ 100l	12 395c/ 100l
104.15	22.04	WYN VAN VARS DRUIWE, MET INBEGRIIP VAN GEFORTIFISEERDE WYN; DRUIWEMOS, BEHALWE DIÉ WAT IN POS NO. 20.09 VERMELD WORD		
	22.05	VERMOET EN ANDER WYN VAN VARS DRUIWE MET PLANTE OF ANDER AROMATIESE STOWWE GEGEUR		
	22.06	ANDER GEGISTE DRANKE (BYVOORBEELD, APPELSIDER, PEERSIDER EN MEE):		
.05		Sorghumbier (uitgesonderd bier wat van preparate wat op sorghummeelblom gebaseer is, gemaak is)	745c/100l	745c/100l
.10		Ongefortifiseerde nie-vonkelende wyn	6 100c/ 100l	6 100c/ 100l
.40		Gefortifiseerde nie-vonkelende wyn	13 800c/ 100l	13 800c/ 100l
.50		Ander nie-vonkelende gegiste drank, ongefortifiseerd	10 000c/ 100l	10 000c/ 100l
.60		Ander nie-vonkelende gegiste drank, gefortifiseerd	18 160c/ 100l	18 160c/ 100l
.70		Vonkelwyn	16 900c/ 100l	16 900c/ 100l
.80		Ander gegiste drank (uitgesonderd sorghumbier)	21 600c/ 100l	21 600c/ 100l
104.20	22.07	ONGEDENATUREERDE ETIELALKOHOL MET 'N STERKTE VAN MINSTENS 80 PERSENT ALKOHOL VOLGENS VOLUME; ETIELALKOHOL EN ANDER SPIRITUS, GEDENATUREER, VAN ENIGE STERKTE		
	22.08	ONGEDENATUREERDE ETIELALKOHOL MET 'N STERKTE VAN MINDER AS 80 PERSENT ALKOHOL VOLGENS VOLUME; SPIRITUS, LIKEURE EN ANDER SPIRITUSDRANKE; SAAMGESTELDE ALKOHOLIESE PREPARATE		

## Act No. 30, 1998

## TAXATION LAWS AMENDMENT ACT, 1998

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
		TIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	270 000c/ 100l of absolute alcohol	—
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	270 000c/ 100l of absolute alcohol	—
.25		Spirits, manufactured in the Republic by the distillation of any grain product	270 000c/ 100l of absolute alcohol	—
.29		Other spirits, manufactured in the Republic	270 000c/ 100l of absolute alcohol	—
.60		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	—	260 387c/ 100l of absolute alcohol or 111 966c/ 100l
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	—	260 387c/ 100l of absolute alcohol
104.30	24.02	CIGARS, CHERROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR TOBACCO SUBSTITUTES		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigars	868.0c/kg net	911.0c/kg net
.20		Cigarettes	102c/10 cigarettes	102c/10 cigarettes
		Plus, in respect of cigarettes the mass of the tobacco content of which exceeds 1,5 kg/1 000 cigarettes	3 798c/kg tobacco content	3 798c/kg tobacco content
.30		Cigarette tobacco	128c/50g or fraction thereof plus 493c/ kg tobacco	128c/50g or fraction thereof plus 493c/ kg tobacco
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	169c/kg tobacco	169c/kg tobacco
.40		Pipe tobacco in immediate packings of a content of less than 5 kg	938c/kg net	938c/kg net
.50		Pipe tobacco in immediate packings of a content of not less than 5 kg	902c/kg net	902c/kg net"

## WYSIGINGSWET OP BELASTINGWETTE, 1998

Wet No. 30, 1998

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
.10		VAN 'N SOORT WAT GEBRUIK WORD BY DIE VERVAARDIGING VAN DRANKE: Wynspiritus, in die Republiek vervaardig deur die distillering van wyn	270 000c/ 100/ absolute alkohol	—
.15		Spiritus, in die Republiek vervaardig deur die distillering van enige suikerrietprodukt	270 000c/ 100/ absolute alkohol	—
.25		Spiritus, in die Republiek vervaardig deur die distillering van enige graanprodukt	270 000c/ 100/ absolute alkohol	—
.29		Ander spiritus, in die Republiek vervaardig	270 000c/ 100/ absolute alkohol	—
.60		Ingevoerde spiritus van enige aard, met inbegrip van spiritus in ingevoerde spiritusdranke (uitgesonderd likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat) en in saamgestelde alkoholiese preparate met 'n alkoholsterkte van meer as 1,713 persent alkohol volgens volume	—	260 387c/ 100/ absolute alkohol of 111 966c/ 100/
.70		Spiritus van enige aard in ingevoerde likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat, met of sonder geurende bestanddele	—	260 387c/ 100/ absolute alkohol
104.30	24.02	SIGARE, SEROETE, SIGARILLOS EN SIGARETTE, VAN TABAK OF TABAKSURROGATE		
	24.03	ANDER BEWERKTE TABAK EN BEWERKTE TABAKSURROGATE, "GEHOMOGENISEERDE" OF "HERSAAMGESTELDE" TABAKEKSTRAKTE EN ESSENSE:		
.10		Sigare	868,0c/kg netto	911,0c/kg netto
.20		Sigarette	102c/10 sigarette	102c/10 sigarette
		Plus, ten opsigte van sigarette waarvan die massa van die tabakinhoud 1,5 kg/1 000 sigarette oorskry	3 798c/kg tabak- inhoud	3 798c/kg tabak- inhoud
.30		Sigarettabak	128c/50g of gedeelte daarvan plus 493c/ kg tabak	128c/50g of gedeelte daarvan plus 493c/ kg tabak
		Plus 'n opgeskorte reg van:		
		(i) In werking	Nul	Nul
		(ii) Maksimum skaal	169c/kg tabak	169c/kg tabak
.40		Pyptabak in onmiddellike verpakings met 'n inhoud van minder as 5 kg	938c/kg netto	938c/kg netto
.50		Pyptabak in onmiddellike verpakings met 'n inhoud van nie minder as 5 kg nie	902c/kg netto	902c/kg netto"

