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REPUBLIEK VAN SUID-AFRIKA

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THE PRESIDENCY

No. 709 27 July 2001

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

No. 19 of 2001: Revenue Laws Amendment Act, 2001.

DIE PRESIDENSIE

No. 709 27 Julie 2001

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

No. 19 van 2001: Wysigingswet op Inkomstewette, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 19, 2001

REVENUE LAWS AMENDMENT ACT, 2001

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.

(English text signed by the President.)
(Assented to 26 July 2001.)

ACT

To amend the Estate Duty Act, 1955, so as to further regulate the valuation of property for purposes of inclusion and deduction purposes; 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 2002 and 30 June 2002, and by companies in respect of taxable incomes for the years of assessment ending during the period of 12 months ending on 31 March 2002; to amend the definition of "gross income" so as to avoid a double inclusion of an amount therein; to regulate the tax treatment of pension funds where employees are transferred from a local authority to a municipal entity; to take capital gains into account in the formula used for determining the rate at which special remuneration or lump sum payments must be taxed; to increase the primary rebate for individuals; to further regulate the recoupment provisions in respect of any distribution of an asset to a shareholder; to amend the definition of "foreign dividend" to exclude certain amounts; to increase the amount of dividends and interest which are exempt from tax; to provide for the deduction of pre-production interest in respect of certain depreciable assets; to provide for a scrapping allowance in respect of certain depreciable assets; to provide for the deduction of an amount invested by a small business corporation in certain manufacturing assets; to provide for an allowance in respect of investments in certain aircraft hangars, aprons, runways and taxiways; to provide for an additional industrial investment allowance in respect of qualifying strategic industrial projects; to further regulate the deduction in respect of buildings used in a process of manufacturing; to regulate the treatment of certain income of non-resident trusts; to further regulate the taxation of long-term insurers; to further regulate the limitation on trading activities of a public benefit organisation; to further regulate electronic communication with the Commissioner; to provide for the payment of employees' tax by directors of private companies; to increase the provisional tax threshold; to further regulate the provisions relating to the taxation of capital gains; and to provide for certain consequential and textual amendments; to amend the Customs and Excise Act, 1964, so as to provide that requirements in respect of any report listing and describing cargo carried by or loaded on to any ship, aircraft, railway train or other vehicle and any outturn report to be submitted to the Controller may be prescribed by rule; to provide for the removal of goods in bond by a licensed remover; to provide for the removal of goods for export by a licensed remover; to reduce the period for which goods may be stored in a customs and excise warehouse from five years to two years; to make provision that the Commissioner may determine by rule the time when excisable

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

*(Engelse teks deur die President geteken.)
(Goedgekeur op 26 Julie 2001.)*

WET

Tot wysiging van die Boedelbelastingwet, 1955, ten einde die waardasie van eiendom vir doeleindes van die insluiting en aftrekking verder te reël; tot wysiging van die Inkomstebelastingwet, 1962, ten einde die koerse van normale belasting betaalbaar deur persone behalwe maatskappye ten opsigte van belasbare inkomstes vir die jare van aanslag wat op 28 Februarie 2002 en 30 Junie 2002 eindig, en deur maatskappye ten opsigte van belasbare inkomstes vir die jare van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2002 eindig, vas te stel; om die omskrywing van "bruto inkomste" te wysig om 'n dubbele insluiting van 'n bedrag daarin te verhoed; om die belastinghantering van pensioenfondse te reël waar werknemers oorgeplaas word van 'n plaaslike bestuur na 'n munisipale entiteit; om kapitaalwinste in berekening te bring in die formule wat gebruik word om die koers waarteen spesiale besoldiging of enkel-bedragbetalings belas moet word, te bepaal; om die primêre korting vir individue te verhoog; om die verhalingsbepalings ten opsigte van enige uitkering van 'n bate aan 'n aandeelhouer verder te reël; om die omskrywing van "buitelandse dividend" te wysig om sekere bedrae uit te sluit; om die bedrag van dividende en rente wat van belasting vrygestel is te verhoog; om voorsiening te maak vir die aftrekking van voorproduksierente ten opsigte van sekere afskryfbare bates; om vir 'n skrapingstoelae ten opsigte van sekere afskryfbare bates voorsiening te maak; om voorsiening te maak vir die aftrekking van 'n bedrag deur 'n kleinsakekorporasie in sekere vervaardigingsbates belê; om voorsiening te maak vir 'n toelae ten opsigte van beleggings in sekere vliegtuigloodse, laaiblaaie, aanloopbane en rybane; om voorsiening te maak vir 'n addisionele nywerheidsbeleggingstoelae ten opsigte van kwalifiserende strategiese nywerheidsprojekte; om die aftrekking ten opsigte van geboue in 'n vervaardigingsproses gebruik verder te reël; om die hantering van sekere inkomste van nie-inwoner trusts te reël; om die belasting van langtermynversekeraars verder te reël; om die beperking op handelsaktiwiteite van openbare weldaadsorganisasies verder te reël; om elektroniese kommunikasie met die Kommissaris verder te reël; om voorsiening te maak vir die betaling van werknemersbelasting deur direkteure van privaatmaatskappye; om die voorlopige belastingdrempel te verhoog; om die bepaling met betrekking tot kapitaalwinstbelasting verder te reël; en om vir sekere gevolglike en tekstuele wysigings voorsiening te maak; tot wysiging van die Doeane- en Aksynswet, 1964, ten einde voorsiening te maak dat vereistes ten opsigte van enige rapport wat vrag, wat gedra word deur of gelaai word op enige skip, vliegtuig, spoorwegtrein of ander voertuig, lys en beskryf en enige opleweringrapport wat aan die Kontroleur voorgelê moet word, by reël voorgeskryf kan word; om voorsiening te maak vir die vervoer van goedere vir uitvoer deur 'n gelisensieerde vervoerder; om die tydperk waarvoor goedere geberg kan word in 'n doeane- en aksynspakhuis van vyf jaar na twee jaar te verminder; om voorsiening te maak dat die Kommissaris die tyd wanneer sinsbare

goods or fuel levy goods manufactured in the Republic shall be entered or deemed to be entered for home consumption and the payment of duty on such goods, restrict the licensing of customs and excise storage warehouses, cancel the licence of any existing storage warehouse and allow any imported goods to be mixed with locally produced excisable or fuel levy goods of the same class or kind in a customs and excise warehouse on payment of any difference of duty; to provide that goods so used shall be subject to the duties leviable and the manufacturing, accounting and removal procedures prescribed in terms of excisable or fuel levy goods manufactured in such warehouse; to provide further for provisions that regulate the removal of goods from a customs and excise warehouse; to provide that export bills of entry must be delivered before the goods are exported or at such times and in the circumstances provided by rule; to provide that imported goods may be delivered by the master, pilot or other carrier, container operator or depot operator to certain persons licensed or registered on compliance with such conditions or procedures as may be prescribed by rule and when liability for duty shall cease in respect of such goods; to insert a new section which provides for procedures relating to the registration of persons participating in activities regulated by the Act and the refusal of any application for registration and the suspension or cancellation of a registration and matters incidental thereto; to further regulate provisions relating to licensing; to provide for the activities for which a licence is required, the persons who are required to licence, the procedures and other requirements to be prescribed in the Notes, to the item in Schedule No. 8 in which such licence is specified and in the rules, and to specify the circumstances in which the Commissioner may refuse an application for a new licence or renewal of a licence or cancel or suspend a licence; to further provide for requirements in respect of the licensing of clearing agents; to provide for the licensing of a remover of goods in bond, the goods which are to be removed by such licensed remover, the application for such licence, the liability of the remover of goods in bond and other persons in respect of any goods removed or carried by the remover and matters incidental thereto; to confer accredited client status on any applicant who is licensed or registered under the Act; to prescribe the requirements in respect of such status and matters incidental thereto; to introduce an invoice price basis of valuation for excise duty purposes in respect of goods manufactured in the Republic and specified in certain items of Section B of Part 2 of Schedule No. 1; to provide for a refund of fuel levy on distillate fuel and the levy leviable on diesel in terms of the Road Accident Fund Act, 1996, and to provide for matters connected therewith; to further regulate certain provisions in respect of which deductions are allowed from the dutiable quantities and to limit such deductions to quantities not exceeding these specified in each case; to regulate electronic communication for the purposes of customs and excise procedures and to provide for matters connected therewith; to amend Schedule No. 1 to the said Act and the effective date thereof; and to provide for the continuation of amendments to the Schedules; to amend the Stamp Duties Act, 1968, so as to remove stamp duties on bills of exchange and promissory notes, bills of entry, securities and suretyships; to further regulate the stamp duties on debit entries; and to provide for certain consequential and textual amendments; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions and to simplify and revise the provisions relating to the supply of accommodation; to enable the Commissioner to publish the name and registration numbers of vendors; to regulate the VAT consequences on the transfer of all assets and liabilities of a disestablished local authority to a new local authority so as to ensure that it will not constitute a supply subject to VAT when the consolidation of their accounting systems takes place; to regulate the exemption in respect of dwellings in the case of employers and local authorities who supply staff accommodation, to make it clear that any officer under the Commissioner's control, direction or supervision may be authorised to collect VAT on importation of goods; to make provision for a flat rate scheme in certain circumstances for small

brandstofheffingsgoedere in die Republiek vervaardig geklaar moet word of geag geklaar te wees vir binnelandse verbruik en die betaling van reg op sodanige goedere by reël kan bepaal, die lisensiëring van doeane- en aksynsopslagpakhuisse te beperk, die lisensie van enige bestaande opslagpakhuis kan intrek en toelaat dat enige ingevoerde goedere vermeng kan word met plaaslik-vervaardigde synsbare of brandstofheffingsgoedere van dieselfde klas of soort in 'n doeane- en aksynspakhuis by betaling van die verskil aan reg, om voorsiening te maak dat goedere aldus gebruik onderhewig is aan die regte hefbaar en die vervaardigings-, verrekenings- en verwyderingsprosedures voorgeskryf ooreenkomstig synsbare of brandstofheffingsgoedere wat in sodanige pakhuis vervaardig is; om verder voorsiening te maak vir bepalings wat die verwydering van goedere uit 'n doeane- en aksynspakhuis reël; om voorsiening te maak dat uitvoerklaringsbriewe voorgelê moet word voordat die goedere uitgevoer word of op sodanige tye en in die omstandighede by reël voorgeskryf; om voorsiening te maak dat ingevoerde goedere deur die gesagvoerder, loods of ander karweier, houerbediener of depotbediener aan sekere gelisensieerde of geregistreerde persone afgelewer kan word by voldoening aan sodanige voorwaardes en prosedures wat by reël voorgeskryf word en wanneer aanspreeklikheid vir reg ten opsigte van sodanige goedere eindig; om 'n nuwe artikel in te voeg wat voorsiening maak vir prosedures met betrekking tot die registrasie van persone wat deelneem aan aktiwiteite deur die Wet gereël en die weiering van enige aansoek om registrasie en aangeleenthede wat daarmee in verband staan; om verder bepalings met betrekking tot lisensiëring te reël; om voorsiening te maak vir die aktiwiteite waarvoor 'n lisensie vereis word, die persone wat moet lisensieer, dat die prosedures en ander vereistes in die Opmerkings by die item in Bylae No. 8 waarin die lisensie vermeld word en in die reëls voorgeskryf word, en om die omstandighede te vermeld waarin die Kommissaris 'n aansoek om 'n nuwe lisensie of hernuwing van 'n lisensie kan weier of 'n lisensie kan intrek of opskort; om verder voorsiening te maak ten opsigte van die lisensiëring van klaringsagente; om voorsiening te maak vir die lisensiëring van 'n vervoerder van goedere onder waarborg, die goedere wat deur sodanige gelisensieerde vervoerder vervoer moet word, die aansoek om sodanige lisensie, die aanspreeklikheid van die vervoerder van goedere onder waarborg en ander persone ten opsigte van goedere vervoer of gekarwei deur die vervoerder en aangeleenthede wat daarmee in verband staan; om geakkrediteerde kliëntstatus aan enige aansoeker wat kragtens die Wet gelisensieer of geregistreer is toe te ken; om die vereistes ten opsigte van sodanige status voor te skryf en aangeleenthede wat daarmee in verband staan; om faktuurprysgrondslag van waardasie vir aksynsregdoeleindes ten opsigte van goedere in die Republiek vervaardig en vir sekere items van Afdeling B van Deel 2 van Bylae No. 1 vermeld, in te stel; om voorsiening te maak vir 'n terugbetaling van brandstofheffing op distillaatbrandstof en die heffing hefbaar op diesel ingevolge die Padongelukfondswet, 1996, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan; om verder sekere bepalings ten opsigte waarvan aftrekkings toegelaat word van die belasbare hoeveelhede te reël en om sodanige aftrekkings te beperk tot hoeveelhede wat nie daardie in elke geval vermeld, oorskry nie; om elektroniese kommunikasie vir doeleindes van doeane- en aksynsprosedures te reël en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan; om Bylae No. 1 van die bedoelde Wet te wysig en die effektiewe datum daarvan; en om voorsiening te maak vir die voortdoring van wysigings aan die Bylaes; tot wysiging van die Wet op Seëlregte, 1968, ten einde seëlreg op wissels en promesses, klaringsbriewe, waarborge en borgtogte te skrap; om die seëlreg op debetposte verder te reël; en om vir sekere gevolglike en tekstuele wysigings voorsiening te maak; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings verder te omskryf en om die bepalings met betrekking tot die verskaffing van huisvesting te vereenvoudig en te hersien; om die Kommissaris in staat te stel om die name en registrasienommers van ondernemers te publiseer; om die BTW gevolge te reguleer by die oordra van alle bates en laste van 'n afgeskafte plaaslike bestuur na u nuwe plaaslike bestuur om te verseker dat dit nie 'n lewering daarstel wat aan BTW onderworpe is wanneer hulle boekhoustelsels gekonsolideer word nie; om vir die vrystelling ten opsigte van wonings in die geval van werkgewers en plaaslike besture wat personeelakkommodasie verskaf voorsiening te maak; om dit duidelik te stel dat enige beampote onder die beheer, leiding of toesig van die Kommissaris gemagtig

scale farmers; to prevent claims for refunds of certain amounts of VAT after five years; to make it an offence not to issue a tax invoice to a recipient as required by the Act; and to make allowance for the addition of small quantities of minerals, vitamins and similar additives to increase the nutritional value of maize meal and milk; to amend the Road Accident Funds Act, 1996, so as to provide for a refund by the Road Accident Fund of certain levies leviable in terms of that Act; to amend the Uncertificated Securities Tax Act, 1998, so as to provide for an exemption in respect of a change in beneficial ownership in securities which are interest bearing debentures listed by a financial exchange; to amend the Skills Development Levies Act, 1999, so as to regulate the period during which certain information must be submitted by the Commissioner to the Director General of Labour; and to further regulate the court's jurisdiction in respect of offences; to amend the Taxation Laws Amendment Act, 2000, so as to remove the requirement that the Commissioner must approve a benefit fund; to amend the Taxation Laws Amendment Act, 2001, so as to delete an amendment proposed in that Act; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 5 of Act 45 of 1955, as amended by section 3 of Act 59 of 1957, section 4 of Act 65 of 1960, section 10 of Act 71 of 1961, section 10 of Act 77 of 1964, section 4 of Act 81 of 1965, section 2 of Act 56 of 1966, section 7 of Act 114 of 1977, section 7 of Act 81 of 1985, section 12 of Act 87 of 1988, section 2 of Act 136 of 1991, section 9 of Act 97 of 1993 and section 8 of Act 53 of 1999

1. Section 5 of the Estate Duty Act, 1955, is hereby amended—

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

“The value of any property **[included in the estate of any person]** for the purposes of the inclusion thereof in the estate of any person in terms of section 3 or the deduction thereof in terms of section 4, determined as at the date of death of that person, shall be—”;
- (b) by the substitution in paragraph (f) of subsection (1) for the words preceding subparagraph (i) of the following words:

“in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property **[determined, subject to the provisions of section eight, by some impartial person appointed by the Commissioner]** exceeds the value of such interest, determined—”;
- (c) by the substitution in paragraph (f)*bis* of subsection (1) for the words preceding subparagraph (i) of the following words:

“in the case of shares in any company not quoted on any stock exchange, the value of such shares in the hands of the deceased at the date of his death **[as determined, subject to the provisions of section eight, by some impartial person appointed by the Commissioner]**, subject to the following provisions, namely—”;
- (d) by the substitution in paragraph (g) of subsection (1) for the words preceding the proviso of the following words:

“in the case of any other property, the fair market value of such property as at the date of death of the deceased person **[as determined, subject to the provisions of section eight, by sworn appraisal by some impartial person appointed by the Commissioner]**”; and
- (e) by the substitution in subsection (2) for the words preceding the second proviso of the following words and proviso:

mag word om BTW op invoere te vorder; om voorsiening te maak vir 'n vaste-koersskenema in sekere omstandighede vir kleinskaal boere; om eise vir terugbetalings van sekere bedrae van BTW na vyf jaar te verbied; om dit 'n misdryf te maak waar 'n belastingfaktuur nie aan 'n ontvanger uitgereik word nie soos deur die Wet vereis; en om voorsiening te maak vir die byvoeging van klein hoeveelhede minerale, vitamienes en soortgelyke bymiddels om die voedingswaarde van meliemeel en melk te verhoog; tot wysiging van die Padongelukfondswet, 1996, ten einde vir 'n terugbetaling deur die Padongelukfonds van sekere heffings hefbaar ingevolge daardie Wet voorsiening te maak; tot wysiging van die Belasting op Sertifikaatlose Aandele, 1998, ten einde vir 'n vrystelling ten opsigte van 'n verandering in voordelige eienaarskap in aandele wat rentedraende skuldbriewe is wat op 'n finansiële beurs genoteer is, voorsiening te maak; tot wysiging van die uMthetho weZibizontela wokuThuthukisa aMakhono, 1999, ten einde die tydperk waarbinne sekere inligting deur die Kommissaris aan die Direkteur-generaal van Arbeid voorsien moet word verder te reël; en om die hof se bevoegdheid ten opsigte van misdrywe verder te reël; tot wysiging van die Wysigingswet op Belastingwette, 2000, ten einde die vereiste dat die Kommissaris 'n bystandsfonds moet goedkeur te skrap; tot wysiging van die Wysigingswet op Belastingwette, 2001, ten einde 'n wysiging in daardie Wet voorgestel te skrap; en om vir aangeleenthede wat daarmee in verband staan voorsiening te maak.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 5 van Wet 45 van 1955, soos gewysig deur artikel 3 van Wet 59 van 1957, artikel 4 van Wet 65 van 1960, artikel 10 van Wet 71 van 1961, artikel 10 van Wet 77 van 1964, artikel 4 van Wet 81 van 1965, artikel 2 van Wet 56 van 1966, artikel 7 van Wet 114 van 1977, artikel 7 van Wet 81 van 1985, artikel 12 van Wet 87 van 1988, artikel 2 van Wet 136 van 1991, artikel 9 van Wet 97 van 1993 en artikel 8 van Wet 53 van 1999

1. Artikel 5 van die Boedelbelastingwet, 1955, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat subparagraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die waarde van enige eiendom [**wat in die boedel van 'n persoon ingesluit is**] vir doeleindes van die insluiting daarvan in die boedel van enige persoon ingevolge artikel 3 of die aftrekking daarvan ingevolge artikel 4, bepaal soos op die datum van dood van daardie persoon, is—”;
- (b) deur in paragraaf (f) van subartikel (1) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“in die geval van 'n eiendomsreg op enige roerende of onroerende goed wat onderworpe is aan 'n vruggebruik of ander dergelyke reg ten gunste van 'n persoon, die bedrag waarmee die billike markwaarde van die volle eiendomsreg van bedoelde goed [**bepaal, behoudens die bepalinge van artikel 8, deur een of ander deur die Kommissaris aangestelde onpartydige persoon**] die waarde van bedoelde reg te bowe gaan watter waarde bepaal word—”;
- (c) deur in paragraaf (f)bis van subartikel (1) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“in die geval van aandele in 'n maatskappy wat nie op enige aandeelbeurs gekwoteer word nie, die waarde van sodanige aandele in die besit van die oorledene op die datum van sy dood [**soos bepaal, behoudens die bepalinge van artikel 8, deur een of ander deur die Kommissaris aangestelde onpartydige persoon**], onderworpe aan die volgende bepalinge, te wete—”;
- (d) deur in subparagraaf (g) van subartikel (1) die woorde wat die voorbehoudbepaling voorafgaan deur die volgende woorde te vervang:

“in die geval van enige ander eiendom, die billike markwaarde van bedoelde eiendom op die datum van die dood van die oorledene [**soos bepaal, behoudens die bepalinge van artikel 8, deur beëdigde waardering deur 'n deur die Kommissaris aangestelde onpartydige persoon**];”;
- (e) deur in subartikel (2) die woorde wat die tweede voorbehoudbepaling voorafgaan deur die volgende woorde en voorbehoudbepaling te vervang:

“For the purposes of paragraphs (b) and (f) of subsection (1) and for purposes of determining the value of any deduction contemplated in section 4, the annual value of the right of enjoyment of a property means an amount equal to twelve per cent upon the fair market value **[determined, subject to the provisions of section eight, by sworn appraisal by some impartial person appointed by the Commissioner]** of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that where the Commissioner is satisfied that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to 12 per cent on such value of the property, the Commissioner may fix such sum **[(whether or not such sum is fixed for the purposes of the inclusion of such right as property in the estate of the deceased in terms of section 3 or the allowance thereof as a deduction in terms of section 4)]** as representing the annual yield as may **[seem to him to]** be reasonable, and the sum so fixed shall for the purposes of paragraphs (b) and (f) of subsection (1) be deemed to be the annual value of the right of enjoyment of such property:”.

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

2. 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 2002 or 30 June 2002; and
 - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2002,
- shall be as set out 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 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, 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, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000 and section 5 of Act 5 of 2001

3. Section 1 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in paragraph (e) of the definition of “gross income” for the words preceding subparagraph (i) of the following words:

“any amount determined in accordance with the provisions of the Second Schedule (other than any amount included under paragraph (eA)), in respect of lump sum benefits received by or accrued to such person from or in consequence of his membership or past membership of—”;
- (b) by the substitution for paragraph (a) of the definition of “pension fund” of the following paragraph:
 - “(a) (i) any superannuation, pension, provident or dependants’ fund or pension scheme established by law **[or any such fund established for the benefit of employees of any local authority]; or**

“By die toepassing van paragrawe (b) en (f) van subartikel (1) en vir doeleindes van die vasstelling van die waarde van enige aftrekkings in artikel 4 bedoel, beteken die jaarlikse waarde van die reg op die genot van goed, ’n bedrag gelyk aan twaalf persent van die billike markwaarde [bepaal, behoudens die bepalings van artikel agt, deur beëdigde waardering deur ’n deur die Kommissaris aangestelde onpartydige persoon] van die volle eiendomsreg op die goed wat aan ’n fidusiêre reg, vruggebruik of ander dergelike reg onderworpe is: Met dien verstande dat waar die Kommissaris oortuig is dat van die goed wat aan so ’n reg onderworpe is, nie redelikerwys verwag kan word om ’n jaarlikse opbrengs gelyk aan 12 persent van bedoelde waarde van die goed op te lewer nie, die Kommissaris so ’n som kan vasstel [(ongegag of bedoelde som vasgestel word al dan nie vir die doeleindes van die insluiting van bedoelde reg as eiendom in die boedel van die oorledene kragtens artikel 3 of die toestaan daarvan as ’n korting kragtens artikel 4)] as wat [na sy oordeel] billikerwys die jaarlikse opbrengs voorstel, en die aldus vasgestelde som by die toepassing van paragrawe (b) en (f) van subartikel (1) geag word die jaarlikse waarde van die reg op die genot van bedoelde goed te wees.”.

Vasstelling van skale van normale belasting ingevolge Wet 58 van 1962

2. Die skale van normale belasting wat ingevolge artikel 5(2) van die Inkomstebelastingwet, 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 2002 of 30 Junie 2002; 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 2002,

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, Staatskoerant Nr. 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 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, artikel 2 van Wet 28 van 1997, artikel 19 van Wet 30 van 1998, artikel 10 van Wet 53 van 1999, artikel 13 van Wet 30 van 2000, artikel 2 van Wet 59 van 2000 en artikel 5 van Wet 5 van 2001

3. Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in paragraaf (e) van die woordskrywing van “bruto inkomste” die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“’n bedrag vasgestel ooreenkomstig die bepalings van die Tweede Bylae (behalwe ’n bedrag ingevolge paragraaf (eA) ingesluit) ten opsigte van enkelbedragvoordele ontvang deur of toegeval aan so ’n persoon uit of as gevolg van sy lidmaatskap of gewese lidmaatskap van—”;

- (b) deur paragraaf (a) van die woordskrywing van “pensioenfondse” deur die volgende paragraaf te vervang:

“(a) (i) ’n ouderdomsvoorsorgs-, pensioen- of voorsorgsfonds of fonds vir afhanklikes of pensioenskema by wet ingestel [of so ’n fonds ten voordele van werknemers van ’n plaaslike bestuur ingestel]; of

- (ii) any superannuation, pension, provident or dependants' fund or pension scheme established for the benefit of the employees of any local authority; or
- (iii) any fund contemplated in subparagraph (ii) established on or before 14 November 2000, which includes as members employees of any municipal entity created in accordance with the provisions of the Municipal Systems Act, 2000 (Act No. 32 of 2000), over which one or more local authorities exercise ownership control as contemplated by that Act, if such employees were employees of a local authority immediately prior to becoming employees of such municipal entity.”

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, section 3 of Act 21 of 1995, section 20 of Act 30 of 1998, section 3 of Act 59 of 2000 and section 6 of Act 5 of 2001

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

“(4) Any decision of the Commissioner under the definitions of ‘benefit fund’, ‘pension fund’, ‘provident fund’, ‘retirement annuity fund’ and ‘spouse’ in section 1, section 6, section 8(4)(b), (c), (d) and (e), section 9D, section 9F, section 10(1)(cH), (cK), (e), (iA), (j) and (nB), section 11(e), (f), (g), (gA), (j), (l), (t), (u) and (w), section 12C, section 12E, section 12G, section 13, section 14, section 15, section 22(1), (3) and (5), section 24(2), section 24A(6), section 24C, section 24D, section 24I, section 25D, 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, paragraphs 2, 3, 6, 9 and 11 of the Seventh Schedule and paragraphs 29(7), 31(2), 65(1)(d) and 66(1)(c) of the Eighth Schedule, shall be subject to objection and appeal.”

Amendment of section 5 of Act 58 of 1962, as amended by section 2 of Act 6 of 1963, section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 3 of Act 65 of 1986, section 3 of Act 90 of 1988, section 3 of Act 129 of 1991, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995 and section 7 of Act 5 of 2001

5. (1) Section 5 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (g) of subsection (10) of the following paragraph:

“(g) ‘R’ represents the greater of the amounts determined by applying the formula—

$$R = \frac{F}{B + D - (C + L + G)}$$

in respect of the said year and the preceding year of assessment, in which formula—

- (i) the amounts represented by the symbols [‘A’] ‘B’, ‘C’, ‘D’ and ‘L’ shall be determined in accordance with the foregoing provisions of this subsection as applicable in the said year or in the said preceding year, as the case may be;
- (ii) ‘F’ represents the amount of normal tax (as determined before the deduction of any rebate) calculated at the full rate of tax chargeable for the said year or the said preceding year in respect of a taxable income equal to the amount represented by the expression ‘B + D - (C + L + G)’ in the formula for that year or preceding year, as the case may be; and

- (ii) 'n ouderdomsvoorsorgs-, pensioen- of voorsorgsfonds of fonds vir afhanklikes of pensioenskema ten voordele van werknemers van 'n plaaslike bestuur ingestel; of
- (iii) 'n fonds in subparagraaf (ii) beoog wat voor of op 14 November 2000, ingestel is, wat as lede insluit werknemers van enige munisipale entiteit ingevolge die bepalings van die Wet op Munisipale Stelsels, 2000 (Wet No. 32 van 2000), gestig, waaroor een of meer plaaslike bestuurs-eienaarskapsbeheer uitoefen, soos in daardie Wet bedoel, indien daardie werknemers onmiddellik voordat hulle werknemers van daardie munisipale entiteit geword het, werknemers van 'n plaaslike bestuur was;”.

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, artikel 3 van Wet 21 van 1995, artikel 20 van Wet 30 van 1998, artikel 3 van Wet 59 van 2000 en artikel 6 van Wet 5 van 2001

4. 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 ‘bystandsfonds’, ‘gade’, ‘pensioenfonds’, ‘uittredingannuïteitsfonds’ en ‘voorsorgsfonds’ in artikel 1, artikel 6, artikel 8(4)(b), (c), (d) en (e), artikel 9D, artikel 9F, artikel 10(1) (cH), (cK), (e), (iA), (j) en (nB), artikel 11(e), (f), (g), (gA), (j), (l), (t), (u) en (w), artikel 12C, artikel 12E, artikel 12G, artikel 13, artikel 14, artikel 15, artikel 22(1), (3) en (5), artikel 24(2), artikel 24A(6), artikel 24C, artikel 24D, artikel 24I, artikel 25D, artikel 27, artikel 31, artikel 35(2), artikel 38(4), artikel 57, paragrafe 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, paragrafe 18, 19(1), 20, 21, 24 en 27 van die Vierde Bylae en paragrafe 2, 3, 6, 9 en 11 van die Sewende Bylae en paragrafe 29(7), 31(2), 65(1)(d) en 66(1)(c) van die Agtste Bylae, is aan beswaar en appèl onderhewig.”.

Wysiging van artikel 5 van Wet 58 van 1962, soos gewysig deur artikel 2 van Wet 6 van 1963, artikel 5 van Wet 90 van 1964, artikel 6 van Wet 88 van 1965, artikel 7 van Wet 55 van 1966, artikel 6 van Wet 95 van 1967, artikel 6 van Wet 76 van 1968, artikel 7 van Wet 89 van 1969, artikel 7 van Wet 52 van 1970, artikel 5 van Wet 88 van 1971, artikel 5 van Wet 90 van 1972, artikel 5 van Wet 65 van 1973, artikel 5 van Wet 103 van 1976, artikel 5 van Wet 113 van 1977, artikel 3 van Wet 104 van 1980, artikel 4 van Wet 96 van 1981, artikel 4 van Wet 91 van 1982, artikel 3 van Wet 94 van 1983, artikel 3 van Wet 121 van 1984, artikel 3 van Wet 65 van 1986, artikel 3 van Wet 90 van 1988, artikel 3 van Wet 129 van 1991, artikel 5 van Wet 21 van 1994, artikel 4 van Wet 21 van 1995 en artikel 7 van Wet 5 van 2001

5. (1) Artikel 5 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (g) van subartikel (10) deur die volgende paragraaf te vervang:

“(g) ‘R’ die grootste van die bedrae vasgestel deur die toepassing van die formule—

$$R = \frac{F}{B + D - (C + L + G)}$$

voorstel, ten opsigte van bedoelde jaar en die voorafgaande jaar van aanslag, in welke formule—

- (i) die bedrae deur die simbole [‘A’] ‘B’, ‘C’, ‘D’ en ‘L’ voorgestel, ooreenkomstig die voorafgaande bepalings van hierdie subartikel soos van toepassing in bedoelde jaar of in genoemde voorafgaande jaar, na gelang van die geval, vasgestel word;
- (ii) ‘F’ die bedrag aan normale belasting voorstel (soos vasgestel vóór die aftrekking van enige korting) bereken teen die volle skaal van belasting wat vir bedoelde jaar of bedoelde voorafgaande jaar heef kan word, ten opsigte van 'n belasbare inkomste gelyk aan die bedrag wat deur die uitdrukking ‘B + D - (C + L + G)’ in die formule voorgestel word vir bedoelde jaar of bedoelde voorafgaande jaar, na gelang van die geval; en

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- (iii) 'G' represents an amount of the taxable capital gain included in the taxable income in terms of section 26A for the said year or the said preceding year, as the case may be:

Provided that[—

- (a)] where, as a result of the death or insolvency of the taxpayer, the period assessed is less than 12 months, the symbol 'R' shall be determined with reference to the said year only [and
(b) where the said preceding year ended on 28 February 1995, the symbols 'D' and 'L' in the formula shall be disregarded].”

(2) Subsection (1) shall come into operation on 1 October 2001 and shall apply in respect of years of assessment ending on or after that date.

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, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998, section 5 of Act 32 of 1999 and section 15 of Act 30 of 2000

6. Section 6 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (2) for the expression “R3 800” of the expression “R4 140”; and
(b) by the substitution in paragraph (b) of subsection (2) for the expression “R2 900” of the expression “R3 000”.

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, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000 and section 6 of Act 59 of 2000

7. Section 8 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subparagraph (i) of paragraph (e) of subsection (4) of the following subparagraph:
“(i) under the provisions of section 11(e) or section 12(1) or section 12(1) as applied by section 12(3) or the corresponding provisions of any previous Income Tax Act or section 12B or section 12C or section 12E or section 12G or section 14 or section 14bis or section 27(2)(d), in respect of machinery or plant which was used by the taxpayer directly in a process of manufacture, or directly in any other process carried on by him on or after 15 March 1961, which in the opinion of the Commissioner was of a similar nature; or”;
(b) by the addition of the word “or” to subparagraph (iv) of paragraph (e) of subsection (4);
(c) by the addition to paragraph (e) of subsection (4) of the following subparagraph:
“(v) in respect of any aircraft hangar, apron, runway or taxiway as contemplated in section 12F.”;
(d) by the substitution for item (aa) of paragraph (e) of subsection (4) of the following item:
“(aa) that he has concluded or will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) from the date of the event conclude a contract for the acquisition by him of further new or unused machinery, plant, ship,

- (iii) 'G' 'n bedrag van die belasbare kapitaalwins voorstel wat ingevolge artikel 26A in die belasbare inkomste ingesluit is vir bedoelde jaar of bedoelde voorafgaande jaar, na gelang van die geval:

Met dien verstande dat[—

- (a)] waar, as gevolg van die dood of insolvensie van die belastingpligtige, die tydperk aangeslaan minder as 12 maande is, die simbool 'R' alleenlik met verwysing na genoemde jaar vasgestel word [en
(b) waar genoemde voorafgaande jaar op 28 Februarie 1995 geëindig het, geen ag op die simbole 'D' en 'L' in die formule geslaan word nie].”

(2) Subartikel (1) tree op 1 Oktober 2001 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.

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, artikel 3 van Wet 28 van 1997, artikel 22 van Wet 30 van 1998, artikel 5 van Wet 32 van 1999 en artikel 15 van Wet 30 van 2000

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

- (a) deur in paragraaf (a) van subartikel (2) die uitdrukking “R3 800” deur die uitdrukking “R4 140” te vervang; en
(b) deur in paragraaf (b) van subartikel (2) die uitdrukking “R2 900” deur die uitdrukking “R3 000” te vervang.

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, artikel 6 van Wet 28 van 1997, artikel 24 van Wet 30 van 1998, artikel 14 van Wet 53 van 1999, artikel 17 van Wet 30 van 2000 en artikel 6 van Wet 59 van 2000

7. Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subparagraaf (i) van paragraaf (e) van subartikel (4) deur die volgende subparagraaf te vervang:
“(i) ingevolge die bepalinge van artikel 11(e) of artikel 12(1) of artikel 12(1) soos deur artikel 12(3) toegepas of die ooreenstemmende bepalinge van 'n vorige Inkomstebelastingwet of artikel 12B of artikel 12C of artikel 12E of artikel 12G of artikel 14 of artikel 14bis of artikel 27(2)(d), ten opsigte van masjinerie of installasie wat deur die belastingpligtige gebruik is regstreeks by 'n vervaardigingsproses of regstreeks by enige ander proses deur hom op of na 15 Maart 1961 voortgesit wat volgens die Kommissaris se oordeel van dergelike aard was; of”;
(b) deur die woord “of” aan die einde van subparagraaf (iv) van paragraaf (e) van subartikel (4) by te voeg;
(c) deur die volgende subparagraaf by paragraaf (e) van subartikel (4) by te voeg:
“(v) ten opsigte van enige vliegtuigloods, laaiblad, aanloopbaan of rybaan soos in artikel 12F bedoel.”;
(d) deur item (aa) van paragraaf (e) van subartikel (4) deur die volgende item te vervang:
“(aa) dat hy binne 'n tydperk van een jaar (of so 'n langer tydperk as wat die Kommissaris onder die omstandighede van die geval mag toelaat) vanaf die datum van die gebeurtenis 'n kontrak gesluit het of sal sluit vir die verkryging deur hom van verdere nuwe of ongebruikte

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- aircraft, pipeline, transmission line or cable, **[or]** railway line, aircraft hangar, apron, runway or taxiway (hereinafter referred to as the 'further asset') to replace the aforesaid machinery, plant, ship, aircraft, pipeline, transmission line or cable, **[or]** railway line, aircraft hangar, apron, runway or taxiway; and"; 5
- (e) by the addition of the word "or" at the end of sub-item (D) of item (bb) of paragraph (e) of subsection (4);
- (f) by the addition to item (bb) of paragraph (e) of subsection (4) of the following sub-item: 10
- “(E) in the case of an aircraft hangar, apron, runway or taxiway in carrying on his sole business of airport operator as contemplated in section 12F,”; 10
- (g) by the substitution for paragraph (k) of subsection (4) of the following paragraph: 15
- “(k) For the purposes of paragraph (a), where during any year of assessment any person has—
- (i) donated; or
- (ii) **[distributed by way of a dividend]** transferred in whatever manner or form to any shareholder of that company, 20
- any asset in respect of which a deduction or an allowance has been granted to such person in terms of any of the provisions referred to in that paragraph, such person shall be deemed to have recovered or recouped an amount equal to the market value of such asset as at the date of such donation or **[distribution]** transfer.”; and
- (h) by the insertion after paragraph (m) of subsection (4) of the following paragraph: 25
- “(n) Where a taxpayer disposes of an industrial asset contemplated in section 12G before completion of the write off period of that asset for purposes of section 11(e), 12C or 13, as applicable, there shall be included in the taxpayer's income, all amounts allowed to be deducted in respect of that industrial asset under section 12G, whether in the current year or any previous year of assessment, which have been recovered or recouped during the current year of assessment, in addition to the inclusion of those amounts in terms of paragraph (a).” 30

Amendment of section 9E of Act 58 of 1962, as inserted by section 20 of Act 30 of 2000 and amended by section 11 of Act 59 of 2000 and section 10 of Act 5 of 2001 35

8. (1) Section 9E of the Income Tax Act, 1962, is hereby amended by the substitution in paragraph (a) of the definition of “foreign dividend” in subsection (1) for the words preceding the proviso of the following words:

“any amount deemed to have been distributed as contemplated in section 64C(3)(a), (b), (c) or (d) by any company which is a controlled foreign entity to such person or any resident who is a connected person in relation to such person to the extent that such company could have distributed a dividend to such person from profits which have not been subject to tax in the Republic, and none of the provisions contained in section 64C(4) (other than section 64C(4)(g) and (h)) apply.” 45

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

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 50

- masjinerie, installasie, skip, vliegtuig, pyplyn, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan (hieronder die 'verdere bate' genoem) ter vervanging van voormelde masjinerie, installasie, skip, vliegtuig, pyplyn, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan; en"; 5
- (e) deur die woord "of" aan die einde van sub-item (D) van item (bb) van paragraaf (e) van subartikel (4) by te voeg;
- (f) deur die volgende sub-item by item (bb) van paragraaf (e) van subartikel (4) by te voeg: 10
- “(E) in die geval van 'n vliegtuigloods, laaiblad, aanloopbaan of rybaan in sy enigste besigheid as lughawe-operateur soos in artikel 12F bedoel,”;
- (g) deur paragraaf (k) van subartikel (4) deur die volgende paragraaf te vervang: 15
- “(k) By die toepassing van paragraaf (a), waar gedurende 'n jaar van aanslag 'n persoon 'n bate ten opsigte waarvan 'n aftrekking of vermindering aan bedoelde persoon toegestaan is ingevolge enige van die bepalings in daardie paragraaf bedoel—
- (i) geskenk het; of
- (ii) [uitgekeer het by wyse van 'n dividend] op welke wyse of in welke vorm aan enige aandeelhouer van daardie maatskappy oorgedra het, 20
- word bedoelde persoon geag 'n bedrag gelyk aan die markwaarde van bedoelde bate soos op die datum van bedoelde skenking of [uitkering] oordrag, te verhaal of vergoed het.”; en
- (h) deur die volgende paragraaf na paragraaf (m) van subartikel (4) by te voeg: 25
- “(n) Waar 'n belastingpligtige oor 'n industriële bate in artikel 12G bedoel, voor die afskrywingsperiode van daardie bate vir doeleindes van artikel 11(e), 12C of 13, soos toepaslik beskik, word alle bedrae wat as aftrekking ten opsigte van daardie industriële bate ingevolge artikel 12G toegestaan is, hetsy in die huidige of enige voorafgaande jaar van aanslag, wat gedurende die huidige jaar van aanslag verhaal of vergoed is, by die belastingpligtige se inkomste ingesluit bykomend tot die insluiting van daardie bedrae ingevolge paragraaf (a).” 30

Wysiging van artikel 9E van Wet 58 van 1962, soos ingevoeg deur artikel 20 van Wet 30 van 2000 en gewysig deur artikel 11 van Wet 59 van 2000 en artikel 10 van Wet 5 van 2001 35

8. (1) Artikel 9E van die Inkomstebelastingwet, 1962, word hierby gewysig deur in paragraaf (a) van die woordskrywing van “buitelandse dividend” in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“'n bedrag geag deur 'n maatskappy wat 'n beheerde buitelandse entiteit is, 40

uitgekeer te gewees het soos in artikel 64C(3)(a), (b), (c) of (d) beoog aan bedoelde persoon of 'n inwoner wat 'n verbonde persoon met betrekking tot bedoelde persoon is in die mate wat bedoelde maatskappy 'n dividend aan bedoelde persoon kon uitgekeer het uit winste wat nie onderhewig is aan belasting in die Republiek nie, en geen van die bepalings in artikel 64C(4) (behalwe artikel 64C(4)(g) en (h)) 45

vervat van toepassing is nie.”.

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

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 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, 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, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 50

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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, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000 and section 13 of Act 59 of 2000

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9. Section 10 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (ii) of paragraph (gC) of subsection (1) of the following subparagraph:

“(ii) pension received by or accrued to any resident from a source outside the Republic, which is not deemed to be from a source in the Republic in terms of section 9(1)(g), in consideration of past employment outside the Republic;”;

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(b) by the substitution in item (aa) of subparagraph (xv) of paragraph (i) of subsection (1) for the expression “R4 000” of the expression “R5 000”; and

(c) by the substitution in item (bb) of subparagraph (xv) of paragraph (i) of subsection (1) for the expression “R3 000” of the expression “R4 000”.

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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, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000 and section 15 of Act 59 of 2000

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

(a) by the substitution for paragraph (bA) of the following paragraph:

“(bA) any interest (including related finance charges) which is not otherwise allowable as a deduction under this Act, which has been actually incurred by the taxpayer on any loan, advance or credit utilized by him for the acquisition, installation, erection or construction of any machinery, plant, [or] building, or any improvements to a building, or any pipeline, transmission line or cable or railway line as contemplated in section 12D, or any aircraft hangar, apron, runway or taxiway as contemplated in section 12F, to be used by him for the purposes of his trade, and which has been so incurred in respect of a period prior to such machinery, plant, building, [or] improvements, pipeline, transmission line or cable, railway line, aircraft hangar, apron, runway or taxiway, being brought into use for the purposes of the taxpayer’s trade, such deduction to be allowed in the year of assessment during which such machinery, plant, building, [or] improvements, pipeline, transmission line or cable, railway line, aircraft hangar, apron, runway or taxiway is or are brought into use for the said purposes;”;

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(b) by the substitution for subparagraph (vii) of paragraph (o) of the following subparagraph:

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“[(vii)] (vi) any transmission line or cable or railway line referred to in section 12D; or”;

(c) by the addition to paragraph (o) of the following subparagraph:

“(vii) any aircraft hangar or any apron, runway or taxiway referred to in section 12F;”;

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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, artikel 10 van Wet 28 van 1997, artikel 29 van Wet 30 van 1998, artikel 18 van Wet 53 van 1999, artikel 21 van Wet 30 van 2000 en artikel 13 van Wet 59 van 2000

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9. Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (ii) van paragraaf (gC) van subartikel (1) deur die volgende subparagraaf te vervang:

“(ii) pensioen ontvang deur of toegeval aan enige inwoner uit ’n bron buite die Republiek, wat nie ingevolge artikel 9(1)(g) geag word uit ’n bron in die Republiek te wees nie, as vergoeding vir dienste in die verlede buite die Republiek gelewer;”;

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(b) deur in item (aa) van subparagraaf (xv) van paragraaf (i) van subartikel (1) die uitdrukking “R4 000” deur die uitdrukking “R5 000” te vervang; en

(c) deur in item (bb) van subparagraaf (xv) van paragraaf (i) van subartikel (1) die uitdrukking “R3 000” deur die uitdrukking “R4 000” te vervang.

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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 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 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 1996, artikel 12 van Wet 28 van 1997, artikel 30 van Wet 30 van 1998, artikel 20 van Wet 53 van 1999, artikel 22 van Wet 30 van 2000 en artikel 15 van Wet 59 van 2000

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

(a) deur paragraaf (bA) deur die volgende paragraaf te vervang:

“(bA) enige rente (met inbegrip van verwante finansieringskoste) wat nie andersins as ’n aftrekking ingevolge hierdie Wet toelaatbaar is nie, wat werklik deur die belastingpligtige aangegaan is op ’n lening, voorskot of krediet deur hom aangewend by die verkryging, installasie, oprigting of konstruksie van enige masjinerie, installasie, [of] gebou, of verbeterings aan ’n gebou, of enige pyplyn, transmissielyn of -kabel of spoorlyn soos in artikel 12D bedoel, of enige vliegtuigloods, laaiblad, aanloopbaan of rybaan soos in artikel 12F bedoel, wat deur hom gebruik gaan word vir die doeleindes van sy bedryf, en wat aldus aangegaan is ten opsigte van ’n tydperk voor die ingebruikneming van bedoelde masjinerie, installasie, gebou, [of] verbeterings, pyplyn, transmissielyn of -kabel, spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan vir die doeleindes van die belastingpligtige se bedryf, bedoelde aftrekking toegelaat te word in die jaar van aanslag waarin bedoelde masjinerie, installasie, gebou, [of] verbeterings, pyplyn, transmissielyn of -kabel, spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan vir genoemde doeleindes in gebruik geneem word;”;

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(b) deur subparagraaf (vii) van paragraaf (o) deur die volgende subparagraaf te vervang:

“[(vii)](vi) enige transmissielyn of -kabel of spoorlyn in artikel 12D bedoel; of”;

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(c) deur die volgende subparagraaf by paragraaf (o) te voeg:

“(vii) enige vliegtuigloods, laaiblad, aanloopbaan of rybaan in artikel 12F bedoel;”;

- (d) by the substitution for the words following subparagraph (vi) of paragraph (o) but preceding the proviso of the following words:

“which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof), improvements (or portion thereof) to such building, shipbuilding structure, improvements to such shipbuilding structure, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils, articles, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway over the total amount arrived at by adding—

(aa) all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12(1), or section 12(1) as applied by section 12(3), or section 12A(2), or section 12B, or section 12C, or section 12D, or section 12F, or section 13(1), or section 13(1) as applied by section 13[(4) or] (8), or section 13bis (1), (2) or (3), or section 13ter(2) or (3), or section 14(1)(a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14bis(1)(a), (b) or (c), or section 24F, or section 24G, or section 27(2)(b) [or (d)]; or

(bb) in the case of any building (or portion thereof), improvements (or portion thereof) to such building, shipbuilding structure, improvements to such shipbuilding structure, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils, articles, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway which was during any previous financial year or years used by the taxpayer in the course of any trade carried on by such taxpayer, the receipts and accruals of which were not included in the income of such taxpayer during such year or years, all the allowances which could have been made in terms of the provisions referred to in item (aa) as if such receipts and accruals had been included in such taxpayer's income, to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils, articles, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway”;

- (e) by the substitution for paragraphs (i) and (ii) of the proviso to paragraph (o) of the following paragraphs:

“(i) no allowance shall be made in the case of any such building (or portion thereof), improvements (or portion thereof) to such building, shipbuilding structure, improvements to such shipbuilding structure, residential unit, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway which has or have been scrapped within a period of ten years from the date of erection or purchase, or in the case of any such residential unit in respect of which any amount has fallen for inclusion in the taxpayer's income under the provisions of section 13ter(7)(a), whether in the current or in any previous year of assessment;

(ii) for the purposes of this paragraph the cost of any building (or portion thereof), improvements (or portion thereof) to any building, shipbuilding structure, improvements to any shipbuilding structure, residential unit, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway shall be deemed to be that portion of the actual cost on which the allowance in question was made;”.

- (2)(a) Subsection (1)(a) shall—

(i) in so far as it adds the reference to any pipeline, transmission line or cable or railway line contemplated in section 12D, be deemed to have come into operation on 23 February 2000; and

- (d) deur in paragraaf (o) die woorde wat subparagraaf (vi) volg maar wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “wat gedurende die jaar van aanslag deur die belastingpligtige as uitgedien onttrek is, te wete, ’n vermindering gelyk aan die bedrag wat die oorspronklike koste aan die belastingpligtige van bedoelde gebou (of gedeelte daarvan), verbeterings (of gedeelte daarvan) aan bedoelde gebou, skeepsbouwerk, verbeterings aan bedoelde skeepsbouwerk, wooneenheid, permanente werk, padplaveisel, bykomstige diens, masjinerie, installasie, gereedskap, werktuie, artikels, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan 5
meer is as die totale bedrag verkry deur— 10
- (aa) al die verminderings ingevolge die bepalings van paragraaf (e) van hierdie artikel, of artikel 12(1), of artikel 12(1) soos toegepas deur artikel 12(3), of artikel 12A(2), of artikel 12B, of artikel 12C, of artikel 12D, of artikel 12F, of artikel 13(1), of artikel 13(1) soos toegepas deur artikel 13[(4) of] (8), of artikel 13bis(1), (2) of (3), of artikel 13ter(2) of (3), of artikel 14(1)(a) of (b), of die ooreenstemmende bepalings van ’n vorige Inkomstebelastingwet, of artikel 14bis(1)(a), (b) of (c), of artikel 24F, of artikel 24G, of artikel 27(2)(b) [of (d)], ten opsigte daarvan toegestaan; of 15 20
- (bb) in die geval van enige gebou (of gedeelte daarvan), verbeterings (of gedeelte daarvan) aan bedoelde gebou, skeepsbouwerk, verbeterings aan bedoelde skeepsbouwerk, wooneenheid, permanente werk, padplaveisel, bykomstige diens, masjinerie, installasie, gereedskap, werktuie, artikels, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan wat gedurende enige voorafgaande finansiële jaar of jare deur die belastingpligtige gebruik is in die loop van enige bedryf deur bedoelde belastingpligtige beoefen, waarvan die ontvangste en toevallings nie gedurende daardie jaar of jare in die inkomste van bedoelde belastingpligtige ingesluit is nie, al die verminderings wat ingevolge die bepalings bedoel in item (aa) gemaak sou kon gewees het indien daardie ontvangste en toevallings in die inkomste van die belastingpligtige ingesluit was, 25 30
- te voeg by enige bedrag of die waarde van enige voordeel wat aan die belastingpligtige toeval ten opsigte van die verkoop van of ander beskikking oor sodanige gebou, skeepsbouwerk, verbeterings, wooneenheid, permanente werk, padplaveisel, bykomstige diens, masjinerie, installasie, gereedskap, werktuie, artikels, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan.”; 35 40
- (e) deur paragrawe (i) en (ii) van die voorbehoudsbepaling by paragraaf (o) deur die volgende paragrawe te vervang:
- “(i) geen vermindering toegelaat word nie in die geval van so ’n gebou (of gedeelte daarvan), verbeterings (of gedeelte daarvan) aan bedoelde gebou, skeepsbouwerk, verbeterings aan bedoelde skeepsbouwerk, wooneenheid, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan wat as uitgedien onttrek is binne ’n tydperk van tien jaar vanaf die datum van oprigting of aankoop, of in die geval van so ’n wooneenheid ten opsigte waarvan ’n bedrag ingevolge die bepalings van artikel 13ter(7)(a) by die belastingpligtige se inkomste inrekenbaar was, hetsy in die lopende of in ’n vorige jaar van aanslag; 45 50
- (ii) by die toepassing van hierdie paragraaf die koste van ’n gebou (of gedeelte daarvan), verbeterings (of gedeelte daarvan) aan ’n gebou, skeepsbouwerk, verbeterings aan ’n skeepsbouwerk, wooneenheid, transmissielyn of -kabel, [of] spoorlyn, vliegtuigloods, laaiblad, aanloopbaan of rybaan geag word daardie gedeelte van die werklike koste te wees waarop die betrokke vermindering gemaak is;”. 55
- (2)(a) Subartikel (1)(a)—
- (i) vir sover dit die verwysing na enige pyplyn, transmissielyn of -kabel of spoorlyn in artikel 12D bedoel byvoeg, word geag op 23 Februarie 2000 in werking te getree het; en 60

- (ii) in so far as it adds the reference to any aircraft hangar, apron, runway or taxiway contemplated in section 12F, be deemed to have come into operation on 1 April 2001;

(b) Subsection (1)(b) shall in so far as it changes the paragraph number, be deemed to have come into operation on 23 February 2000, and insofar it adds the word "or" shall be deemed to have come into operation on 1 April 2001.

(c) Subsection (1)(c), (d) and (e) shall be deemed to have come into operation on 1 April 2001.

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995 and section 18 of Act 59 of 2000

11. (1) Section 12C of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (b) or section 12E) which was or is brought into use for the first time by the taxpayer for the purposes of his trade (other than mining or farming) and is used by him directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature; or".

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001.

Insertion of sections 12E, 12F and 12G in Act 58 of 1962

12. The following sections are hereby inserted in the Income Tax Act, 1962, after section 12D:

"Deduction in respect of certain plant and machinery of small business corporations"

12E. (1) Where any plant or machinery (hereinafter referred to as an asset) of a taxpayer which qualifies as a small business corporation—

(a) is brought into use for the first time by that taxpayer on or after 1 April 2001 for the purpose of that taxpayer's trade (other than mining or farming); and

(b) is used by that taxpayer directly in a process of manufacture (or any other process which in the opinion of the Commissioner is of a similar nature) carried on by that taxpayer, a deduction equal to the cost of such asset shall be allowed in the year that such asset is so brought into use.

(2) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if he had acquired the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the said asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8(4)(e), whether in the current or any previous year of assessment.

(3) Any expenditure (other than expenditure referred to in section 11(a)) incurred by a taxpayer during any year of assessment in moving an asset in respect of which a deduction was allowed or is allowable under this section from one location to another shall be allowed to be deducted from that taxpayer's income in that year.

(4) For the purposes of this section—

- (ii) vir sover dit die verwysing na enige vliegtuiglods, laaiblad, aanloopbaan of rybaan in artikel 12F bedoel byvoeg, word geag op 1 April 2001 in werking te getree het.
- (b) Subartikel (1)(b) word sover dit die paragraafnommer verander geag op 23 Februarie 2000 in werking te getree het en vir sover dit die woord "of" byvoeg geag op 1 April 2001 in werking te getree het. 5
- (c) Subartikel (1)(c) (d) en (e) word geag op 1 April 2001 in werking te getree het.

Wysiging van artikel 12C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 113 van 1993, artikel 7 van Wet 140 van 1993, artikel 11 van Wet 21 van 1994, artikel 13 van Wet 21 van 1995 en artikel 18 van Wet 59 van 2000 10

11. (1) Artikel 12C van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

"(a) masjinerie of installasie (behalwe masjinerie of installasie ten opsigte waarvan 'n aftrekking ingevolge paragraaf (b) of artikel 12E aan die belastingpligtige toegestaan is) wat vir die eerste maal deur die belastingpligtige vir die doeleindes van sy bedryf (behalwe mynbou of boerdery) in gebruik geneem is of word en deur hom regstreeks gebruik word by 'n vervaardigingsproses deur hom uitgevoer of 'n ander proses deur hom uitgevoer wat volgens die Kommissaris se oordeel van 'n dergelike aard is; of". 15 20

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het.

Invoeging van artikel 12E, 12F en 12G in Wet 58 van 1962

12. Die volgende artikels word hierby in die Hoofwet na artikel 12D ingevoeg:

"Aftrekking ten opsigte van sekere installasie en masjinerie van kleinsakekorporasies 25

12E. (1) Waar enige installasie of masjinerie (hierna 'n bate genoem) van 'n belastingpligtige wat as 'n kleinsakekorporasie kwalifiseer—

- (a) op of na 1 April 2001 vir die eerste maal deur daardie belastingpligtige vir die doeleindes van daardie belastingpligtige se bedryf (behalwe mynbou of boerdery) in gebruik geneem word; en 30
- (b) regstreeks deur daardie belastingpligtige gebruik word by 'n vervaardigingsproses (of 'n ander proses wat volgens die Kommissaris se oordeel van 'n dergelike aard is) deur daardie belastingpligtige uitgevoer, 35

word 'n aftrekking gelykstaande aan die koste van daardie bate toegelaat in die jaar wat daardie bate aldus in gebruik geneem word.

(2) By die toepassing van hierdie artikel word die koste vir 'n belastingpligtige van enige bate geag die minste te wees van die werklike koste vir die belastingpligtige of die koste wat iemand, indien hy daardie bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van daardie bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate, met inbegrip van die regstreekse koste van die installering of oprigting daarvan of, waar die bate verkry is ter vervanging van 'n bate wat beskadig of vernietig is, daardie koste min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate teruggekry of vergoed is en ingevolge artikel 8(4)(e) van die belastingpligtige se inkomste uitgesluit is, hetsy in die lopende of enige vorige jaar van aanslag. 40 45 50

(3) Enige onkoste (behalwe onkoste in artikel 11(a) bedoel) deur 'n belastingpligtige aangegaan gedurende enige jaar van aanslag in verband met die verskuiwing van 'n bate, ten opsigte waarvan 'n aftrekking ingevolge hierdie artikel toegestaan is of toelaatbaar is, vanaf een plek na 'n ander, word as 'n aftrekking teen daardie belastingpligtige se inkomste in daardie jaar toegestaan. 55

(4) By die toepassing van hierdie artikel, beteken—

- (a) 'small business corporation' means any close corporation or any company registered as a private company in terms of the Companies Act, 1973 (Act No. 61 of 1973), the entire shareholding of which is at all times during the year of assessment held by shareholders or members that are natural persons, where—
- (i) the gross income for the year of assessment does not exceed R1 million: Provided that where the close corporation or company during the relevant year of assessment carries on any trade, for purposes of which any asset contemplated in this section is used, for a period which is less than 12 months, the amount of R1 million shall be reduced to an amount which bears to R1 million, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), during which that company or close corporation carried on that trade bears to 12 months;
 - (ii) none of the shareholders or members at any time during the year of assessment of the company or close corporation holds any shares or has any interest in the equity of any other company as defined in section 1 (other than a company listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any unit portfolio contemplated in paragraph (e) of the definition of 'company' in section 1);
 - (iii) not more than 20 per cent of the gross income of the company or close corporation consists collectively of investment income and income from the rendering of a personal service; and
 - (iv) such company is not an employment company;
- (b) 'employment company' means any company—
- (i) which is a labour broker as defined in the Fourth Schedule to the Act, other than a labour broker in respect of which a certificate of exemption has been issued in terms of paragraph 2(5) of the said Schedule; or
 - (ii) which is a personal service company as defined in the Fourth Schedule;
- (c) 'investment income' means—
- (i) any income in the form of dividends, royalties, rental, annuities or income of a similar nature;
 - (ii) any interest as contemplated in section 24J, any amount contemplated in section 24K and any other income which, by the laws of the Republic administered by the Commissioner, is subject to the same treatment as income from money lent; and
 - (iii) any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property;
- (d) 'personal service' means any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, broking, commercial arts, consulting, draftsmanship, education, engineering, entertainment, health, information technology, journalism, law, management, performing arts, real estate, research, secretarial services, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the company or close corporation.

Deduction in respect of certain aircraft hangars, aprons, runways and taxiways

12F. (1) For the purposes of this section—

- (a) 'kleinsakekorporasie' 'n beslote korporasie of enige maatskappy wat as 'n privaatmaatskappy ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf is, waarvan die totale aandeelhouding gedurende die volle jaar van aanslag deur aandeelhouders of lede wat natuurlike persone is, gehou is, waar— 5
- (i) die bruto inkomste vir die jaar van aanslag nie R1 miljoen te bowe gaan nie: Met dien verstande dat waar die beslote korporasie of maatskappy gedurende die betrokke jaar van aanslag 'n bedryf beoefen, waarvoor enige bate in hierdie artikel gebruik word, vir 'n tydperk wat minder as 12 maande is, word die bedrag van R1 miljoen verminder na 'n bedrag wat tot R1 miljoen in dieselfde verhouding staan, as wat die aantal maande (in die berekening waarvan 'n deel van 'n maand as 'n volle maand gereken sal word) waartydens daardie maatskappy of beslote korporasie daardie bedryf beoefen het, tot 12 maande staan; 10 15
- (ii) nie een van die aandeelhouders of lede te eniger tyd gedurende die jaar van aanslag van die maatskappy of beslote korporasie enige aandele of belang in die ekwiteit van enige ander maatskappy soos in artikel 1 omskryf (behalwe 'n maatskappy genoteer op 'n aandelebeurs soos omskryf in die Wet op Beheer van Aandelebeurse, 1985 (Wet No. 1 van 1985), of enige effekterust in paragraaf (e) van die omskrywing van 'maatskappy' in artikel 1 bedoel), gehou het nie; 20
- (iii) nie meer as 20 persent van die bruto inkomste van die maatskappy of beslote korporasie gesamentlik uit beleggingsinkomste en inkomste verkry uit die lewering van 'n persoonlike diens, bestaan nie; en 25
- (iv) die maatskappy nie 'n werknemersmaatskappy is nie; 30
- (b) 'werknemersmaatskappy' enige maatskappy—
- (i) wat 'n arbeidsmakelaar soos omskryf in die Vierde Bylae by die Wet is, behalwe 'n arbeidsmakelaar ten opsigte waarvan 'n vrystellingssertifikaat ingevolge paragraaf 2(5) van bedoelde Bylae uitgereik is; of
- (ii) wat 'n persoonlike diensmaatskappy soos in die Vierde Bylae omskryf is; 35
- (c) 'beleggingsinkomste'—
- (i) enige inkomste in die vorm van dividende, tantième, huurinkomste, jaargelde of inkomste van 'n dergelike aard;
- (ii) enige rente in artikel 24J bedoel, enige bedrag in artikel 24K bedoel en enige ander inkomste wat, ingevolge die wette van die Republiek wat deur die Kommissaris geadministreer word, aan dieselfde behandeling as inkomste van geleende geld onderhewig is; en 40
- (ii) enige opbrengs verkry uit die belegging of handel dryf in finansiële instrumente (met inbegrip van termyntransaksies, opsies en ander afgeleide instrumente), handelseffekte of onroerende eiendom; 45
- (d) 'persoonlike diens' enige diens in die rigting van afslaery, aktuariële wetenskap, argitektuur, bestuurswese, eiendomsmakelary, gesondheid, ingenieurswese, inligtingstechnologie, joernalistiek, makelary, navorsing, onderrig, opmeting, ouditering, raadgewende dienste, regte, rekeningkunde, reklamekuns, tekenkuns, sekretariële dienste, sport, uitsaaiery, uitvoerende kunste, veeartsenykunde, vermaaklikheid, vertaling of waardering wat persoonlik deur 'n persoon wat 'n belang in die maatskappy of beslote korporasie hou, uitgevoer word.' 50 55

Aftrekking ten opsigte van sekere vliegtuigloodse, laaiblaaie, aanloopbane of rybane

12F. (1) By die toepassing van hierdie artikel beteken—

'affected asset' means any new and unused aircraft hangar, apron, runway or taxiway on any designated airport, contracted for on or after the effective date, and the construction, erection or installation of which commenced on or after such date, and includes any earthworks or supporting structures forming part of such hangar, apron, runway or taxiway;

'designated airport' means an airport approved by the Minister, in consultation with the Minister of Transport, as a designated airport by notice in the *Gazette* for purposes of this section; and

'effective date' means 1 April 2001.

(2) In respect of any affected asset which—

(a) is brought into use for the first time by such taxpayer on or after the effective date; and

(b) is used directly by such taxpayer in carrying on his sole business as airport operator,

there shall be allowed to be deducted an allowance in respect of the cost actually incurred by the taxpayer in respect of the acquisition (including the construction, erection or installation) of such asset to the extent that such affected asset is used in the production of the taxpayer's income.

(3) The allowance contemplated in subsection (2) in respect of an affected asset shall, in respect of any one year of assessment, be five per cent of the cost incurred in respect of that asset.

(4) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if he had acquired the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the said asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8(4)(e), whether in the current or any previous year of assessment.

(5) No deduction shall be allowed under this section in respect of any affected asset which has been disposed of by the taxpayer during any previous year of assessment.

(6) The deductions which may be allowed or deemed to have been allowed in terms of this section and any other provision of this Act in respect of the cost of any affected asset shall not in the aggregate exceed the amount of such cost.

Additional industrial investment allowance in respect of industrial assets used for qualifying strategic industrial projects

12G. (1) For the purposes of this section—

'cost of an industrial asset' means the direct expenditure actually incurred by a company to acquire, erect, construct or install an industrial asset, excluding—

(a) so much of the expenditure—

(i) as exceeds the fair market value of that asset; or

(ii) paid to any connected person in relation to that company, as exceeds the lesser of—

(aa) the fair market value of that asset; or

(bb) the costs incurred by that connected person (or any other connected person in relation to the company) in respect of that asset;

(b) any borrowing or finance costs, including interest as contemplated in section 24J or raising fees; and

(c) any amount of the expenditure which is or was directly or indirectly received in the form of any subsidy, rebate, refund or other assistance

'aangewese lughawe' 'n lughawe deur die Minister, in oorleg met die Minister van Vervoer, as 'n aangewese lughawe goedgekeur by kennisgewing in die *Staatskoerant* vir doeleindes van hierdie artikel;

'effektiewe datum' 1 April 2001; en

'geaffekteerde bate' enige nuwe en ongebruikte vliegtuiglods, laaiblad, aanloopbaan of rybaan op 'n aangewese lughawe, waarvoor op of na die effektiewe datum gekontraakteer is, en die konstruksie, oprigting of installasie waarvan op of na bedoelde datum begin is, en ook enige grondwerk of ondersteunende bouwerk wat deel vorm van bedoelde lods, laaiblad, aanloopbaan of rybaan;

(2) Ten opsigte van enige geaffekteerde bate wat—

(a) op of na die effektiewe datum vir die eerste keer deur bedoelde belastingpligtige in gebruik geneem word; en

(b) regstreeks deur bedoelde belastingpligtige gebruik word in die beoefening van sy enigste besigheid as lughawe-operateur, word 'n vermindering ten opsigte van die koste werklik deur die belastingpligtige aangegaan ten opsigte van die verkryging (waarby ingesluit die konstruksie, oprigting of installering) van bedoelde bate as 'n aftrekking toegelaat in die mate wat daardie geaffekteerde bate in die voortbrenging van die belastingpligtige se inkomste gebruik word.

(3) Die vermindering in subartikel (2) bedoel ten opsigte van 'n bate is, vir enige jaar van aanslag, vyf persent van die koste ten opsigte van daardie bate aangegaan.

(4) By die toepassing van hierdie artikel word die koste vir 'n belastingpligtige van 'n bate geag die minste te wees van die werklike koste vir die belastingpligtige of die koste wat iemand, indien hy bedoelde bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van bedoelde bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate, met inbegrip van die regstreekse koste van die installering of oprigting daarvan of, waar die bate verkry is ter vervanging van 'n bate wat beskadig of vernietig is, bedoelde koste min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate teruggekry of vergoed is en ingevolge artikel 8(4)(e) van die belastingpligtige se inkomste uitgesluit is, hetsy in die lopende of 'n vorige jaar van aanslag.

(5) Geen aftrekking word ingevolge hierdie artikel toegelaat ten opsigte van enige geaffekteerde bate wat gedurende enige vorige jaar van aanslag deur die belastingpligtige van die hand gesit is nie.

(6) Die aftrekkings wat ingevolge hierdie artikel en enige ander bepaling van hierdie Wet toegestaan mag word of geag word toegestaan te gewees het ten opsigte van die koste van enige geaffekteerde bate, is in totaal nie meer nie as die bedrag van bedoelde koste.

Addisionele nywerheidsbeleggingstoelae ten opsigte van nywerheidsbates vir kwalifiserende strategiese nywerheidsprojekte gebruik

12G. (1) By die toepassing van hierdie artikel, beteken—

'koste van 'n nywerheidsbate' die regstreekse onkoste werklik deur 'n maatskappy aangegaan om 'n nywerheidsbate te verkry, op te rig, te bou of te installeer, maar sluit uit—

(a) soveel van die onkoste—

(i) as wat die billike markwaarde van daardie bate oorskry; of

(ii) aan 'n verbonde persoon met betrekking tot daardie maatskappy betaal, as wat meer is as die minste van—

(aa) die billike markwaarde van daardie bate; of

(bb) die koste deur daardie verbonde persoon (of enige ander verbonde persoon met betrekking tot die maatskappy) ten opsigte van daardie bate aangegaan;

(b) enige leenkoste of finansieringskoste, ingesluit rente soos in artikel 24J bedoel of leningskommissie; en

(c) enige bedrag van die onkoste wat regstreeks of onregstreeks ontvang is of was in die vorm van enige subsidie, korting, terugbetaling of

granted by the national sphere of government pursuant to any investment incentive;

‘industrial asset’ means—

- (a) any plant or machinery acquired or contracted for by a company after the date of approval in terms of subsection (5), which—
 - (i) has not been used before by any person; 5
 - (ii) will be brought into use for the first time by that company within three years from the date of approval in terms of subsection (5);
 - (iii) will be used by that company in the Republic for purposes of carrying on an industrial project of that company; and 10
 - (iv) will qualify for a deduction in terms of section 11(e) or 12C(1)(a); or
- (b) any building or any improvements effected to a building situated in the Republic, acquired or contracted for by a company after the date of approval in terms of subsection (5), where such building or such improvements— 15
 - (i) have not been used before by any person;
 - (ii) will be brought into use by that company within three years from the date of approval in terms of subsection (5);
 - (iii) will be wholly or mainly used for the purposes of carrying on 20 therein any process requiring plant and machinery contemplated in paragraph (a); and
 - (iv) will qualify for a deduction in terms of section 13(1)(b), (dA) or (f), other than where the company would qualify for such deduction as a lessor; 25

‘industrial project’ means—

- (a) any manufacturing of products, goods, articles, or other things (excluding any tobacco and tobacco related products) within the Republic that is classified under ‘Major Division 3: Manufacturing’ in the most recent Standard Industrial Classification issued by Statistics South Africa; 30
- (b) any computer and computer related activities; or
- (c) any research and development activities.

(2) In addition to any other deductions allowable in terms of this Act, a company may, subject to subsection (3), deduct an amount (hereinafter referred to as an additional industrial investment allowance) equal to— 35

- (a) 100 per cent of the cost of any industrial asset used in a qualifying strategic industrial project determined to have preferred status; and
- (b) 50 per cent of the cost of any industrial asset used in any other qualifying strategic industrial project, 40

in the year of assessment during which that asset is first brought into use by the company as owner thereof for such project carried on by that company.

(3) The additional industrial investment allowance contemplated in subsection (2)—

- (a) will be allowed only against income received by or accrued to the company from carrying on any industrial project: Provided that the amount whereby such allowance exceeds such income, shall be carried forward to the immediately succeeding year of assessment and be deemed to be a deduction or allowance which may be allowed in terms of subsection (2) in that succeeding year; and 45
- (b) may not exceed the lesser of the amount reflected in the application for approval as being the cost of the industrial assets to be acquired by the company, as contemplated in subsection (4)(a), or— 50
 - (i) R600 million in the case of any qualifying strategic industrial project with preferred status; or 55

- ander bystand deur die nasionale regeringsfeer toegestaan ooreen-
komstig 'n beleggingsaansporing;
- 'nywerheidsbate'—
- (a) enige installasie of masjinerie deur 'n maatskappy verkry of voor
gekontraakteer na die datum van goedkeuring ingevolge subartikel (5),
wat— 5
- (i) nie voorheen deur enige persoon gebruik is nie;
- (ii) vir die eerste maal deur daardie maatskappy in gebruik gebring
sal word binne drie jaar vanaf die datum van goedkeuring
ingevolge subartikel (5); 10
- (iii) deur daardie maatskappy in die Republiek gebruik sal word vir
doeleindes van die beoefening van 'n nywerheidsprojek van
daardie maatskappy; en
- (iv) sal kwalifiseer vir 'n aftrekking ingevolge artikel 11(e) of
12C(1)(a); of 15
- (b) enige gebou of verbeterings aangebring aan 'n gebou in die Republiek
geleë, na die datum van goedkeuring ingevolge subartikel (5), deur
die maatskappy verkry of voor gekontraakteer, waar daardie gebou of
daardie verbeterings—
- (i) nie voorheen deur enige persoon gebruik is nie; 20
- (ii) deur daardie maatskappy in gebruik gebring sal word binne drie
jaar vanaf die datum van goedkeuring ingevolge subartikel (5);
- (iii) geheel en uitsluitlik gebruik sal word vir doeleindes van die
beoefening daarin van enige proses wat installasie en masjinerie
in paragraaf (a) bedoel benodig; en 25
- (iv) vir 'n aftrekking ingevolge artikel 13(1)(b), (dA) of (f) sal
kwalifiseer, behalwe waar die maatskappy as 'n verhuurder vir
daardie aftrekking kwalifiseer;
- 'nywerheidsprojek'—
- (a) enige vervaardiging van produkte, goedere, artikels of ander goed 30
(uitgesluit tabak en tabakverwante produkte) binne die Republiek,
wat geklassifiseer is in "Hoofafdeling 3: Fabriekswese" van die mees
onlangse Standaardnywerheidsklassifikasie van alle Ekonomiese
Bedrywigheede deur Statistiek Suid-Afrika uitgereik;
- (b) enige rekenaar- en rekenaarverwante aktiwiteite; of 35
- (c) enige navorsings- en ontwikkelingsaktiwiteite.
- (2) Benewens enige ander aftrekkings wat ingevolge hierdie Wet
toelaatbaar is, kan 'n maatskappy, behoudens subartikel (3), 'n bedrag
(hierna 'n addisionele nywerheidsbeleggingstoelae genoem) aftrek gelyk-
staande aan— 40
- (a) 100 persent van die koste van enige nywerheidsbate in 'n kwalifise-
rende strategiese nywerheidsprojek wat voorkeurstatus geniet, ge-
bruik; en
- (b) 50 persent van die koste van enige nywerheidsbate in enige ander
kwalifiserende strategiese nywerheidsprojek gebruik, 45
- in die jaar van aanslag waartydens daardie bate vir die eerste maal deur die
maatskappy as eienaar daarvan in gebruik geneem word vir daardie projek
deur daardie maatskappy beoefen.
- (3) Die addisionele nywerheidsbeleggingstoelae in subartikel (2)
bedoel— 50
- (a) word slegs toegelaat teen inkomste ontvang deur of toegeval aan die
maatskappy uit die beoefening van enige nywerheidsprojek: Met dien
verstande dat die bedrag waarmee daardie toelae daardie inkomste te-
bowe gaan, na die onmiddellik daaropvolgende jaar van aanslag
oorgedra word en geag 'n aftrekking of toelae te wees wat ingevolge 55
- subartikel (2) in daardie daaropvolgende jaar toegelaat kan word; en
- (b) oorskry nie die minste nie van die bedrag wat in die aansoek om
goedkeuring weergegee is as die koste van die nywerheidsbates wat
deur die maatskappy verkry sal word, soos in subartikel (4)(a) bedoel,
of— 60
- (i) R600 miljoen in die geval van enige kwalifiserende strategiese
nywerheidsprojek wat voorkeurstatus geniet; of

- (ii) R300 million in the case of any other qualifying strategic industrial project.
- (4) An industrial project of a company constitutes a strategic industrial project where, the Minister of Trade and Industry, after taking into account the recommendations of the adjudication committee, is satisfied that—
- (a) the cost of all industrial assets to be acquired by the company, which will be brought into use for that industrial project within three years after the date of approval in terms of subsection (5), will exceed R50 million;
 - (b) the industrial project will increase production of the relevant industrial sector within the Republic, after taking into account the displacement of any other activities within that sector;
 - (c) in the case of an industrial project that represents an expansion of an existing industrial project, the expansion will significantly increase production in respect of that existing project;
 - (d) the company will not receive any concurrent benefit in terms of section 37E or section 37H of this Act;
 - (e) the industrial project will not constitute an industrial participation project as contemplated in subsection (7)(e) and will not receive any concurrent investment incentive provided by any national sphere of government;
 - (f) the industrial project will have long-term commercial viability after the deduction provided by this section has been allowed and has been set off against the income of that company;
 - (g) the company and any person which is a connected person in relation to that company in terms of—
 - (i) paragraph (d)(i), (ii) or (iii) of the definition of 'connected person' in section 1; or
 - (ii) paragraph (d)(iv) or (v) of that definition, taking into account only holdings of 50 per cent or more,
 are taxpayers in good standing and must in this regard submit—
 - (aa) a declaration of good standing stating that all their tax affairs are in order and that they have complied with all the relevant provisions of the laws administered by the Commissioner; and
 - (bb) a certificate obtained from the Commissioner confirming that the company and all connected persons are registered for tax purposes, that all returns required to be rendered by that company and connected persons in terms of this Act, or any other Act administered by the Commissioner, have been timeously rendered and that any tax, duties or levies due to the Commissioner have been paid, or that arrangements acceptable to the Commissioner have been made for the submission of any outstanding returns or the payment of any outstanding taxes, duties or levies: Provided that where the company submits a request to the Commissioner for a certificate and the Commissioner fails to respond within 60 days, the company shall, in the absence of any proof to the contrary, be deemed to have complied with the provisions of this subparagraph; and
 - (h) the application for approval of the project by the company is received by the Minister of Trade and Industry after 31 July 2001, but not later than 31 July 2005, in such form and containing such information as the Minister of Trade and Industry may prescribe.
- (5) The Minister of Trade and Industry must, after taking into account the recommendations of the adjudication committee, approve a strategic industrial project as a qualifying strategic industrial project, either with or without preferred status, where that Minister is satisfied that the strategic

- (ii) R300 miljoen in die geval van enige ander kwalifiserende strategiese nywerheidsprojek.
- (4) 'n Nywerheidsprojek van 'n maatskappy is 'n strategiese nywerheidsprojek waar die Minister van Handel en Nywerheid, na inagneming van die aanbevelings van die beoordelingskomitee, tevrede is dat—
- (a) die koste van alle nywerheidsbates wat verkry staan te word deur die maatskappy, wat in gebruik gebring sal word vir daardie nywerheidsprojek binne drie jaar na die datum van goedkeuring ingevolge subartikel (5), R50 miljoen sal oorskry;
- (b) die nywerheidsprojek die produksie van die betrokke nywerheidssektor binne die Republiek sal verhoog, na inagneming van die verplasing van enige ander aktiwiteite binne daardie sektor;
- (c) in die geval van 'n nywerheidsprojek wat die uitbreiding van 'n bestaande nywerheidsprojek daarstel, daardie uitbreiding die produksie ten opsigte van daardie bestaande projek wesenlik sal verhoog;
- (d) die maatskappy nie enige gelyktydige voordeel ingevolge artikel 37E of artikel 37H van hierdie Wet sal geniet nie;
- (e) die nywerheidsprojek nie 'n nywerheidsdeelnemingsprojek soos in subartikel (7)(e) bedoel sal daarstel nie en nie enige gelyktydige beleggingsaanspooring vanaf enige nasionale regeringsfeer sal ontvang nie;
- (f) die nywerheidsprojek langtermyn kommersiële lewensvatbaarheid sal hê nadat die aftrekking deur hierdie artikel voorsien toegelaat is en teen die inkomste van daardie maatskappy verreken is;
- (g) die maatskappy en enige persoon wat 'n verbonde persoon met betrekking tot daardie maatskappy is ingevolge—
- (i) paragraaf (d)(i), (ii) of (iii) van die omskrywing van 'verbonde persoon' in artikel 1; of
- (ii) paragraaf (d)(iv) of (v) van daardie omskrywing, waar slegs aandeelhoudings van 50 persent of meer in berekening gebring word, belastingpligtiges van goeie naam en faam is en moet in hierdie verband voorlê—
- (aa) 'n verklaring van goeie naam en faam waarin uiteengesit word dat al hulle belasting sake in orde is en dat hulle aan al die relevante bepalings van die wette wat deur die Kommissaris geadministreer word, voldoen het; en
- (bb) 'n sertifikaat wat van die Kommissaris verkry is wat bevestig dat die maatskappy en alle verbonde persone vir belastingdoeleindes geregistreer is, dat alle opgawes wat deur daardie maatskappy en verbonde persone ingevolge die Wet, of enige ander Wet deur die Kommissaris geadministreer ingedien moet word, betyds ingedien is en dat enige belasting, regte of heffings wat aan die Kommissaris verskuldig mag wees betaal is, of dat reëlins vir die indiening van enige uitstaande opgawes of die betaling van enige uitstaande belasting, regte of heffings, wat vir die Kommissaris aanvaarbaar is, getref is: Met dien verstande dat waar die maatskappy 'n versoek aan die Kommissaris rig vir 'n sertifikaat en die Kommissaris nalaat om binne 60 dae daarop te reageer, word by ontstentenis van bewys tot die teendeel, geag dat die maatskappy aan die bepalings van hierdie subparagraaf voldoen het; en
- (h) die aansoek van die maatskappy vir goedkeuring van die projek na 31 Julie 2001, maar nie later nie as 31 Julie 2005, deur die Minister van Handel en Nywerheid ontvang is in sodanige vorm en daardie inligting bevat as wat die Minister van Handel en Nywerheid mag voorskryf.
- (5) Die Minister van Handel en Nywerheid moet, na inagneming van die aanbevelings van die beoordelingskomitee, 'n strategiese nywerheidsprojek as 'n kwalifiserende strategiese nywerheidsprojek goedkeur, met of sonder voorkeurstatus, waar daardie Minister tevrede is dat die strategiese

industrial project will significantly increase growth or employment within the Republic having regard to—

- (a) the extent to which the strategic industrial project will upgrade an industry within the Republic by—
 - (i) utilising processes or supplying products that are new to the Republic; 5
 - (ii) acting as a key component to related existing industrial projects within the Republic so as to improve their competitiveness as a whole; or
 - (iii) engaging in any value-added process; 10
- (b) the extent to which the strategic industrial project will provide general business linkages within the Republic by—
 - (i) acquiring goods or services from small, medium and micro enterprises; or
 - (ii) adding to the physical infrastructure of the Republic that will be available to the general public; and 15
- (c) the extent to which the strategic industrial project will create either direct or indirect employment within the Republic.

(6) Notwithstanding subsection (5), the Minister of Trade and Industry may not approve any project where the potential additional industrial investment allowances in respect of that project and all other approved qualifying strategic industrial projects (other than those projects where the approval thereof has been withdrawn under subsection (9)), will in the aggregate exceed R10 billion. 20

(7) The Minister of Finance, in consultation with the Minister of Trade and Industry, must make regulations— 25

- (a) prescribing the types of projects that will constitute computer activities, computer related activities and research and development for purposes of paragraphs (b) and (c) of the definition of 'industrial project' in subsection (1); 30
- (b) prescribing the criteria for determining the extent of the increase of production of an industrial sector required and the extent of the displacement of other activities to be taken into account for purposes of subsection (4)(b);
- (c) prescribing the criteria for purposes of determining whether there is an increase in production in respect of an existing industrial project and the extent of the increase required for purposes of subsection (4)(c); 35
- (d) prescribing to what extent a company may have benefited from section 37E or section 37H of this Act for purposes of subsection (4)(d);
- (e) prescribing what constitutes an industrial participation project for the purposes of subsection (4)(e); 40
- (f) prescribing the factors to be taken into account in determining whether the industrial project will have long-term commercial viability for the purposes of subsection (4)(f);
- (g) prescribing what factors need to be taken into account for purposes of subsection (5)(a) in determining whether— 45
 - (i) a process or product will be new to the Republic;
 - (ii) a company will be acting as a key component to related existing industrial projects within the Republic; or
 - (iii) a process will constitute a value-added process; 50
- (h) prescribing what factors need to be taken into account for purposes of subsection (5)(b) in determining whether—
 - (i) goods or services will be acquired from small, medium and micro enterprises; or
 - (ii) the project will add to the physical infrastructure of the Republic; and 55
- (i) prescribing the extent to which the strategic industrial project must create either direct or indirect employment within the Republic for purposes of subsection (5)(c).

(8) Within six months after the close of each year of assessment (or such longer period as the Minister of Trade and Industry may allow) starting with 60

nywerheidsprojek groei of werksgeleenthede in die Republiek betekenisvol sal verhoog, met inagneming van—

- (a) die mate waarin die strategiese nywerheidsprojek 'n nywerheidsektor in die Republiek sal verbeter deur—
 - (i) van prosesse gebruik te maak of produkte sal voorsien wat nuut vir die Republiek is; 5
 - (ii) die sleutelkomponent daar te stel met betrekking tot bestaande nywerheidsprojekte binne die Republiek, ten einde hulle mededingendheid in die geheel te verbeter; of
 - (iii) gebruik te maak van 'n toegevoegdewaarde-proses; 10
 - (b) die mate waarin die strategiese nywerheidsprojek algemene besigheidskakeling binne die Republiek sal daarstel deur—
 - (i) goedere of dienste vanaf klein-, medium- en mikrobesighede te verkry; 15
 - (ii) tot die fisiese infrastruktuur van die Republiek by te dra wat vir die algemene publiek toeganklik sal wees; en
 - (c) die mate wat die strategiese nywerheidsprojek óf direk óf indirek werksgeleenthede in die Republiek sal skep.
- (6) Ondanks subartikel (5), mag die Minister van Handel en Nywerheid nie enige projek goedkeur nie waar die potensiële addisionele nywerheidsbeleggingstoelae ten opsigte van daardie projek en alle ander goedgekeurde kwalifiserende strategiese nywerheidsprojekte (behalwe daardie projekte waarvan die goedkeuring ingevolge subartikel (9) teruggetrek is) in totaal R10 miljard sal oorskry. 20
- (7) Die Minister van Finansies, in oorleg met die Minister van Handel en Nywerheid, moet regulasies maak— 25
- (a) wat die soort projekte wat rekenaar-aktiwiteite, rekenaarverwante aktiwiteite en navorsing en ontwikkeling sal daarstel by die toepassing van paragrawe (b) en (c) van die omskrywing van 'nywerheidsprojek' in subartikel (1); 30
 - (b) wat die kriteria voorskryf om die omvang van die vereiste verhoging in produksie van 'n nywerheidsektor te bepaal en die mate van die verplasing van ander aktiwiteite wat by die toepassing van subartikel (4)(b) in berekening gebring moet word;
 - (c) wat die kriteria voorskryf om te bepaal of daar 'n verhoging in die produksie ten opsigte van 'n bestaande nywerheidsprojek is en die omvang van die verhoging wat by die toepassing van subartikel (4)(c) vereis word; 35
 - (d) wat voorskryf tot watter mate 'n maatskappy uit artikel 37E of artikel 37H van hierdie Wet voordeel mag getrek het by die toepassing van subartikel (4)(d); 40
 - (e) wat voorskryf wat 'n nywerheidsdeelnemingsprojek daarstel by die toepassing van subartikel (4)(e);
 - (f) wat die faktore voorskryf wat in berekening gebring moet word om te bepaal of die nywerheidsprojek langtermyn kommersiële lewensvatbaarheid sal hê by die toepassing van subartikel (4)(f); 45
 - (g) wat die faktore voorskryf wat in berekening gebring moet word by die toepassing van subartikel (5)(a), om te bepaal of—
 - (i) 'n proses of produk nuut vir die Republiek sal wees;
 - (ii) 'n maatskappy 'n sleutelkomponent tot verwante bestaande nywerheidsprojekte binne die Republiek sal daarstel; of
 - (iii) 'n proses 'n toegevoegdewaarde-proses sal daarstel; 50
 - (h) wat die faktore voorskryf wat in berekening gebring moet word by die toepassing van subartikel (5)(b), om te bepaal of—
 - (i) goedere of dienste verkry sal word van klein-, medium- en mikrobesighede; 55
 - (ii) die projek tot die fisiese infrastruktuur van die Republiek sal bydra; en
 - (i) wat voorskryf tot watter mate die strategiese nywerheidsprojek óf direk óf indirek werksgeleenthede binne die Republiek moet skep by die toepassing van subartikel (5)(c). 60
- (8) Binne ses maande na die einde van elke jaar van aanslag (of sodanige langer tydperk as wat die Minister van Handel en Nywerheid mag bepaal)

the year in which approval is granted in terms of subsection (5), a company with a qualifying strategic industrial project must annually report to that Minister with respect to the progress of the project in terms of the requirements of subsections (4) and (5) in such form and in such manner as that Minister may prescribe.

(9) Where—

(a) in respect of any company carrying on a qualifying strategic industrial project, any material fact changes during any year of assessment or the company during any year fails to comply with any requirement contemplated in subsection (4) or (5), which would have had the effect that approval in terms of subsection (5) would not have been granted had such change in fact or such failure been known to the Minister of Trade and Industry at the time of granting approval; or

(b) any company carrying on a qualifying strategic industrial project during any year of assessments fails to submit a report to the Minister of Trade and Industry, as required in terms of subsection (8); or

(c) the approval granted in terms of this section to a company carrying on a qualifying strategic industrial project, was based on any fraudulent information, material misrepresentation or material omission,

the Minister of Trade and Industry must, after taking into account the recommendations of the adjudication committee, withdraw the approval granted in respect of that project with immediate effect and direct that the Commissioner must disallow all additional industrial investment allowances (including any additional industrial investment allowance allowed during that year or any previous year of assessment) in respect of any asset used in that project: Provided that where the change in material facts or failure to meet any requirement, as contemplated in paragraph (a), takes place as a result of any event which is outside the control of the company, that Minister may, taking into account the circumstances of that event,—

(i) disregard that change in material facts; or

(ii) withdraw the approval granted in terms of this section with immediate effect and may direct that the Commissioner must disallow any additional industrial investment allowance in respect of that year of assessment or any subsequent year of assessment.

(10) The Commissioner must—

(a) promptly notify the Minister of Trade and Industry whenever the Commissioner discovers information that may cause a full or part withdrawal of deductions in terms of subsection (9);

(b) disallow all deductions otherwise provided under this section starting with the date of approval in terms of subsection (5) where the company has provided any fraudulent information, material misrepresentation or material omission with respect to any tax, duty or levy administered by the Commissioner and must notify the Minister of Trade and Industry accordingly; and

(c) inform the Minister of Trade and Industry where any company has requested the Commissioner to issue a certificate contemplated in subsection (4)(g)(bb) and that certificate was denied.

(11) For purposes of subsections (9) and (10), the Commissioner may, notwithstanding the provisions of sections 79, 81(5) and 83(18), raise an additional assessment for any year of assessment where an additional industrial investment allowance which has been allowed in any previous year must be disallowed in terms of subsection (9) or (10).

(12) Where the approval of a project has been withdrawn as contemplated in subsection (9), a company shall in addition to any normal tax, be liable for an amount of additional tax not exceeding twice the difference

beginnende met die jaar waarin goedkeuring ingevolge subartikel (5) verleen is, moet 'n maatskappy met 'n kwalifiserende strategiese nywerheidsprojek jaarliks aan daardie Minister verslag doen met betrekking tot die vordering van die projek ingevolge die vereistes van subartikels (4) en (5), in sodanige vorm en op sodanige wyse as wat daardie Minister mag voorskryf.

(9) Waar—

- (a) met betrekking tot enige maatskappy wat 'n kwalifiserende strategiese nywerheidsprojek beoefen, enige wesenlike feit gedurende enige jaar van aanslag verander of die maatskappy gedurende enige jaar versuim om te voldoen aan enige vereiste in subartikel (4) of (5) bedoel, wat tot gevolg sou hê dat goedkeuring ingevolge subartikel (5) nie verleen sou gewees het nie indien daardie verandering in feit of daardie versuim aan die Minister van Handel en Nywerheid bekend was op die tydstip toe goedkeuring verleen is; of
- (b) enige maatskappy wat 'n kwalifiserende strategiese nywerheidsprojek beoefen gedurende enige jaar van aanslag nalaat om 'n verslag aan die Minister van Handel en Nywerheid, soos in subartikel (8) vereis, te voorsien; of
- (c) die goedkeuring ingevolge hierdie artikel verleen aan 'n maatskappy wat 'n kwalifiserende strategiese nywerheidsprojek beoefen gebaseer was op enige bedrieglike inligting, wesenlike wanvoorstelling of wesenlike weglating,

moet die Minister van Handel en Nywerheid, na inagneming van die aanbevelings van die beoordelingskomitee, die goedkeuring wat ten opsigte van daardie projek toegestaan is met onmiddellike ingang intrek en gelas dat die Kommissaris alle addisionele nywerheidsbeleggingstoelaes (insluitende enige addisionele nywerheidsbeleggingstoelaes gedurende daardie jaar of enige voorafgaande jaar van aanslag toegestaan) ten opsigte van enige bate in daardie projek gebruik moet afwys. Met dien verstande dat waar die verandering in wesenlike feite of versuim om enige vereiste na te kom, soos in paragraaf (a) bedoel, plaasvind as gevolg van enige gebeurtenis wat buite die beheer van die maatskappy is, kan daardie Minister, na inagneming van die omstandighede van daardie gebeurtenis,—

- (i) daardie verandering in wesenlike feite verontagsaam; of
- (ii) die goedkeuring ingevolge hierdie artikel met onmiddellike ingang intrek en kan gelas dat die Kommissaris enige addisionele nywerheidsbeleggingstoelaes ten opsigte van daardie jaar van aanslag of enige daaropvolgende jaar van aanslag moet afwys.

(10) Die Kommissaris moet—

- (a) die Minister van Handel en Nywerheid onmiddellik in kennis stel wanneer die Kommissaris inligting vind wat 'n volle of gedeeltelike intrekking van aftrekkings ingevolge subartikel (9) te weeg kan bring;
- (b) alle aftrekkings andersins ingevolge hierdie artikel voorsien afwys vanaf die datum van goedkeuring ingevolge subartikel (5), waar die maatskappy enige bedrieglike inligting verskaf, wesenlike wanvoorstelling of wesenlike weglating maak met betrekking tot enige belasting, reg of heffing deur die Kommissaris geadministreer en moet die Minister van Handel en Nywerheid dienooreenkomstig inlig; en
- (c) die Minister van Handel en Nywerheid inlig waar enige maatskappy die Kommissaris versoek het om 'n sertifikaat in subartikel (4)(g)(bb) bedoel uit te reik en daardie sertifikaat geweier is.

(11) By die toepassing van subartikels (9) en (10), kan die Kommissaris, ondanks die bepalinge van artikels 79, 81(5) en 83(18), 'n addisionele aanslag vir enige jaar van aanslag uitreik waar 'n addisionele nywerheidsbeleggingstoelaes wat in enige vorige jaar van aanslag toegelaat is, ingevolge subartikel (9) of (10) afgewys moet word.

(12) Waar die goedkeuring van 'n projek ingetrek is, soos in subartikel (9) bedoel, is 'n maatskappy benewens enige normale belasting, aanspreeklik vir 'n bedrag van addisionele belasting wat nie twee maal die verskil tussen die belasting vasgestel ten opsigte van sy belasbare inkomste

between the tax as calculated in respect of its taxable income returned by it and the tax properly chargeable in respect of its taxable income as determined after disallowing the additional industrial investment allowance provided by this section.

(13) There shall for the purposes of this section be an adjudication committee which must consist of at least—

- (a) three persons employed by the Department of Trade and Industry, appointed by the Minister of Trade and Industry; and
- (b) three persons employed by either the National Treasury or the South African Revenue Service, appointed by the Minister of Finance:

Provided that the Minister of Trade and Industry or the Minister of Finance, as the case may be, may appoint alternative persons so employed if any person appointed in terms of paragraph (a) of (b) is not available to perform any function as a member of the committee.

(14) The adjudication committee contemplated in subsection (13) is an independent committee which performs its functions impartially and without fear, favour or prejudice and for the purpose of this section, the committee may—

- (a) evaluate any application and make recommendations to the Minister of Trade and Industry for purposes of the approval of any strategic industrial project in terms of subsection (5);
- (b) investigate or cause to be investigated any project for the purposes of this section;
- (c) monitor all qualifying strategic industrial projects—
 - (i) to determine whether the objectives of this section are being achieved; and
 - (ii) to advise the Minister of Finance and the Minister of Trade and Industry on any future proposed amendment or adjustment thereof;
- (d) require any company applying for approval of any project as a qualifying strategic industrial project in terms of this section, to furnish such information or documents as are necessary for the committee and Minister of Trade and Industry to perform their functions in terms of this section;
- (e) for a specific purpose and on such conditions and for such period as it may determine obtain the assistance of any person to advise the committee relating to any function assigned to the committee in terms of this section; and
- (f) appoint its own chairperson and determine the procedures for its meetings provided that all procedures must be properly recorded and minuted.

(15) The adjudication committee and any person whose assistance has been obtained by that committee may not—

- (a) act in any way that is inconsistent with the provisions of subsection (14) or expose themselves to any situation involving the risk of a conflict between their responsibilities and private interests; or
- (b) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.

(16) The Minister of Trade and Industry—

- (a) may, after taking into account the recommendations of the adjudication committee, extend the three year period contemplated in the definition of 'industrial asset' in subsection (1) by a period not exceeding one year, where an industrial project consists of industrial assets exceeding R1 billion;
- (b) must provide written reasons for any decision to grant or deny any application for approval of a strategic industrial project as a qualifying strategic industrial project in terms of subsection (5), or any withdrawal of approval as contemplated in subsection (9);
- (c) must inform the Commissioner of the approval of any project in terms of subsection (5) as a qualifying strategic industrial project, setting out

soos opgegee, en die belasting behoorlik hefbaar ten opsigte van sy belasbare inkomste soos vasgestel nadat die addisionele nywerheidsbeleggingstoelae deur hier artikel voorsien, afgewys is, te bowe gaan nie.

(13) Vir doeleinde van hierdie artikel is daar 'n beoordelingskomitee wat moet bestaan uit minstens— 5

(a) drie persone in diens van die Departement van Handel en Nywerheid, deur die Minister van Handel en Nywerheid aangestel; en

(b) drie persone in diens van óf die Nasionale Tesourie óf die Suid-Afrikaanse Inkomstediens, deur die Minister van Finansies aangestel: 10

Met dien verstande dat die Minister van Handel en Nywerheid of die Minister van Finansies, na gelang van die geval, alternatiewe persone aldus in diens kan aanstel indien enige persoon ingevolge paragraaf (a) of (b) aangestel nie beskikbaar is om enige funksie as lid van die komitee te vervul nie. 15

(14) Die beoordelingskomitee in subartikel (13) bedoel is 'n onafhanklike komitee wat sy funksies onpartydig en sonder vrees, begunstiging of vooroordeel vervul en vir doeleindes van hierdie artikel, kan die komitee—

(a) enige aansoek evalueer en aanbevelings aan die Minister van Handel en Nywerheid maak vir doeleindes van die goedkeuring van enige strategiese nywerheidsprojek ingevolge subartikel (5); 20

(b) enige projek ondersoek of laat ondersoek vir doeleindes van hierdie artikel;

(c) alle kwalifiserende strategiese nywerheidsprojekte monitor— 25

(i) ten einde te bepaal of die doelwitte van hierdie artikel bereik word;

(ii) ten einde die Minister van Finansies en die Minister van Handel en Nywerheid aangaande enige toekomstige voorgestelde wysiging of aanpassing daarvan te adviseer; 30

(d) van enige maatskappy wat vir goedkeuring van enige projek as 'n kwalifiserende strategiese nywerheidsprojek aansoek doen, vereis om daardie inligting of dokumente wat nodig is om die komitee en die Minister van Handel en Nywerheid in staat te stel om hulle funksies ingevolge hierdie artikel te verrig, te voorsien; 35

(e) vir 'n spesifieke doel en op daardie voorwaardes en vir sodanige tydperk as wat die komitee mag bepaal, die bystand van enige persoon verkry om die komitee rakende enige funksie ingevolge hierdie artikel aan die komitee opgedra, te adviseer; en

(f) sy eie voorsitter aanstel en die prosedures vir die vergaderings bepaal mits alle prosedures behoorlik opgeteken en genotuleer word. 40

(15) Die beoordelingskomitee en enige persoon wie se bystand deur daardie komitee verkry is mag nie—

(a) op enige wyse optree wat strydig is met die bepalings van subartikel (14) nie of hulleself blootstel aan enige situasie wat die risiko van konflik tussen hulle verantwoordelikhede en privaatbelange daarstel nie; of 45

(b) hulle posisie of enige inligting aan hulle toevertrou gebruik om hulself te verryk of enige ander persoon onbehoorlik te bevoordeel nie.

(16) Die Minister van Handel en Nywerheid— 50

(a) kan, na inagneming van die aanbeveling van die beoordelingskomitee, die drie jaar tydperk in die omskrywing van 'nywerheidsbate' in subartikel (1) bedoel, vir 'n tydperk wat nie een jaar oorskry nie verleng, waar 'n nywerheidsprojek bestaan uit nywerheidsbates wat R1 miljard te bowe gaan; 55

(b) moet skriftelik redes verskaf vir enige besluit om enige aansoek om goedkeuring van 'n strategiese nywerheidsprojek as 'n kwalifiserende strategiese nywerheidsprojek ingevolge subartikel (5), goed te keur of af te wys, of enige intrekking van goedkeuring soos in subartikel (9) bedoel; 60

(c) moet die Kommissaris van die goedkeuring van enige projek ingevolge subartikel (5) as 'n kwalifiserende strategiese nywerheidsprojek inlig en daardie besonderhede verskaf wat deur die

- such particulars required by the Commissioner to determine the amount of the additional industrial investment allowance allowable in terms of this section;
- (d) must publish the particulars of any application received from a company for approval of a qualifying strategic industrial project in the *Gazette* not later than 30 days after providing to that company the written reasons for any decision as contemplated in paragraph (b);
- (e) must submit an annual report to Parliament, and must provide a copy of that report to the Auditor-General, setting out the following information in respect of each company that received approval in terms of subsection (5)—
- (i) the name of each company;
 - (ii) the description of each project;
 - (iii) the potential national revenue forgone by virtue of the deductions allowable in respect of that project in terms of this section;
 - (iv) the annual progress relating to the direct benefits of the project in terms of economic growth or employment, setting out the details of the factors contemplated in subsections (4) and (5) on which approval for the strategic industrial project was granted;
 - (v) any decision to withdraw the approval of a project in terms of subsection (9); and
 - (vi) any decisions not to withdraw the approval of a project, despite any material change in facts, as contemplated in paragraph (i) of the proviso to subsection (9).
- (17) The Commissioner must submit an annual report to the Auditor-General containing a list of all—
- (a) certificates issued under subsection (4)(g); and
 - (b) failures to respond within 60 days as provided in subsection (4)(g).
- (18) Notwithstanding the provisions of section 4, the Commissioner must disclose to the Minister of Trade and Industry and the adjudication committee, including any person whose assistance has been obtained by that committee, such information relating to the affairs of any company carrying on a qualifying strategic industrial project as is necessary to enable the Minister of Trade and Industry and the adjudication committee to perform its functions in terms of this section.
- (19) Every employee of the Department of Trade and Industry and every member of the adjudication committee, including any person whose assistance has been obtained by that committee, must preserve and aid in preserving secrecy with regard to all matters that may come to their knowledge in the performance of their functions in terms of this section, and may not communicate any such matter to any person whatsoever other than to the company concerned or its legal representative, nor allow any such person to have access to any records in the possession or custody of that Department or committee, except in terms of the law or an order of court.
- (20) Any person who contravenes the provisions of subsections (15) and (19), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.”.

Amendment of section 13 of Act 58 of 1962

13. Section 13 of the Income Tax Act, 1962, is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraph:

- “(dA) any building that has never been used, if such building has been acquired by the taxpayer by purchase from any other person and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture or any other process which in the

Kommissaris benodig word om die bedrag van die addisionele nywerheidsbeleggingstoelae wat ingevolge hierdie artikel toelaatbaar is, te bepaal;

- (d) moet die besonderhede van enige aansoek om goedkeuring van 'n kwalifiserende strategiese nywerheidsprojek wat van 'n maatskappy ontvang is in die *Staatskoerant* publiseer, nie later nie as 30 dae nadat skriftelike redes vir enige besluit soos in paragraaf (b) bedoel aan die maatskappy voorsien is; 5
- (e) moet 'n jaarlikse verslag aan Parlement voorsien, en moet 'n afskrif van daardie verslag aan die Ouditeur-Generaal verskaf, wat die volgende inligting met betrekking tot elke maatskappy wat ingevolge subartikel (5) goedkeuring ontvang het, uiteensit— 10
 - (i) die naam van elke maatskappy;
 - (ii) die beskrywing van elke projek;
 - (iii) die potensiële nasionale inkomste prysgegee weens die aftekkings wat ingevolge hierdie artikel toelaatbaar is ten opsigte van daardie projek; 15
 - (iv) die jaarlikse vordering met betrekking tot die direkte voordele van die projek in terme van ekonomiese groei of werkskepping, wat die besonderhede van die faktore in subartikels (4) en (5) beoog, waarop goedkeuring vir die strategiese nywerheidsprojek toegestaan is, uiteensit; 20
 - (v) enige besluit om die goedkeuring van 'n projek ingevolge subartikel (9) in te trek; en
 - (vi) enige besluit om nie die goedkeuring van 'n projek in te trek nie, ten spyte van enige wesenlike verandering in feite, soos in paragraaf (i) van die voorbehoudsbepaling by subartikel (9) bedoel. 25
- (17) Die Kommissaris moet 'n jaarlikse verslag aan die Ouditeur-Generaal voorsien wat 'n lys bevat van alle— 30
 - (a) sertifikate ingevolge subartikel (4)(g) uitgereik; en
 - (b) versuim om binne 60 dae te reageer soos in subartikel (4)(g) bedoel.
- (18) Ondanks die bepalinge van artikel 4, moet die Kommissaris aan die Minister van Handel en Nywerheid en die beoordelingskomitee, insluitend enige persoon wie se bystand deur daardie komitee verkry is, daardie 35
 inligting met betrekking tot die sake van enige maatskappy wat 'n kwalifiserende strategiese nywerheidsprojek beoefen, verstrek wat nodig is om die Minister van Handel en Nywerheid en die beoordelingskomitee in staat te stel om hulle funksies ingevolge hierdie artikel te verrig.
- (19) Elke werknemer van die Departement van Handel en Nywerheid en 40
 elke lid van die beoordelingskomitee, insluitend enige persoon wie se bystand deur daardie komitee verkry is, moet geheimhouding bewaar en help bewaar met betrekking tot alle aangeleenthede wat tot hulle kennis mag kom in die verrigting van hulle funksies ingevolge hierdie artikel, en mag nie enige sodanige aangeleentheid aan enige persoon wie ookal 45
 bekend maak nie behalwe aan die betrokke maatskappy of sy wettige verteenwoordiger, of enige sodanige persoon toelaat om toegang te hê tot enige rekords in die besit of bewaring van daardie Departement of komitee nie, behalwe ingevolge die reg of 'n hofbevel.
- (20) Enige persoon wat die bepalinge van subartikels (15) en (19) 50
 oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.”

Wysiging van artikel 13 van Wet 58 van 1962

13. Artikel 13 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende paragraaf na paragraaf (d) van subartikel (1) in te voeg: 55

- “(dA) 'n gebou wat nooit gebruik is nie, indien bedoelde gebou deur die belastingpligtige deur aankoop verkry is van enige ander persoon en bedoelde gebou gedurende die jaar van aanslag geheel en al of hoofsaaklik gebruik is deur die belastingpligtige ten einde in die loop van sy bedryf (behalwe mynbou of boerdery) 'n vervaardigingsproses of 'n ander proses 60 wat volgens die Kommissaris se oordeel van dergelyke aard is, daarin uit te

opinion of the Commissioner is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or”.

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, section 36 of Act 30 of 1998 and section 32 of Act 59 of 2000

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

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

“(1) Any income received by or accrued to or in favour of any person during any year of assessment in his capacity as the trustee of a trust **[referred to in the definition of ‘person’ in section 1]**, shall, subject to the provisions of section 7, to the extent to which such income has been derived for the immediate or future benefit of any ascertained beneficiary **[with]** who has a vested right to such income during such year, be deemed to be income which has accrued to such beneficiary, and to the extent to which such income is not so derived, be deemed to be income which has accrued to such trust.”;

(b) by the substitution for paragraphs (a) and (b) of subsection (2A) of the following paragraphs:

“(a) such capital arose from—

(i) income received by or accrued to such trust; or

(ii) any receipts and accruals of such trust which would have constituted income if such trust had been a resident,

in any previous year of assessment during which such resident had a contingent right to such income or receipts and accruals; and

(b) such income **[has]** or receipts and accruals have not been subject to tax in the Republic in terms of the provisions of this Act,”; and

(c) by the substitution for subsection (3) of the following subsection:

“(3) Any deduction or allowance which may be made under the provisions of this Act in the determination of the taxable income derived by way of any income referred to in subsection (1) **[(but excluding any income contemplated in subsection (2))]**, shall, to the extent to which such income is under the provisions of that subsection deemed to be income which has accrued to a beneficiary or to the trust, be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such beneficiary or trust, as the case may be.”.

(2) Subsection (1)(b) and (c) shall be deemed to have come into operation on 1 January 2001.

Amendment of section 29A of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000 and section 15 of Act 5 of 2001

15. (1) Section 29A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (11A) of the following subsection:

“(11A) For the purposes of subsection (11), the percentage of the amount of expenses, **[and]** allowances and transfers contemplated in subsection (11)(a)(ii)(aa) and (bb) and subsection (11)(a)(iii) to be allowed in respect of the first five years of assessment commencing on or after 1 January 2002, shall be reduced by an amount determined in accordance with the provisions of subsection (11B) and (11C).”.

(2) Subsection (1) shall apply in respect of years of assessment commencing on or after 1 January 2002.

voer, of indien bedoelde gebou deur die belastingpligtige verhuur is en geheel en al of hoofsaaklik in die loop van 'n bedryf (behalwe mynbou of boerdery) deur 'n huurder of onderhuurder gebruik is om 'n proses soos voormeld daarin uit te voer; of”.

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, artikel 36 van Wet 30 van 1998 en artikel 32 van Wet 59 van 2000

14. (1) Artikel 25B van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(1) Inkomste gedurende enige jaar van aanslag ontvang deur of toegeval aan of ten gunste van 'n persoon in sy hoedanigheid as die trustee van 'n trust [bedoel in die omskrywing van ‘persoon’ in artikel 1], word, behoudens die bepalings van artikel 7, vir sover bedoelde inkomste verkry is vir die onmiddellike of toekomstige voordeel van 'n vasgestelde begunstigde [met wat gedurende daardie jaar 'n gevestigde reg op bedoelde inkomste het, geag inkomste te wees wat toegeval het aan bedoelde begunstigde, en vir sover bedoelde inkomste nie aldus verkry is nie, geag inkomste te wees wat aan bedoelde trust toegeval het.”;

(b) deur paragrawe (a) en (b) van subartikel (2A) deur die volgende paragrawe te vervang:

“(a) bedoelde kapitaal ontstaan het uit—

(i) inkomste ontvang deur of toegeval aan bedoelde trust; of

(ii) enige ontvangste en toevallings van daardie trust wat inkomste sou daargestel het indien daardie trust 'n inwoner was,

in 'n voorafgaande jaar van aanslag waartydens bedoelde inwoner 'n voorwaardelike reg gehad het om in bedoelde inkomste of ontvangstes en toevallings te deel; en

(b) bedoelde inkomste of ontvangstes en toevallings nie aan belasting in die Republiek ingevolge die bepalings van hierdie Wet onderhewig was nie.”; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Enige aftrekking of vermindering wat kragtens die bepalings van hierdie Wet toegestaan kan word by die vasstelling van die belasbare inkomste verkry by wyse van enige inkomste bedoel in subartikel (1) [(maar uitgesonderd inkomste in subartikel (2) bedoel)] word, vir sover bedoelde inkomste kragtens die bepalings van daardie subartikel geag word inkomste te wees wat aan 'n begunstigde of die trust toegeval het, geag 'n aftrekking of vermindering te wees wat toegestaan kan word by die vasstelling van die belasbare inkomste deur daardie begunstigde of trust verkry, na gelang van die geval.”.

(2) Subartikels (1)(b) en (c) word geag op 1 Januarie 2001 in werking te getree het.

Wysiging van artikel 29A van Wet 58 van 1962, soos ingevoeg deur artikel 30 van Wet 53 van 1999 en gewysig deur artikel 36 van Wet 59 van 2000 en artikel 15 van Wet 5 van 2001

15. (1) Artikel 29A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (11A) deur die volgende subartikel te vervang:

“(11A) By die toepassing van subartikel (11) moet die persentasie van die bedrag van onkoste, [en] toelaes en oorplasinge in subartikel (11)(a)(ii)(aa) en (bb) en subartikel (11)(a)(iii) beoog wat toegestaan staan te word ten opsigte van die eerste vyf jare van aanslag wat op of na 1 Januarie 2002 'n aanvang neem, deur die bedrag vasgestel ooreenkomstig die bepalings van subartikels (11B) en (11C), verminder word.”.

(2) Subartikel (1) is van toepassing ten opsigte van jare van aanslag wat op of na 1 Januarie 2002 'n aanvang neem.

Amendment of section 30 of Act 58 of 1962, as inserted by section 35 of Act 30 of 2000

16. (1) Section 30 of the Income Tax Act, 1962, is hereby amended by the substitution in item (aa) of subparagraph (iv) of paragraph (b) of subsection (3) for the words preceding sub-item (A) of the following words:

“the gross income derived from all such business [undertaking] undertakings or trading [activity does] activities do not in total exceed the greater of—”.

(2) Subsection (1) shall come into operation on the date that section 30 of the Income Tax Act, 1962, comes into operation.

Amendment of section 66 of Act 58 of 1962, as amended by section 10 of Act 6 of 1963, section 19 of Act 90 of 1964, section 27 of Act 88 of 1971, section 22 of Act 91 of 1982, section 19 of Act 65 of 1986, section 23 of Act 85 of 1987, section 37 of Act 101 of 1990, section 26 of Act 21 of 1994, section 41 of Act 30 of 2000 and section 19 of Act 5 of 2001

17. Section 66 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (7B) of the following subsections:

“(7C) Where in any proceedings or prosecution under this Act or in any dispute in which the State, the Minister or the Commissioner is a party, the question arises whether an electronic or digital signature of a taxpayer affixed to any return as contemplated in subsection (7A), was used with or without the consent and authority of that taxpayer, it shall, in the absence of proof to the contrary, for purposes of this Act be assumed that such signature was so used with the consent and authority of that taxpayer.

(7D)(a) Notwithstanding anything contained to the contrary in this Act or in any other law, whenever in any proceedings or prosecution under this Act or in any dispute in which the State, the Minister or the Commissioner is a party, it is necessary to prove the authenticity, the veracity, the origin, the contents, an electronic signature or any other aspect of any electronic communication transmitted to and received by the Commissioner under this section, the provisions and conditions of any agreement (entered into in accordance with any regulations made by the Minister in terms of subsection (7B)) establish the basis upon which any court of competent jurisdiction shall determine such issues.

(b) Notwithstanding anything to the contrary contained in any other law, nothing in the application of the rules of evidence shall be applied so as to deny the admissibility of any electronic communication under this section for purposes of this Act in evidence—

- (i) on the sole grounds that it is an electronic data message; or
- (ii) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in original form.

(c)(i) Information in the form of a data message shall be given due evidential weight.

(ii) In assessing the evidential weight of a data message a court shall have regard to—

- (aa) the reliability of the manner in which the data message was generated, stored and communicated;
- (bb) the reliability of the manner in which the integrity of the information was maintained;
- (cc) the manner in which its originator was identified;
- (dd) whether these functions were in compliance with the agreement contemplated in paragraph (a); and
- (ee) the requirements of this section, and any other relevant factor.

(7E) Any person who uses an electronic or digital signature of any other person in any electronic communication to the Commissioner for any purpose, without the consent and authority of such person, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years.”.

Wysiging van artikel 30 van Wet 58 van 1962, soos ingevoeg deur artikel 35 van Wet 30 van 2000

16. (1) Artikel 30 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in item (aa) van subparagraaf (iv) van paragraaf (b) van subartikel (3) die woorde wat sub-item (A) voorafgaan deur die volgende woorde te vervang:

“die bruto inkomste uit alle bedoelde [besigheidsonderneming] besigheids-ondernemings of [handelsaktiwiteit] handelsaktiwiteite verkry, in totaal nie die grootste van—”.

(2) Subartikel (1) tree in werking op die datum wat artikel 30 van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 66 van Wet 58 van 1962, soos gewysig deur artikel 10 van Wet 6 van 1963, artikel 19 van Wet 90 van 1964, artikel 27 van Wet 88 van 1971, artikel 22 van Wet 91 van 1982, artikel 19 van Wet 65 van 1986, artikel 23 van Wet 85 van 1987, artikel 37 van Wet 101 van 1990, artikel 26 van Wet 21 van 1994, artikel 41 van Wet 30 van 2000 en artikel 19 van Wet 5 van 2001

17. Artikel 66 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikels na subartikel (7B) in te voeg:

“(7C) Wanneer in enige geding of vervolging kragtens hierdie Wet of in enige geskil waarby die Staat, die Minister of die Kommissaris ’n party is, die vraag ontstaan of ’n elektroniese of digitale handtekening wat op ’n elektroniese opgawe soos in subartikel (7A) bedoel aangebring is, gebruik is met of sonder die instemming en magtiging van die geregistreerde gebruiker, word daar, in die afwesigheid van enige bewys tot die teendeel by die toepassing van hierdie Wet vermoed dat sodanige handtekeninge met die instemming en magtiging van die belastingpligtige gebruik is.

(7D)(a) Ondanks enigiets tot die teendeel in hierdie Wet of enige ander reg vervat, wanneer dit ookal nodig is, in enige geding of vervolging kragtens hierdie Wet of in enige geskil waarby die Staat, die Minister of die Kommissaris ’n party is, om die betroubaarheid, die geloofwaardigheid, die oorsprong, die inhoud, ’n elektroniese handtekening of enige ander aspek van enige elektroniese kommunikasie, versend aan en ontvang deur die Kommissaris kragtens hierdie artikel te bewys, vestig die bepalinge en voorwaardes van enige ooreenkoms (aangegaan ingevolge enige regulasie kragtens subartikel (7B) deur die Minister gemaak), die basis op grond waarvan ’n hof van kompetente jurisdiksie sodanige geskilpunte beslis.

(b) Ondanks ondersluidende bepalinge van enige ander Wet word niks in die toepassing van bewysleweringsreëls so aangewend sodat die toelaatbaarheid van enige elektroniese kommunikasie kragtens hierdie artikel vir doeleindes van hierdie Wet geweier word as getuienis nie—

(i) op die uitsluitlike grond dat dit ’n elektroniese databoodskap is;

(ii) indien dit die beste getuienis is wat van die persoon wat dit aanvoer redelikerwys verwag kan word om te verkry, op grond daarvan dat dit nie in oorspronklike vorm is nie.

(c)(i) Aan inligting in die vorm van ’n databoodskap moet behoorlike bewysregtelike status gegee word.

(ii) In die beoordeling van die bewysregtelike waarde van ’n databoodskap moet ’n hof die volgende in ag neem—

(aa) die betroubaarheid van die wyse waarop die databoodskap geskep, gestoor en gekommunikeer is;

(bb) die betroubaarheid van die wyse waarop die integriteit van die inligting in stand gehou is;

(cc) die wyse waarop die opsteller geïdentifiseer is;

(dd) of hierdie funksies ooreenkomstig die ooreenkoms in paragraaf (a) bedoel was; en

(ee) die vereistes van hierdie artikel en enige ander relevante faktor.

(7E) Enige persoon wat ’n elektroniese of digitale handtekening van enige ander persoon in enige elektroniese kommunikasie aan die Kommissaris vir enige doel gebruik, sonder die toestemming en magtiging van daardie persoon, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens 2 jaar.”.

Amendment of section 75 of Act 58 of 1962

18. Section 75 of the Income Tax Act, 1962, is hereby amended—

- (a) by the addition of the word “or” at the end of paragraph (h) of subsection (1); and
- (b) by the insertion after paragraph (h) of subsection (1) of the following paragraph:
 - “(i) obtains approval of any project as a qualifying strategic industrial project in terms of section 12G of the Act, where such approval was based on any fraudulent information provided or material misrepresentation made by that person.”.

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, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000 and section 53 of Act 59 of 2000

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

- (a) by the deletion of the word “and” at the end of paragraph (e) of the definition of “employee”;
 - (b) by the addition of the word “and” at the end of paragraph (f) of the definition of “employee”;
 - (c) by the addition to the definition of “employee” of the following paragraph:
 - “(g) any director of a private company who is not otherwise included in terms of paragraph (a);”;
 - (d) by the insertion after the definition of “labour broker” of the following definition:
 - “‘month’ means any of the twelve portions into which any calendar year is divided;”;
 - (e) by the deletion of item (vii) of the definition of “remuneration”.
- (2) Subsection (1) shall come into operation on 1 March 2002.

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000 and section 54 of Act 59 of 2000

20. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of subparagraph (3).

(2) Subsection (1) shall come into operation on 1 March 2002.

Amendment of Paragraph 9 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997 and section 55 of Act 59 of 2000

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

- (a) by the substitution for subparagraph (1) of the following subparagraph:
 - “(1) The Commissioner may from time to time, having regard to the rates of normal tax as fixed by Parliament or foreshadowed by the Minister in his budget statement or as varied by the Minister under section 5(3) of this Act, to the rebates applicable in terms of section 6 and section 6quat of this Act and to any other factors having a bearing upon the probable liability of taxpayers for normal tax, prescribe deduction tables applicable to such classes of

Wysiging van artikel 75 van Wet 58 van 1962

18. Artikel 75 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur aan die einde van paragraaf (h) van subartikel (1) die woord “of” by te voeg; en
- (b) deur na paragraaf (h) van subartikel (1) die volgende paragraaf by te voeg: 5

“(i) goedkeuring van enige projek verkry as ’n kwalifiserende strategiese nywerheidsprojek ingevolge artikel 12G van die Wet, waar daardie goedkeuring gegrond is op bedrieglike inligting wat verskaf is of wesenlike wanvoorstelling deur daardie persoon gemaak.”.

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg 10
 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 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, artikel 44 van Wet 28 van 1997, artikel 52 van Wet 30 van 1998, artikel 52 van Wet 30 van 2000 en artikel 53 van Wet 59 van 2000 15

19. (1) Paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word 20
 hierby gewysig—

- (a) deur item (vii) van die omskrywing van “besoldiging” te skrap;
- (b) deur die volgende omskrywing na die omskrywing van “besoldiging” in te voeg:

“‘maand’ enigeen van die twaalf dele waarin ’n kalenderjaar ingedeel is;”;
- (c) deur aan die einde van paragraaf (e) van die woordskrywing van “werknemer” die woord “en” te skrap;
- (d) deur aan die einde van paragraaf (f) van die woordskrywing van “werknemer” die woord “en” by te voeg; en
- (e) deur die volgende paragraaf by die omskrywing van “werknemer” te voeg: 25

“(g) enige direkteur van ’n privaatskapskap wat nie andersins ingevolge paragraaf (a) ingesluit is nie.”.

(2) Subartikel (1) tree op 1 Maart 2002 in werking.

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg 35
 deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 28 van Wet 113 van 1977, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995, artikel 45 van Wet 28 van 1997, artikel 53 van Wet 30 van 2000 en artikel 54 van Wet 59 van 2000 40

20. (1) Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (3) te skrap.

(2) Subartikel (1) tree op 1 Maart 2002 in werking.

Wysiging van paragraaf 9 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg 45
 deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 39 van Wet 88 van 1971, artikel 32 van Wet 103 van 1976, artikel 29 van Wet 104 van 1980, artikel 46 van Wet 101 van 1990, artikel 46 van Wet 28 van 1997 en artikel 55 van Wet 59 van 2000

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

- (a) deur subparagraaf (1) deur die volgende subparagraaf te vervang: 50

“(1) Die Kommissaris kan, met inagneming van die skale van normale belasting soos deur die Parlement vasgestel of deur die Minister in sy begrotingsrede in die vooruitsig gestel of soos deur die Minister ingevolge artikel 5(3) van hierdie Wet verander, die kortings wat ingevolge artikel 6 en artikel 6quat van hierdie Wet van toepassing is, en enige ander faktore wat met 55
 die waarskynlike aanspreeklikheid van belastingpligtiges vir normale

employees as he may determine, and the manner in which such tables shall be applied, and the amount of employees' tax to be deducted from any amount of remuneration shall, subject to the provisions of [subparagraph] subparagraphs (3), (4) and (5) of this paragraph and paragraphs 10, 11 and 12, be determined in accordance with such tables or where subparagraph (3), (4) or (5) is applicable, in accordance with that subparagraph."; and

(b) by the addition of the following subparagraph:

"(5) The amount to be deducted or withheld in respect of employees' tax from any amount paid or payable to any director of any private company during any year of assessment of that director, in respect of services rendered or to be rendered by that director to that company, shall be determined after taking into account any amount of employees' tax paid or payable to the Commissioner by that company during that year of assessment, in respect of that director in terms of paragraph 11C(2)."

(2) Subsection (1) shall come into operation on 1 March 2002.

Insertion of paragraph 11C in Fourth Schedule to Act 58 of 1962

22. (1) The following paragraph is hereby inserted after paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962:

"Employees' tax payable in respect of directors of private companies

11C. (1) Every director of a private company shall, for purposes of this paragraph, be deemed to have received from that private company during any month, an amount of remuneration determined in accordance with the formula—

$$Y = \frac{T}{N},$$

in which formula—

- (a) 'Y' represents the amount to be determined;
- (b) 'T' represents the balance of remuneration determined in terms of paragraph 2(4) (excluding any amount which was deemed to be remuneration in terms of this paragraph), paid or payable to that director by that company in respect of the last year of assessment of that director which ended before that month, less any amount—
 - (i) contemplated in paragraph (d), (e) or (f) of the definition of 'gross income' which is included therein; or
 - (ii) which is included therein in terms of paragraph 11A; and
- (c) 'N' represents the number of completed months which that director was employed by that company during that last year of assessment;

Provided that—

- (i) the balance of remuneration determined in respect of the last year of assessment of a director which ended on or before 28 February 2002, shall, for the purposes of paragraph (b), be determined on an amount which would, but for the provisions of paragraph (vii) of the definition of 'remuneration', have constituted remuneration under that definition;
- (ii) where the remuneration paid or payable to that director in respect of—
 - (aa) the last year of assessment, contemplated in paragraph (b), has not yet been determined—
 - (A) 'T' shall be determined based on the balance of remuneration paid or payable to that director in respect of the year of assessment preceding that last year of assessment, increased by an amount equal to 20 per cent (or such other percentage as the Minister may from time to time

belasting in verband staan, van tyd tot tyd aftrekkingstabelle voorskryf wat geld vir die kategorieë van werknemers wat hy bepaal, en kan ook die wyse voorskryf waarop sodanige tabelle toegepas moet word, en die bedrag wat by wyse van werknemersbelasting van 'n bedrag aan besoldiging afgetrek moet word, word, behoudens die bepalings van [subparagraaf] subparagrafe (3), (4) en (5) van hierdie paragraaf en paragrafe 10, 11 en 12 in ooreenstemming met sodanige tabelle, of waar subparagraaf (3), (4) of (5) van toepassing is, in ooreenstemming met daardie subparagraaf bepaal.”; en

(b) deur die volgende subparagraaf by te voeg:

“(5) Die bedrag van werknemersbelasting wat afgetrek of teruggehou moet word van enige bedrag betaal of betaalbaar aan enige direkteur van 'n privaatmaatskappy gedurende enige jaar van aanslag van daardie direkteur ten opsigte van dienste gelewer of gelewer staan te word deur daardie direkteur aan daardie maatskappy, word vasgestel na inagneming van enige bedrag van werknemersbelasting wat ingevolge paragraaf 11C(2) gedurende daardie jaar van aanslag deur daardie maatskappy ten opsigte van daardie direkteur aan die Kommissaris betaal of betaalbaar is.”.

(2) Subartikel (1) tree op 1 Maart 2002 in werking.

Invoeging van paragraaf 11C van die Vierde Bylae by Wet 58 van 1962

22. (1) Die volgende paragraaf word hierby na paragraaf 11B van die Vierde Bylae by die Inkomstebelastingwet, 1962, ingevoeg:

“Werknemersbelasting ten opsigte van direkteure van privaatmaatskappe betaalbaar

11C. (1) Elke direkteur van 'n privaatmaatskappy word, by die toepassing van hierdie paragraaf, geag gedurende enige maand 'n bedrag van besoldiging vanaf daardie privaatmaatskappy te ontvang het, vasgestel ingevolge die formule—

$$Y = \frac{T}{N}$$

in welke formule—

- (a) ‘Y’ die bedrag voorstel wat vasgestel moet word;
 - (b) ‘T’ die balans van besoldiging voorstel, bereken ingevolge paragraaf 2(4) (uitgesluit enige bedrag wat ingevolge hierdie paragraaf geag besoldiging te wees), aan daardie direkteur betaal of betaalbaar deur daardie maatskappy ten opsigte van die laaste jaar van aanslag van die direkteur wat voor daardie maand geëindig het, verminder met enige bedrag—
 - (i) in paragraaf (d), (e) of (f) van die omskrywing van ‘bruto inkomste’ bedoel wat daarby ingesluit is; of
 - (ii) wat ingevolge paragraaf 11A daarby ingesluit is; en
 - (c) ‘N’ die aantal voltooide maande voorstel wat daardie direkteur gedurende daardie laaste jaar van aanslag in diens van daardie maatskappy was:
- Met dien verstande dat—
- (i) die balans van besoldiging ten opsigte van die laaste jaar van aanslag van 'n direkteur wat voor of op 28 Februarie 2002 eindig, word by die toepassing van paragraaf (b) bereken op 'n bedrag wat, by ontstentenis van die bepalings van paragraaf (vii) van die omskrywing van ‘besoldiging’, ingevolge daardie omskrywing besoldiging sou daarstel;
 - (ii) waar die besoldiging aan daardie direkteur betaal of betaalbaar ten opsigte van—
 - (aa) die laaste jaar van aanslag, in paragraaf (b) bedoel, nog nie bepaal is nie—

(A) word ‘T’ vasgestel gebaseer op die balans van besoldiging aan daardie direkteur betaal of betaalbaar ten opsigte van die jaar van aanslag wat daardie laaste jaar van aanslag voorafgaan, vermeerder met 'n bedrag gelyk aan 20 persent (of sodanige ander persentasie as wat die

determine by notice in the *Gazette*) of that remuneration; and

(B) 'N' shall represent the number of completed months which that director was employed by that company during that preceding year of assessment; or

(bb) the preceding year of assessment, contemplated in sub-item (aa), has not yet been determined, the company must request the Commissioner to determine the amount of remuneration which is deemed to have been received for the purpose of this subparagraph.

(2) Every private company shall on a monthly basis, in respect of every director of that company, pay to the Commissioner an amount determined in accordance with subparagraph (3), which shall for the purposes of sections 79, 89bis, 89ter, 89quat, 90, 102 and 102A of the Act and paragraphs 1, 4, 6, 12, 13 and 14 and Parts III and IV of this Schedule, be deemed to be an amount of employees' tax which was required to be deducted or withheld by the company as an employer in terms of paragraph 2 of this Schedule.

(3) The amount of employees' tax to be paid by the private company to the Commissioner in terms of subparagraph (2) in respect of any director shall be determined in accordance with paragraph 9, 10 or 11 in respect of an amount of remuneration deemed to have been received by that director as contemplated in subparagraph (1).

(4) A company shall have a right of recovery against a director in respect of any amount paid by that company in terms of subparagraph (1), in respect of that director and that amount may be deducted from future remuneration which may become payable by that company to that director.

(5) Until such time as a director pays to the company the amount which is due to the company in terms of subparagraph (4), such director shall not be entitled to receive from the company an employees' tax certificate in respect of that amount."

(2) Subsection (1) shall come into operation on 1 March 2002.

Amendment of paragraph 13 of Fourth Schedule to Act 58 of 1962, as amended by section 24 of Act 72 of 1963, section 29 of Act 113 of 1977 and section 49 of Act 101 of 1990

23. (1) Paragraph 13 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

"(1) Subject to the provisions of paragraphs 5, 11C(5) and 28, every employer who during any period contemplated in subparagraph (1A) deducts or withholds any amount by way of employees tax as required by paragraph 2 shall within the time allowed by subparagraph (2) of this paragraph deliver to each employee or former employee to whom remuneration has during the period in question been paid or become due by such employer, an employees tax certificate in such form as the Commissioner may prescribe or approve, which shall show the total remuneration of such employee or former employee and the sum of the amounts of employees tax deducted or withheld by such employer from such remuneration during the said period, excluding any amount of remuneration or employees tax included in any other employees tax certificate issued by such employer unless such other certificate has been surrendered to such employer by the employee or former employee and has been cancelled by such employer and dealt with by him as provided in subparagraph (10)."

(2) Subsection (1) shall come into operation on 1 March 2002.

Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* kan bepaal) van daardie besoldiging; en

(B) stel 'n' die aantal voltooide maande voor wat daardie direkteur gedurende daardie voorafgaande jaar van aanslag by daardie maatskappy in diens was; of

(bb) die voorafgaande jaar van aanslag in sub-item (aa) bedoel nog nie bepaal is nie, moet die maatskappy die Kommissaris versoek om die bedrag van die besoldiging te bepaal wat by die toepassing van hierdie subparagraaf geag word ontvang te gewees het.

(2) Elke privaatmaatskappy moet op 'n maandelikse basis, ten opsigte van elke direkteur van daardie maatskappy 'n bedrag vasgestel ingevolge subparagraaf (3) aan die Kommissaris betaal, wat by die toepassing van artikels 79, 89bis, 89ter, 89quat, 90, 102 en 102A van die Wet en paragrawe 1, 4, 6, 12, 13 en 14 en Dele III en IV van hierdie Bylae geag word 'n bedrag van werknemersbelasting te wees wat deur die maatskappy as werkgever ingevolge paragraaf 2 van hierdie Bylae afgetrek of teruggehou moes word.

(3) Die bedrag van werknemersbelasting wat ingevolge subparagraaf (2) deur 'n privaatmaatskappy ten opsigte van enige direkteur betaal moet word, word ingevolge paragraaf 9, 10 of 11 bepaal ten opsigte van 'n bedrag van besoldiging wat ingevolge subparagraaf (1) geag deur daardie direkteur ontvang te gewees het.

(4) 'n Maatskappy het 'n reg van verhaal teen 'n direkteur ten opsigte van enige bedrag deur daardie maatskappy ingevolge subparagraaf (1) ten opsigte van daardie direkteur betaal, en daardie bedrag kan verhaal word van toekomstige besoldiging wat deur daardie maatskappy aan daardie direkteur betaalbaar mag wees.

(5) Totdat 'n direkteur 'n bedrag wat ingevolge subparagraaf (4) aan die maatskappy verskuldig is aan die maatskappy betaal, is daardie direkteur nie geregtig op 'n werknemersbelastingcertifikaat van die maatskappy ten opsigte van daardie bedrag nie."

(2) Subartikel (1) tree op 1 Maart 2002 in werking.

Wysiging van paragraph 13 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 24 van Wet 72 van 1963, artikel 29 van Wet 113 van 1977 en artikel 49 van Wet 101 van 1990

23. (1) Paragraaf 13 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:

"(1) Behoudens die bepalings van paragrawe 5, 11C(5) en 28, moet elke werkgever wat gedurende 'n tydperk bedoel in subparagraaf (1A) 'n bedrag by wyse van werknemersbelasting volgens voorskrif van paragraaf 2 aftrek of terughou, binne die tyd by sub-paragraaf (2) van hierdie paragraaf toegelaat aan elke werknemer of voormalige werknemer aan wie besoldiging gedurende die betrokke tydperk deur bedoelde werkgever betaal is of verskuldig geword het, 'n werknemersbelastingcertifikaat verstrek in 'n vorm wat die Kommissaris voorskryf of goedkeur, wat die totale besoldiging van die werknemer of voormalige werknemer gedurende dié tydperk en die som van die bedrae gedurende dié tydperk by wyse van werknemersbelasting deur bedoelde werkgever afgetrek of teruggehou van sodanige besoldiging aantoon, maar met uitsluiting van enige bedrag by wyse van besoldiging of werknemersbelasting wat ingesluit is by 'n ander werknemersbelastingcertifikaat deur bedoelde werkgever uitgereik tensy sodanige ander sertifikaat aan bedoelde werkgever deur die werknemer of voormalige werknemer teruggegee is en deur bedoelde werkgever gekanselleer is en deur hom volgens voorskrif van subparagraaf (10) behandel is."

(2) Subartikel (1) tree op 1 Maart 2002 in werking.

Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 85 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986, section 23 of Act 70 of 1989, section 50 of Act 113 of 1993 and section 37 of Act 36 of 1996

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24. Paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in item (a) of subparagraph (1) for the expression “R1 000” of the expression “R2 000”; and
- (b) by the substitution in sub-item (i) of item (d) of subparagraph (1) for the expression “R50 000” of the expression “R80 000”.

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Amendment of paragraph 2 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

25. (1) Paragraph 2 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

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- “(2) For the purposes of subparagraph (1)(b)(i), an interest in immovable property situated in the Republic includes a direct or indirect interest of at least 20 per cent held by a person (alone or together with any connected person in relation to that person) in the equity share capital of a company or in any other entity, where 80 per cent or more of the value of the net assets of that company or other entity, determined on the market value basis, is, at the time of disposal of shares in that company or interest in that other entity, attributable directly or indirectly to immovable property situated in the Republic.”.

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(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of paragraph 20 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

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26. (1) Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for sub-items (viii) and (ix) of item (c) of subparagraph (1) of the following sub-items:
 - “(viii) despite section 23(d), if that person acquired that asset by way of a donation and the donations tax levied in respect of that donation was paid by that person, so much of the donations tax which bears to the full amount of the donations tax so payable the same ratio as the capital gain of the donor determined in respect of that donation, bears to the market value of that asset on the date of that donation; and
 - (ix) if that asset was acquired or disposed of by the exercise of an option (other than the exercise of an option contemplated in item (f)), the expenditure actually incurred in respect of the acquisition of the option;”;
- (b) by the substitution in item (g) of subparagraph (1) for the words preceding sub-item (i) of the following words:

“the following amounts actually incurred as expenditure directly related to the cost of ownership of that asset, which is used wholly and exclusively for business purposes or which constitutes a share listed on a recognised stock exchange or an interest in a unit portfolio (other than a unit portfolio comprised in any unit trust scheme in property shares)—”;
- (c) by the substitution for sub-items (i) and (ii) of item (h) of subparagraph (1) of the following sub-items:
 - “(i) a marketable security, any gain in respect of that acquisition that was included in that person’s income in terms of section 8A, as has not otherwise been included in the cost of that [acquisition] marketable security;

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Wysiging van paragraaf 18 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 28 van Wet 90 van 1964, artikel 42 van Wet 88 van 1971, artikel 49 van Wet 85 van 1974, artikel 19 van Wet 104 van 1979, artikel 26 van Wet 65 van 1986, artikel 9 van Wet 108 van 1986, artikel 23 van Wet 70 van 1989, artikel 50 van Wet 113 van 1993 en artikel 37 van Wet 36 van 1996 5

24. Paragraaf 18 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in item (a) van subparagraaf (1) die uitdrukking “R1 000” deur die uitdrukking “R2 000” te vervang; en 10
- (b) deur in sub-item (i) van item (d) van subparagraaf (1) die uitdrukking “R50 000” deur die uitdrukking “R80 000” te vervang.

Wysiging van paragraaf 2 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

25. (1) Paragraaf 2 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang: 15

“(2) By die toepassing van subparagraaf (1)(b)(i), sluit ’n belang in onroerende eiendom geleë in die Republiek in ’n direkte of indirekte belang van ten minste 20 persent gehou deur ’n persoon (alleen of tesame met enige verbonde persoon met betrekking tot daardie persoon) in die ekwiteitsaandelekapitaal van ’n maatskappy of in enige ander entiteit, waar 80 persent of meer van die waarde van die netto bates van die maatskappy of ander entiteit, op ’n markwaardebasis bepaal, ten tyde van die beskikking oor aandele in daardie maatskappy of belang in daardie ander entiteit, direk of indirek toeskryfbaar is aan onroerende eiendom in die Republiek geleë.”. 20 25

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 20 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

26. (1) Paragraaf 20 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig— 30

- (a) deur sub-items (viii) en (ix) van item (c) van subparagraaf (1) deur die volgende sub-items te vervang:

“(viii) ondanks artikel 23(d) indien daardie persoon daardie bate by wyse van ’n skenking verkry het en die belasting op geskenke ten opsigte van daardie skenking gehef deur daardie persoon betaal is, soveel van die belasting op geskenke wat in dieselfde verhouding tot die volle bedrag van die belasting op geskenke aldus betaalbaar staan, as wat die kapitaalwins van die skenker vasgestel ten opsigte van die skenking in die verhouding tot die markwaarde van daardie bate op die datum van daardie skenking staan; 35 40

- (ix) indien daardie bate verkry of oor beskik is deur die uitoefening van ’n opsie (behalwe die uitoefening van ’n opsie in item (f) beoog), die onkoste werklik aangegaan ten opsigte van die verkryging van die opsie;”; en

- (b) deur in item (g) van subparagraaf (1) die woorde wat sub-item (i) voorafgaan deur die volgende woorde te vervang: 45

“die volgende bedrae werklik aangegaan as onkoste wat direk verband hou met die koste van eienaarskap van daardie bate, wat geheel en uitsluitlik vir besigheidsdoeleindes gebruik word of wat ’n aandeel genoteer op ’n erkende aandelebeurs of ’n belang in ’n effektegroep (behalwe ’n effektegroep bevat in ’n effektetrustskema in eiendoms-aandele) daarstel—”; 50

- (c) deur sub-items (i) en (ii) van item (h) van subparagraaf (1) deur die volgende items te vervang:

“(i) ’n handelseffek, enige wins ten opsigte van daardie verkryging wat in daardie persoon se inkomste kragtens artikel 8A ingesluit is, wat nie andersins in die koste van daardie **[verkryging]** handelseffek ingesluit is nie; 55

- (ii) any other asset, so much of an amount **[in respect of that acquisition]** that has been included in that person's income in terms of section 8(5), or is included in that person's gross income in terms of paragraph (i) of the definition of 'gross income' in section 1, as has not otherwise been included in the cost of that **[acquisition] asset**;" 5
- (d) by the substitution in subsection (1) for the words following sub-item (iv) of item (h) of the following words:
"which must for the purposes of this Part be treated as expenditure incurred in respect of **[the acquisition of]** that asset.";
- (e) by the substitution in subparagraph (2) for the words preceding item (a) of the following words: 10
"The **[base cost]** expenditure incurred by a person in respect of an asset **[acquired by a person]** does not include any of the following amounts—";
- (f) by the deletion of the word "and" at the end of item (a) of subparagraph (2);
- (g) by the addition of the word "and" at the end of item (b) of subparagraph (2); 15
- (h) by the insertion after item (b) of subparagraph (2) of the following item:
"**(c) the valuation date value of any option or right to acquire any marketable security contemplated in section 8A(1),**";
- (i) by the substitution in subparagraph (3) for the words preceding item (a) of the following words: 20
"The **[base cost]** expenditure contemplated in subparagraph (1), incurred by a person in respect of an asset **[acquired by a person]** must be reduced by any amount which **[has been included in terms of subparagraphs (1) and (2), and which]**—".
- (2) Subsection (1) shall come into operation on 1 October 2001. 25

Amendment of paragraph 23 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

27. (1) Paragraph 23 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for sub-item (iii) of item (a) of the following sub-item: 30
"(iii) 'B' is the person's base cost **[in]** of the interests calculated immediately prior to the disposal; and".
- (2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of paragraph 32 of the Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

28. (1) Paragraph 32 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for the words preceding item (a) of the following words: 35
"The base cost of identical assets **[may]** must be determined by using one of the following methods—".
- (2) Subsection (1) shall come into operation on 1 October 2001. 40

Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

29. (1) Paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph: 45
"(2) Where more than one natural person or special trust jointly holds an interest in **[that]** a primary residence at the same time, the amount to be disregarded in terms of subparagraph (1) must be apportioned in relation to each interest so held."
- (2) Subsection (1) shall come into operation on 1 October 2001.

- (ii) enige ander bate, soveel van 'n bedrag **[ten opsigte van daardie verkryging]** as wat kragtens artikel 8(5) in daardie persoon se inkomste ingesluit is, of wat ingevolge paragraaf (i) van die omskrywing van 'bruto inkomste' in artikel 1 in daardie persoon se bruto inkomste ingesluit is, as wat nie andersins by die koste van daardie **[verkryging]** bate ingesluit is nie;"; 5
- (d) deur in subparagraaf (1) die woorde wat sub-item (iv) van item (h) volg deur die volgende woorde te vervang:
"wat by die toepassing van hierdie Deel geag moet word as onkoste aangegaan ten opsigte van **[die verkryging van]** daardie bate."; 10
- (e) deur in subparagraaf (2) die woorde wat item (a) van voorafgaan deur die volgende woorde te vervang:
"Die **[basiskoste]** die onkoste deur 'n persoon aangegaan ten opsigte van 'n bate **[deur 'n persoon verkry]** sluit nie enige van die volgende bedrae in nie—"; 15
- (f) deur in subparagraaf (2) die woord "en" aan die einde van item (a) te skrap;
- (g) deur in subparagraaf (2) die woord "en" aan die einde van item (b) by te voeg; en
- (h) deur die volgende item na item (b) van subparagraaf (2) in te voeg:
"(c) die waardasiedatumwaarde van enige opsie of reg om enige handelseffek in artikel 8A(1) bedoel te verkry,"; 20
- (i) deur in subparagraaf (3) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:
"Die **[basiskoste]** onkoste in subparagraaf (1) bedoel, deur 'n persoon aangegaan ten opsigte van 'n bate **[deur 'n persoon verkry]** moet verminder word met enige bedrag wat **[kragtens subparagraawe (1) en (2) ingesluit is, wat]**—". 25
- (2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 23 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 30

27. (1) Paragraaf 23 van die Agtste Bylae van die Inkomstebelastingwet, 1962 word hierby gewysig deur sub-item (iii) van item (a) deur die volgende sub-item te vervang:
"(iii) 'B' die persoon se basiskoste **[in]** van die belange bereken onmiddellik voor die beskikking, verteenwoordig; en".

(2) Subartikel (1) tree op 1 Oktober 2001 in werking. 35

Wysiging van paragraaf 32 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

28. (1) Paragraaf 32 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 40

"Die basiskoste van identiese bates **[kan]** moet vasgestel word deur die gebruik van een van die volgende metodes—".

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 45 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 45

29. (1) Paragraaf 45 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang:

"(2) Waar meer as een natuurlike persoon of spesiale trust gesamentlik op dieselfde tydstip 'n belang in 'n primêre woning hou, moet die bedrag wat ingevolge subparagraaf (1) verontagsaam moet word, toegedeel word in verhouding tot elke belang aldus gehou." 50

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Amendment of paragraph 46 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

30. (1) Paragraph 46 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (b) of the following item:

“(b) is used mainly for domestic or private purposes together with that residence; and”.

(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of paragraph 55 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

31. Paragraph 55 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution of the words preceding item (a) of the following words:

“(1) A person must disregard any capital gain or capital loss determined in respect of a disposal that resulted in the receipt by or an accrual to that person of an amount—”

(b) by the substitution in item (a) for the words preceding sub-item (i) of the following words:

“in respect of a policy [as defined in section 29A with an insurer as defined in that section], where that person—”;

(c) by the addition of the following subparagraph:

“(2) For the purposes of subparagraph (1), ‘policy’ means a policy as defined in section 29A with an insurer.”.

Amendment of paragraph 60 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

32. (1) Paragraph 60 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (b) of subparagraph (2) of the following item:

“(b) [where] by any natural person, unless that form of gambling, game or competition is [not] authorised by, [or] and conducted in terms of, the laws of the Republic.”.

(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of paragraph 66 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

33. (1) Paragraph 66 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (a) of subparagraph (1) of the following item:

“(a) a person disposes of an asset qualifying for a capital allowance or deduction in terms of section 11(e), 12B, 12C, 12E, 14 or 14bis;”.

(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of paragraph 84 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

34. Paragraph 84 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraphs (a) and (b) of subsection (4) of the following paragraphs:

“(a) issued on or before [1 July 2001] 31 August 2001; and

(b) incorporated in this Schedule on or before 31 [December 2001] July 2002.”.

Amendment of paragraph 86 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

35. (1) Paragraph 86 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

Wysiging van paragraaf 46 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

30. (1) Paragraaf 46 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur item (b) deur die volgende item te vervang:

“(b) hoofsaaklik vir huishoudelike [doeleindes] of privaatdoeleindes tesame met daardie woning gebruik word; en”.

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 55 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

31. Paragraaf 55 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:

“(1) ’n Persoon moet enige kapitaalwins of kapitaalverlies verontagsaam wat vasgestel is ten opsigte van ’n beskikking wat die ontvangste deur of toevalling aan daardie persoon tot gevolg het van ’n bedrag—”;

(b) deur in item (a) die woorde wat sub-item (i) voorafgaan deur die volgende woorde te vervang:

“ten opsigte van ’n polis [in artikel 29A omskryf, aangegaan met ’n versekeraar soos in daardie artikel omskryf], waar daardie persoon—”; en

(c) deur die volgende subparagraaf by te voeg:

“(2) By die toepassing van subparagraaf (1), beteken ‘polis’ ’n polis soos in artikel 29A omskryf by ’n versekeraar.”.

Wysiging van paragraaf 60 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

32. (1) Paragraaf 60 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur item (b) van subparagraaf (2) deur die volgende item te vervang:

“(b) [waar] deur ’n natuurlike persoon, tensy die vorm van dobbel, spel of wedstryd [nie] gemagtig is [of] en bedryf word, kragtens die wette van die Republiek [nie].”.

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 66 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

33. (1) Paragraaf 66 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur item (a) van subparagraaf (1) deur die volgende item te vervang:

“(a) ’n persoon oor ’n bate beskik wat vir ’n kapitaalvermindering of aftrekking kragtens artikel 11(e), 12B, 12C, 12E, 14 of 14bis kwalifiseer;”.

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van paragraaf 84 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

34. Paragraaf 84 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragrawe (a) en (b) van subartikel (4) deur die volgende subparagrawe te vervang:

“(a) voor of op [1 Julie 2001] 31 Augustus 2001 uitgevaardig word; en

(b) voor of op 31 [Desember 2001] Julie 2002 by hierdie Bylae ingesluit word.”.

Wysiging van paragraaf 86 van die Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

35. (1) Paragraaf 86 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

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

- “(2) [The provisions of subparagraph (3) apply] Where a person—
- (a) acquired an asset during the transitional period by means of a non-arm’s length transaction, that person shall for purposes of paragraph 30 be treated as having acquired that asset—
- (i) at the time when the person who disposed of that asset acquired that asset; and 5
- (ii) at a cost equal to the base cost of that asset in the hands of the person who disposed of it; or
- (b) acquired an asset during the transitional period directly or indirectly from a person who was a connected person in relation to that person at— 10
- (i) the time of that acquisition; or
- (ii) any time during the period from the date of that acquisition up to a subsequent disposal of that asset by that person within three years of that acquisition,
- that person shall for purposes of paragraph 30 be treated as having acquired that asset— 15
- (aa) at the time when that connected person acquired that asset, or is treated as having acquired that asset in terms of this paragraph; and
- (bb) at a cost equal to the base cost of that asset in the hands of that connected person, or an amount which is treated as the base cost of that asset in the hands of that connected person in terms of this paragraph; or 20
- (c) reacquired an asset within a period of ninety days after its disposal during the transitional period—
- (i) by means of a non-arm’s length transaction; or 25
- (ii) directly or indirectly to a connected person in relation to that person,
- that person shall for the purposes of paragraph 30 be treated as having reacquired that asset—
- (aa) at the time when that person originally acquired that asset prior to that disposal; and 30
- (bb) at a cost equal to the base cost of that asset at the time of that disposal; or
- (d) acquired an asset within a period of ninety days after the disposal, during the transitional period, of a substantially similar asset that was disposed of— 35
- (i) by means of a non-arm’s length transaction; or
- (ii) directly or indirectly to a connected person in relation to that person,
- in order to replace the asset so disposed of, that person shall for the purposes of paragraph 30 be treated as having acquired that asset— 40
- (aa) at the time when that person acquired the substantially similar asset; and
- (bb) at a cost equal to the base cost of that substantially similar asset at the time of that disposal.”; and 45
- (b) by the deletion of subparagraph (3).
- (2) Subsection (1) shall come into operation on 1 October 2001.

Insertion of section 8 in Act 91 of 1964

36. The following section is hereby inserted in the Customs and Excise Act, 1964, after section 7: 50

“Reports of cargo landed and unpacked and packed or loaded

8. Notwithstanding the provisions of sections 7 and 12, the Commissioner may by rule prescribe that—

“(2) [Die bepalings van subparagraaf (3) is van toepassing] Waar ’n persoon—

- (a) ’n bate gedurende die oorgangstydperk verkry het by wyse van ’n transaksie wat nie onder uiterste voorwaardes in ’n ope mark beding is nie, word daardie persoon by die toepassing van paragraaf 30 geag daardie bate te verkry het— 5
- (i) op die tydstip wat die persoon wat oor daardie bate beskik het daardie bate verkry het; en
- (ii) teen ’n koste gelyk aan die basiskoste van daardie bate in die hande van die persoon wat daarvoor beskik het; of 10
- (b) ’n bate gedurende die oorgangstydperk verkry het direk of indirek van ’n persoon wat ’n verbonde persoon met betrekking tot daardie persoon is op—
- (i) die tydstip van daardie verkryging; of
- (ii) enige tydstip gedurende die tydperk vanaf die datum van daardie verkryging tot ’n daaropvolgende beskikking oor daardie bate deur daardie persoon binne drie jaar van daardie verkryging, word daardie persoon by die toepassing van paragraaf 30 geag daardie bate te verkry het— 15
- (aa) op die tydstip wat daardie verbonde persoon daardie bate verkry het, of ingevolge hierdie paragraaf geag word daardie bate te verkry het; en 20
- (bb) teen ’n koste gelyk aan die basiskoste van daardie bate in die hande van daardie verbonde persoon, of ’n bedrag wat ingevolge hierdie paragraaf geag word die basiskoste van daardie bate in die hande van daardie verbonde persoon te wees; of 25
- (c) ’n bate herverkry het binne ’n tydperk van negentig dae na sy beskikking gedurende die oorgangstydperk—
- (i) by wyse van ’n transaksie wat nie onder uiterste voorwaardes in ’n ope mark beding is nie; of 30
- (ii) direk of indirek aan ’n verbonde persoon met betrekking tot daardie persoon, word daardie persoon by die toepassing van paragraaf 30 geag daardie bate her te verkry het—
- (aa) op die tydstip toe daardie persoon oorspronklik daardie bate verkry het voor daardie beskikking; en 35
- (bb) teen ’n koste gelyk aan die basiskoste van daardie bate op die tydstip van daardie beskikking; of
- (d) ’n bate verkry het binne ’n tydperk van negentig dae na die beskikking, gedurende die oorgangstydperk, van ’n wesenlik soortgelyke bate waarvoor beskik is— 40
- (i) by wyse van ’n transaksie wat nie onder uiterste voorwaardes in ’n ope mark beding is nie; of
- (ii) direk of indirek aan ’n verbonde persoon ten opsigte van daardie persoon, 45
- ten einde die bate aldus oor beskik te vervang, word daardie persoon by die toepassing van paragraaf 30 geag daardie bate te verkry het—
- (aa) op die tydstip toe daardie persoon die wesenlik soortgelyke bate verkry het; en
- (bb) teen ’n koste gelyk aan die basiskoste van daardie wesenlik soortgelyke bate op die tydstip van daardie beskikking.”; en 50

(b) deur subparagraaf (3) te skrap.

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Invoeging van artikel 8 van Wet 91 van 1964

36. Die volgende artikel word hierby na artikel 7 van die Doeane- en Aksynswet, 1964, ingevoeg: 55

“Rapporte van vrag geland en uitgepak en gepak of gelaai

8. Ondanks die bepalings van artikels 7 en 12, kan die Kommissaris by reël voorskryf dat—

- (a) any report including any manifest or other report listing and describing cargo carried by or loaded on to any ship, aircraft, railway train or other vehicle arriving at or departing from any place in the Republic, as the case may be; or
 - (b) any outturn report or other report concerning goods landed from or unpacked from or packed into or loaded on to any such ship or aircraft, as the case may be; or
 - (c) any outturn report or other report in respect of any imported goods unpacked while under the control of any person after landing thereof at any place approved by the Commissioner,
- shall be in such form containing such particulars and shall be submitted to the Controller by such person in such circumstances and at such times as may be specified in such rule.”.

Amendment of section 18 of Act 91 of 1964, as amended by section 2 of Act 95 of 1965, section 6 of Act 105 of 1969, section 4 of Act 71 of 1975, section 3 of Act 105 of 1976, section 3 of Act 112 of 1977, section 4 of Act 84 of 1987, section 13 of Act 59 of 1990, section 11 of Act 45 of 1995 and section 48 of Act 53 of 1999

37. (1) Section 18 of the Customs and Excise Act, 1964, is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 - “(a) except as prescribed by rule, the licensed remover of goods in bond contemplated in section 64D may remove in bond—
 - (i) any imported goods landed in the Republic; or
 - (ii) any excisable or fuel levy goods manufactured in a customs and excise warehouse; or
 - (iii) any goods stored in a customs and excise warehouse, to any other place in the Republic appointed as a place of entry or warehousing place under this Act or to any other warehousing place in a territory in the common customs area approved by the government of that territory for warehousing in a customs and excise warehouse, or any such imported goods landed in the Republic to any place outside the common customs area;”;
 - (b) by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs:
 - “(b) the master of a ship or pilot of an aircraft [or person in charge of any vehicle] from which any goods were landed at a place in the Republic to which such goods were not consigned may remove such goods in bond to the place to which they were consigned provided evidence is produced to the Controller before entry for removal of the identity of such goods and that the goods in question were consigned to the place to which they are proposed to be removed;
 - (c) except if the Commissioner determines otherwise by rule, the owner of or any person beneficially interested in any goods which are in transit through the Republic from any other territory in Africa to any place outside the Republic may remove such goods in bond from the place where they entered the Republic to the place where they are destined to leave the Republic;”.
- (2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 18A of Act 91 of 1964, as inserted by section 5 of Act 84 of 1987 and amended by section 12 of Act 45 of 1995

38. (1) Section 18A of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (4) of the following subsection:
- “(4) No goods shall be exported in terms of this section—
- (a) until they have been entered for export; and

- (a) enige rapport met inbegrip van enige manifes of ander rapport, wat die vrag gedra deur of gelaai op enige skip, vliegtuig, spoorwegtrein of ander voertuig wat by enige plek in die Republiek aankom of daarvandaan vertrek, na gelang van die geval; lys en beskryf; of
- (b) enige opbrengsrapport of ander rapport aangaande goedere geland van of uitgepak uit of gepak in of gelaai op enige skip of vliegtuig, na gelang van die geval; of
- (c) enige opbrengsrapport of enige ander rapport ten opsigte van enige ingevoerde goedere uitgepak terwyl dit onder die beheer van enige persoon is na landing daarvan by enige plek deur die Kommissaris goedgekeur, in so 'n vorm moet wees en sodanige besonderhede moet bevat en aan die Kommissaris voorgelê moet word deur sodanige persoon in sodanige omstandighede en op sodanige tye wat in sodanige reël voorgeskryf word.”

Wysiging van artikel 18 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 95 van 1965, artikel 6 van Wet 105 van 1969, artikel 4 van Wet 71 van 1975, artikel 3 van Wet 105 van 1976, artikel 3 van Wet 112 van 1977, artikel 4 van Wet 84 van 1987, artikel 13 van Wet 59 van 1990, artikel 11 van Wet 45 van 1995 en artikel 48 van Wet 53 van 1999

37. (1) Artikel 18 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
 - “(a) behalwe soos by reël voorgeskryf, die gelisensieerde vervoerder van goedere onder waarborg soos in artikel 64D beoog—
 - (i) enige ingevoerde goedere in die Republiek geland; of
 - (ii) enige synsbare of brandstofheffinggoedere in 'n doeane- en aksynspakhuis vervaardig; of
 - (iii) enige goedere wat in 'n doeane- en aksynspakhuis opgeslaan is, na enige ander plek in die Republiek wat as 'n klaringsplek of 'n pakhuisplek kragtens hierdie Wet aangewys is of na enige ander pakhuisplek in 'n gebied in die gemeenskaplike doeanegebied wat goedgekeur is deur die regering van daardie gebied vir opslag in 'n doeane- en aksynspakhuis, of enige sodanige ingevoerde goedere wat in die Republiek geland is na enige plek buite die gemeenskaplike doeanegebied, onder waarborg vervoer;”;
- (b) deur paragrafe (b) en (c) van subartikel (1) deur die volgende paragrafe te vervang:
 - “(b) die gesagvoerder van 'n skip of loods van 'n vliegtuig [of persoon in beheer van enige voertuig] waaruit enige goedere geland is op 'n plek in die Republiek waarheen sodanige goedere nie versend is nie, sodanige goedere onder waarborg vervoer na die plek waarheen dit versend is mits bewys van die identiteit van sodanige goedere en dat die betrokke goedere versend is na die plek waarheen dit die voorneme is om dit te vervoer, voor klaring vir vervoer aan die Kontroleur gelewer word;
 - (c) behalwe waar die Kommissaris by reël anders bepaal, die eienaar van, of enige persoon wat voordelige belang het by enige goedere wat in transito is deur die Republiek vanaf enige ander gebied in Afrika na enige plek buite die Republiek sodanige goedere vanaf die plek waar dit die Republiek binnegekom het tot by die plek waar dit bestem is om die Republiek te verlaat, onder waarborg vervoer;”;

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

Wysiging van artikel 18A van Wet 91 van 1964, soos ingevoeg deur artikel 5 van Wet 84 van 1987 en gewysig deur artikel 12 van Wet 45 van 1995

38. (1) Artikel 18A van die Doeane- en Aksynswet, 1964, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Geen goedere word ingevolge hierdie artikel uitgevoer nie—

- (a) voordat dit vir uitvoer geklaar is; en

(b) unless, except as otherwise provided in the rules, they are removed for export by a licensed remover in bond as contemplated in section 64D.”.

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

Amendment of section 19 of Act 91 of 1964, as amended by section 3 of Act 95 of 1965, section 7 of Act 105 of 1969 and section 13 of Act 45 of 1995

39. (1) Section 19 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (9) of the following subsection:

“(9)(a) Except with the permission of the Commissioner, which shall only be granted in circumstances which he on good cause shown considers to be [exceptional] reasonable and subject to such conditions as he may impose in each case, no imported goods entered for storage or excisable or fuel levy goods manufactured in a customs and excise warehouse, excluding spirits or wine in the process of maturation or maceration, shall be retained in any customs and excise warehouse for a period of more than [five] two years from the time the imported goods were first entered for storage or from the time the excisable or fuel levy goods were deemed to have been manufactured in terms of section 44(2).

(b) Where goods which are stored in such warehouse on 31 July 2001, have on that date been stored in any such warehouse for a period of two years or longer, such goods shall, except if the Commissioner permits a longer period as contemplated in paragraph (a), be entered for home consumption or for export and exported within three months after such date.”.

Insertion of section 19A in Act 91 of 1964

40. (1) The following section is hereby inserted in the Customs and Excise Act, 1964, after section 19:

“Special provision in respect of customs and excise warehouses in which excisable or fuel levy goods are manufactured or stored

19A.(1)(a) Notwithstanding anything to the contrary contained in this Act the Commissioner may by rule, in respect of any excisable goods specified in Section A of Part 2 of Schedule No. 1 or fuel levy goods or any class or kind of such goods manufactured in the Republic—

(i) determine whether any such goods specified in such rule shall be entered or be deemed to have been entered for home consumption at the time of issuing of any prescribed document and removal from—

(aa) any customs and excise manufacturing warehouse;

(bb) any customs and excise manufacturing warehouse to which the goods have been removed from any other such warehouse after a particular stage of manufacture during the process of manufacture of any such goods; or

(cc) any customs and excise storage warehouse licensed by the Commissioner for any special or limited purpose to which such goods are allowed to be removed by the Commissioner after manufacture;

(ii) restrict the licensing of customs and excise storage warehouses in respect of such goods or any class or kind of such goods to such persons and for such special or limited purposes as may be specified in such rule;

(iii) prescribe—

(aa) the time and manner of payment of duty in respect of goods so entered or deemed to have been so entered;

(bb) any deferment of payment of duty, the conditions on which such deferment is granted and the period, or differentiated periods of deferment, in respect of any licensee or any class or kind of such goods;

(cc) the accounts to be kept and the accounts and other documents to be submitted with such payment;

(b) tensy hulle, behalwe soos anders in die reëls bepaal, vir uitvoer verwyder word deur 'n gelisenseerde vervoerder van goedere onder waarborg, soos in artikel 64D beoog.”

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

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Wysiging van artikel 19 van Wet 91 van 1964, soos gewysig deur artikel 3 van Wet 95 van 1965, artikel 7 van Wet 105 van 1969 en artikel 13 van Wet 45 van 1995

39. (1) Artikel 19 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur subartikel (9) deur die volgende subartikel te vervang:

“(9)(a) Behalwe met die toestemming van die Kommissaris, wat slegs verleen word in omstandighede wat hy [**buitengewoon**] op goeie gronde aangetoon redelik ag en behoudens die voorwaardes wat hy in elke geval opleë, word geen ingevoerde goedere wat vir opslag geklaar is of synsbare of brandstofheffinggoedere wat in 'n doeane- en aksynspakhuis vervaardig is, behalwe spiritus of wyn in die proses van veroudering of weking, in enige doeane- en aksynspakhuis vir 'n tydperk langer as [**vyf**] twee jaar vanaf die tydstip waarop die ingevoerde goedere die eerste keer vir opslag geklaar is of die tydstip waarop die synsbare of brandstofheffinggoedere ingevolge artikel 44 (2) geag vervaardig te gewees het, gehou nie.

(b) Waar goedere wat op 31 Julie 2001 in 'n pakhuis opgeslaan is op daardie datum vir 'n tydperk van twee jaar of langer so opgeslaan is, moet sulke goedere, tensy die Kommissaris 'n langer tydperk as wat in paragraaf (a) bedoel word toelaat, geklaar word vir binnelandse verbruik of vir uitvoer en uitgevoer word binne drie maande vanaf sodanige datum.”

Invoeging van artikel 19A van Wet 91 van 1964

40. (1) Die volgende artikel word hierby na artikel 19 in die Doeane- en Aksynswet, 1964, ingevoeg:

“Spesiale bepaling ten opsigte van doeane- en aksynspakhuisse waarin synsbare of brandstofheffinggoedere vervaardig of opgeslaan word

19A. (1)(a) Ondanks andersluidende bepalings in hierdie Wet kan die Kommissaris ten opsigte van synsbare goedere vermeld in Afdeling A van Deel 2 van Bylae Nr.1 of brandstofheffinggoedere of enige klas of soort van sodanige goedere in die Republiek vervaardig, by reël—

(i) bepaal of sodanige goedere wat in sodanige reël vermeld word geklaar moet word of geag word geklaar te wees vir plaaslike verbruik ten tyde van die uitreiking van enige voorgeskrewe dokument en verwydering daarvan uit—

(aa) enige doeane- en aksynsvervaardigingspakhuis;

(bb) enige doeane- en aksynsvervaardigingspakhuis waarheen die goedere verwyder is vanuit enige ander sodanige pakhuis na 'n bepaalde stadium van vervaardiging gedurende die vervaardigingsproses van enige sodanige goedere; of

(cc) enige doeane- en aksynsopslagpakhuis deur die Kommissaris gelisensieer vir enige spesiale of beperkte doeleindes waarheen sulke goedere deur die Kommissaris toegelaat is om na vervaardiging verwyder te word;

(ii) die lisensiëring van doeane- en aksynsopslagpakhuisse beperk ten opsigte van sodanige goedere of enige klas of soort van sodanige goedere tot sodanige persone en vir sodanige spesiale of beperkte doeleindes soos in sodanige reël vermeld;

(iii) (aa) die tydstip en wyse van betaling van die reg ten opsigte van goedere so geklaar of geag so geklaar te wees;

(bb) enige uitstel van betaling van reg, die voorwaardes waarop sodanige uitstel toegestaan word en die tydperk of die gedifferensieerde tydperke van uitstel ten opsigte van enige lisensiehouer of enige klas of soort van sodanige goedere;

(cc) die rekeninge wat gehou moet word en die rekeninge en ander dokumente wat met sodanige betaling voorgelê moet word;

- (dd) any procedures or requirements or documents relating to the entry and removal of goods from and to any such customs and excise warehouse or for export or for use under rebate of duty;
- (ee) all other matters which are required or permitted in terms of this section to be prescribed by rule; 5
- (ff) any other matter which the Commissioner may consider necessary and useful to achieve the effective and efficient administration of the provisions of this section.
- (b) Except as otherwise provided in this section or in any such rule, the provisions of section 38(4) shall apply *mutatis mutandis* to any goods removed from any customs and excise warehouse as contemplated in paragraph (a). 10
- (2) If any duty is not paid on the date prescribed in the rules for this section, the amount unpaid shall constitute a debt due to the State, and—
- (a) the Commissioner may, without prior notice to the licensee— 15
- (i) where payment is not made on or before the prescribed date on two occasions in a calendar year, prohibit for any reasonable period the removal of any goods from such warehouse unless the goods are duly entered and the duty paid prior to such removal;
- (ii) claim the amount from the surety where security is furnished in the form of a surety bond or take such legal steps, including enforcement of the provisions of the Act, as the Commissioner may deem necessary and appropriate in the circumstances; 20
- (b) the licensee shall—
- (i) notwithstanding the provisions of section 91, but subject to the provisions of section 93, be liable to payment of an amount not exceeding 10 per cent of the duty concerned as a penalty; 25
- (ii) be liable to interest from the day following the date on which payment should have been made as contemplated in section 105;
- (c) the Commissioner may impose any reasonable conditions when removing the prohibition referred to in paragraph (a)(i). 30
- (3)(a) When this section comes into operation the excisable or fuel levy goods concerned shall not be removed to any customs and excise warehouse unless such warehouse is another such manufacturing warehouse or a storage warehouse licensed for any special or limited purpose as contemplated in subsection (1). 35
- (b) The Commissioner may—
- (i) approve any existing licence for any customs and excise storage warehouse as a storage warehouse for such special or limited purposes; 40
- (ii) cancel the licence of any customs and excise storage warehouse which is not licensed for such special or limited purpose within three months after the date upon which this section comes into operation or within any longer period as the Commissioner may on good cause shown consider reasonable. 45
- (4)(a) The Commissioner may allow any imported goods to be mixed with locally produced excisable or fuel levy goods of the same class or kind in a customs and excise manufacturing warehouse licensed for the manufacture of such locally-produced goods on payment of any difference in duty between the duty leviable on such imported goods and locally-produced goods. 50
- (b) Notwithstanding anything to the contrary in this Act contained, any such goods when so mixed shall be subject to the duties leviable and the

- (dd) enige prosedures of vereistes of dokumente wat verband hou met die klaring en verwydering van goedere van en na sodanige doeane- en aksynspakhuis of vir uitvoer of vir gebruik met korting op reg;
- (ee) alle ander aangeleenthede wat deur hierdie artikel vereis of toegelaat word om deur reël voorgeskryf te word; 5
- (ff) enige ander aangeleentheid wat die Kommissaris noodsaaklik of nuttig ag vir die effektiewe en doeltreffende administrasie van die bepalings van hierdie artikel, voorskryf. 10
- (b) Behalwe soos anders in hierdie artikel of in enige sodanige reël bepaal, is die bepalings van artikel 38(4) *mutatis mutandis* van toepassing op enige goedere wat soos in paragraaf (a) bedoel uit enige doeane- en aksynspakhuis verwyder word.
- (2) Indien enige reg nie betaal is nie op die datum in die reëls vir hierdie artikel voorgeskryf, is die onbetaalde bedrag 'n skuldverpligting aan die Staat en— 15
- (a) kan die Kommissaris, sonder vooraf kennisgewing aan die lisensiehouer—
- (i) waar daar by twee geleenthede in 'n kalenderjaar nie betaling op die voorgeskrewe datum gemaak is nie, die verwydering van enige sodanige goedere uit enige sodanige pakhuis vir enige redelike tydperk verbied tensy die goedere voor sodanige verwydering behoorlik geklaar en die reg betaal is; 20
- (ii) die bedrag van die borg eis waar sekerheid verskaf is in die vorm van 'n borgakke of sulke regstappe neem, met inbegrip van die toepassing van die bepalings van die Wet, soos die Kommissaris in die omstandighede noodsaaklik en toepaslik ag; 25
- (b) die lisensiehouer is—
- (i) ondanks die bepalings van artikel 91 maar behoudens die bepalings van artikel 93 aanspreeklik vir die betaling van 'n bedrag wat nie 10 persent van die betrokke reg te bowe gaan nie as 'n pene; 30
- (ii) aanspreeklik vir rente vanaf die dag volgende op die dag waarop betaling moes geskied soos in artikel 105 beoog; 35
- (c) die Kommissaris kan enige redelike voorwaardes voorskryf by die verwydering van die verbod in paragraaf (a)(i) bedoel.
- (3)(a) Wanneer hierdie artikel in werking tree mag die betrokke synsbare of brandstofheffingsgoedere nie verwyder word na enige doeane- en aksynspakhuis nie, tensy sodanige pakhuis 'n ander sodanige vervaardigingspakhuis is of 'n opslagpakhuis is wat vir enige spesiale of beperkte doeleinde soos beoog in subartikel (c), gelisensieer is. 40
- (b) Die Kommissaris kan—
- (i) enige bestaande lisensie vir enige doeane- en aksynsopslagpakhuis as 'n opslagpakhuis vir sodanige spesiale of beperkte doeleindes goedkeur; 45
- (ii) die lisensie van enige doeane- en aksynsopslagpakhuis wat nie vir sodanige spesiale of beperkte doeleindes gelisensieer word nie binne drie maande na die datum waarop hierdie artikel in werking tree of binne enige langer tydperk wat die Kommissaris op goeie gronde aangetoon redelik ag, intrek. 50
- (4) (a) Die Kommissaris kan toelaat dat enige ingevoerde goedere met enige plaaslikvervaardigde synsbare of brandstofheffingsgoedere van dieselfde klas of soort gemeng word in 'n doeane- en aksynsvervaardigingspakhuis, wat vir die vervaardiging van sulke plaaslikvervaardigde goedere gelisensieer is teen betaling van enige verskil in die reg tussen die reg hefbaar op sulke ingevoerde en plaaslikvervaardigde goedere; 55
- (b) Ondanks andersluidende bepalings van hierdie Wet, is enige sodanige goedere wanneer aldus gemeng, onderhewig aan die regte hefbaar en die vervaardigings-, verrekenings- en verwyderingsprosedures ten opsigte 60

manufacturing, accounting and removal procedures prescribed in terms of this Act in respect of excisable goods or fuel levy goods, as the case may be, manufactured in such warehouse.”

(2) Subsection (1) or any part thereof shall come into operation on the date or dates fixed, and in respect of the goods specified, by the President by proclamation in the *Gazette*. 5

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, section 14 of Act 59 of 1990 and section 59 of Act 30 of 1998 10

41. (1) Section 20 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) Subject to section 19A, no goods which have been stored or manufactured in a customs and excise warehouse shall be taken or delivered from such warehouse except in accordance with the rules and upon due entry for [one or other] any of the following purposes—” 15

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

Amendment of section 38 of Act 91 of 1964, as amended by section 13 of Act 105 of 1969, section 5 of Act 71 of 1975, section 4 of Act 105 of 1976, section 2 of Act 89 of 1983, section 18 of Act 59 of 1990 and section 28 of Act 45 of 1995 20

42. (1) Section 38 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) Every exporter of any goods shall, before such goods are exported from the Republic, or at the times and in the circumstances prescribed by rule, deliver [during the hours of any day prescribed by rule,] to the Controller a bill of entry in the prescribed form [but the Commissioner may— 25

- (i) if no export duty is payable on and no obligation or condition is to be fulfilled or complied with under any law in respect of such goods; or 30
- (ii) in the case of goods to be exported overland by way of a vehicle (excluding an aircraft and a train) which are loaded for export at a place other than a place appointed under section 6 where goods may be entered for customs and excise purposes,

allow such a bill of entry to be delivered at such time as he deems reasonable].” 35

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

Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, section 5 of Act 57 of 1966, section 16 of Act 105 of 1969, section 7 of Act 71 of 1975, section 8 of Act 112 of 1977, section 5 of Act 110 of 1979, section 3 of Act 89 of 1984, section 13 of Act 84 of 1987, section 21 of Act 59 of 1990, section 3 of Act 98 of 1993, section 33 of Act 45 of 1995 and section 51 of Act 53 of 1999 40

43. (1) Section 44 of the Customs and Excise Act, 1964, is hereby amended by the addition of the following subsection: 45

“(13)(a) The Commissioner may allow by rule any master, pilot or other carrier, container operator or depot operator to deliver any imported goods before due entry thereof to any other person licensed or registered in terms of this Act as the Commissioner may determine and on compliance with such conditions and procedures as may be prescribed in such rule. 50

(b) The liability for duty in respect of such goods of—

van sinsbare of brandstofheffingsgoedere, na gelang van die geval, in sodanige pakhuis vervaardig soos ingevolge hierdie Wet voorgeskryf word.”.

(2) Subartikel (1) of enige gedeelte daarvan tree in werking op 'n datum of datums, en ten opsigte van die goedere vermeld, deur die President by proklamasie in die *Staatskoerant* bepaal. 5

Wysiging van artikel 20 van Wet 91 van 1964, soos gewysig deur artikel 4 van Wet 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, artikel 14 van Wet 59 van 1990 en artikel 59 van Wet 30 van 1998 10

41. (1) Artikel 20 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (4) voorafgaan deur die volgende woorde te vervang:

“Behoudens artikel 19A, word geen goedere wat in 'n doeane- en aksynspakhuis opgeslaan of vervaardig is, [word] uit sodanige pakhuis geneem of afgelewer nie behalwe ooreenkomstig die reëls en na behoorlike klaring vir enige [die een of die ander] van die volgende doeleindes—”.

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

Wysiging van artikel 38 van Wet 91 van 1964, soos gewysig deur artikel 13 van Wet 105 van 1969, artikel 5 van Wet 71 van 1975, artikel 4 van Wet 105 van 1976, artikel 2 van Wet 89 van 1983, artikel 18 van Wet 59 van 1990 en artikel 28 van Wet 45 van 1995 20

42. (1) Artikel 38 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang: 25

“(a) Elke uitvoerder van enige goedere moet, voordat sodanige goedere uit die Republiek uitgevoer word, [gedurende die ure van enige dag soos by reël voorgeskryf] of op die tye en in die omstandighede by reël voorgeskryf, aan die Kontroleur 'n klaringsbrief in die voorgeskrewe vorm voorlê [maar die Kommissaris kan— 30

- (i) indien geen uitvoerreg betaalbaar is op sodanige goedere en geen verpligting of voorwaarde kragtens enige wet ten opsigte van sodanige goedere nagekom of aan voldoen moet word nie; of
- (ii) in die geval van goedere wat oor land deur middel van 'n voertuig (uitgesonderd 'n vliegtuig en 'n trein) uitgevoer staan te word en wat vir uitvoer gelaai word op 'n ander plek as 'n plek wat kragtens artikel 6 aangewys is waar goedere vir doeane- en aksynsdoeleindes geklaar kan word, 35

toelaat dat so 'n klaringsbrief voorgelê word op die tydstip wat hy redelik ag.”.

(2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal. 40

Wysiging van artikel 44 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 95 van 1965, artikel 5 van Wet 57 van 1966, artikel 16 van Wet 105 van 1969, artikel 7 van Wet 71 van 1975, artikel 8 van Wet 112 van 1977, artikel 5 van Wet 110 van 1979, artikel 3 van Wet 89 van 1984, artikel 13 van Wet 84 van 1987, artikel 21 van Wet 59 van 1990, artikel 3 van Wet 98 van 1993, artikel 33 van Wet 45 van 1995 en artikel 51 van Wet 53 van 1999 45

43. (1) Artikel 44 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die invoeging van die volgende subartikel: 50

“(13)(a) Die Kommissaris kan by reël enige gesagvoerder, loods of ander karweier, houerbediener of depotbediener toelaat om enige ingevoerde goedere voor behoorlike klaring daarvan af te lewer aan enige ander persoon wat kragtens hierdie Wet gelisensieer of geregistreer is soos die Kommissaris bepaal en by voldoening aan sulke voorwaardes en prosedures wat by sodanige reëls voorgeskryf word. 55

(b) Die aanspreeklikheid vir reg ten opsigte van sodanige goedere van—

- (i) such master, pilot or other carrier, container operator or depot operator shall cease upon lawful delivery thereof to such other person; and
- (ii) such other person shall cease—
 - (aa) upon lawful delivery to the importer or the importer's agent after due entry thereof;
 - (bb) where due entry has not been made in respect of such goods, upon delivery thereof to the State warehouse or other place indicated by the Controller for the purposes of this section; or
 - (cc) on compliance with such conditions and procedures as the Commissioner may prescribe in such rule.”.

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

Substitution of the heading of Chapter VIII of Act 91 of 1964

44. The following heading is hereby substituted for the heading of Chapter VIII of the Customs and Excise Act, 1964:

“Registration, Licensing and Accredited Clients”.

Insertion of section 59A in Act 91 of 1964

45. (1) The following section is hereby inserted in Chapter VIII of the Customs and Excise Act, 1964, before section 60:

“Registration of persons participating in activities regulated by this Act

59A.(1)(a) Notwithstanding any registration prescribed in terms of any other provision of this Act, the Commissioner may require all persons or any class of persons participating in any activities regulated by this Act, to register in terms of this section and its rules.

(b) The Commissioner may by rule prescribe the following—

- (i) any general or particular category of registration;
- (ii) the application form for registration, the qualifying requirements for any category of registration and the documents and information to be furnished in support of the application;
- (iii) the activities and persons included or excluded from registration;
- (iv) any date from which any person or the different dates from which any class of persons shall be required to register under this section and its rules before transacting any business in relation to customs and excise matters;
- (v) any reasonable extension of the date or dates specified under the provisions of subparagraph (iv);
- (vi) procedures for amendment of registration particulars; and
- (vii) any other matter which the Commissioner may consider reasonably necessary and useful to regulate such registration.

(2)(a) The Commissioner may refuse any application for registration or cancel or suspend any registration.

(b) The provisions of section 60(2) shall apply *mutatis mutandis* for the purposes of paragraph (a).”.

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

Amendment of section 60 of Act 91 of 1964, as substituted by section 20 of Act 105 of 1969, and amended by section 11 of Act 86 of 1982, section 25 of Act 59 of 1990, section 9 of Act 19 of 1994, section 44 of Act 45 of 1995 and section 57 of Act 53 of 1999

46. Section 60 of the Customs and Excise Act, 1964, is hereby amended—

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

“(1)(a) No person shall perform any act or be in possession of or use anything in respect of which a licence is [required under this Act] prescribed

- (i) sodanige gesagvoerder, loods of ander karweier, houerbediener of depotbediener verval by wettige aflewering daarvan aan sodanige ander persoon; en
 - (ii) sodanige ander persoon verval—
 - (aa) by wettige aflewering aan die invoerder of die invoerder se agent na behoorlike klaring daarvan; 5
 - (bb) ten opsigte van sodanige goedere wat nie behoorlik geklaar is nie by aflewering daarvan by die staatspakhuis of ander plek wat die Kontroleur vir die doeleindes van hierdie artikel aangewys het; of
 - (cc) by voldoening aan sulke voorwaardes en prosedures wat die 10 Kommissaris in sodanige reëls voorskryf.”
- (2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

Vervanging van die titel van Hoofstuk VIII van Wet 91 van 1964

44. Die titel van Hoofstuk VIII van die Doeane- en Aksynswet, 1964, word hierby 15 deur die volgende titel vervang:

“Registrasie, Lisensiëring en Geakkrediteerde Klien”

Invoeging van artikel 59A van Wet 91 van 1964

45. (1) Die volgende artikel word hierby voor artikel 60 in Hoofstuk VIII van die 20 Doeane- en Aksynswet, 1964, ingevoeg:

“Registrasie van persone wat deelneem aan die aktiwiteite wat deur hierdie Wet gereël word.

- 59A. (1)(a) Ondanks enige registrasie ingevolge enige ander bepaling van hierdie Wet voorgeskryf, kan die Kommissaris vereis dat alle persone of enige klas persone wat deelneem aan enige aktiwiteite wat deur hierdie Wet gereël word, ooreenkomstig hierdie artikel en sy reëls moet registreer. 25
- (b) Die Kommissaris kan by reël die volgende voorskryf—
- (i) enige algemene of besondere kategorie van registrasie;
 - (ii) die aansoekvorm om registrasie, die kwalifiserende vereistes vir enige kategorie van registrasie en die dokumente en inligting wat ter ondersteuning van die aansoek verstrekkend moet word; 30
 - (iii) die aktiwiteite en persone ingesluit of uitgesluit van registrasie;
 - (iv) enige datum waarvan enige persoon of die verskillende datums waarvan enige klas van persone onder hierdie artikel en die reëls by hierdie artikel moet registreer voordat enige besigheid met betrekking tot doeane- en aksynsaangeleenthede gedoen word; 35
 - (v) enige redelike uitstel van die datum of datums kragtens die bepalings van subparagraaf (iv) vermeld;
 - (vi) prosedures vir die wysiging van registrasie besonderhede; en
 - (vii) enige ander aangeleentheid wat die Kommissaris redelikerwys nodig en nuttig beskou om sodanige registrasie te reël. 40
- (2)(a) Die Kommissaris kan enige aansoek om registrasie weier of enige registrasie intrek of opskort;
- (b) Die bepalings van Artikel 60(2) is *mutatis mutandis* van toepassing vir die doeleindes van paragraaf (a).” 45

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

Wysiging van artikel 60 van Wet 91 van 1964, soos vervang deur artikel 20 van Wet 105 van 1969, en gewysig deur artikel 11 van Wet 86 van 1982, artikel 25 van Wet 59 van 1990, artikel 9 van Wet 19 van 1994, artikel 44 van Wet 45 van 1995 en 50 artikel 57 van Wet 53 van 1999

46. Artikel 60 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

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

“(1)(a) Niemand mag 'n handeling verrig of in besit wees van enigiets of enigiets gebruik ten opsigte waarvan 'n lisensie [ingevolge hierdie Wet] 55

in Schedule No. 8 unless such person has obtained the appropriate licence which shall not be issued unless the prescribed licence fee has been paid.

(b) The activities for which a licence is required, the persons who are required to licence, the procedures, conditions, which may include the furnishing of security, and any other requirements relating to such licence, if not prescribed elsewhere in this Act, may be prescribed in the Notes to the item in which such licence is specified in Schedule No. 8 and any rules made by the Commissioner under the provisions of this Act.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) The Commissioner may, subject to review by the High Court—

(a) refuse any application for a new licence or refuse any application for a renewal of a licence if—

(i) the applicant—

(aa) does not comply in respect of such application with the requirements specified by rule or any condition imposed by the Commissioner;

(bb) has made a false or misleading statement with respect to any material fact or omits to state any material fact which was required to be stated in the application for a licence;

(ii) the applicant or any employee of such applicant has—

(aa) contravened or failed to comply with the provisions of this Act; or

(bb) been convicted of an offence under this Act; or

(cc) been convicted of an offence involving dishonesty; or

(dd) failed to comply with any condition or obligation imposed by the Commissioner in respect of such licence:

Provided that subparagraphs (aa) to (cc) shall not apply in respect of an employee if the applicant proves that he was not a party to or could not prevent any such act or omission by such employee; or

(b) cancel or suspend for a specified period any licence—

(i) if the holder of such licence—

(aa) is sequestered or liquidated; or

(bb) no longer carries on the business for which the licence was issued; or

(cc) is no longer qualified according to the qualifications prescribed in the rules; or

(dd) failed to pay any amount demanded under this Act within 30 days from the date of such demand; or

(ii) if the holder of such licence or the employee of such licensee has—

(aa) contravened or failed to comply with the provisions of this Act; or

(bb) been convicted of an offence under this Act; or

(cc) been convicted of an offence involving dishonesty; or

(dd) failed to comply with any condition or obligation imposed by this Act or by the Commissioner in respect of such licence:

Provided that subparagraphs (aa) to (cc) shall not apply in respect of an employee if the holder proves that he was not a party to or could not prevent any such act or omission by such employee:

Provided that before a licence is cancelled or suspended, except when any demand for any amount remains unpaid for a period exceeding 30 days from the date of the demand, the Commissioner shall—

vereis word, tensy hy die toepaslike lisensie wat in Bylae 8 voorgeskryf word, verkry het nie en bedoelde lisensie word nie uitgereik tensy die voorgeskrewe lisensiegeld betaal is nie.

(b) Die aktiwiteite waarvoor 'n lisensie vereis word, of die persone wat vereis word om te lisensieer, die prosedures, voorwaardes wat die verskaffing van sekerheid kan insluit, en enige ander vereistes met betrekking tot sodanige lisensie, indien nêrens anders in hierdie Wet voorgeskryf, kan in die Opmerkings by die item waarin sodanige lisensie vermeld word, en in enige reëls deur die Kommissaris ingevolge die bepalings van hierdie Wet uitgevaardig, voorgeskryf word.”;

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

“(2) Die Kommissaris kan, behoudens hersiening deur die Hoë Hof—

(a) enige aansoek om 'n nuwe lisensie weier of enige aansoek om hernuwing van 'n lisensie weier indien—

(i) die aansoeker—

(aa) nie ten opsigte van so 'n aansoek aan die vereistes by reël voorgeskryf of enige voorwaarde deur die Kommissaris opgelê, voldoen nie;

(bb) 'n vals of misleidende verklaring gedoen het met betrekking tot enige wesenlike feit of versuim om enige wesenlike feit wat vermeld moes gewees het in die aansoek om 'n lisensie te vermeld; of

(ii) die aansoeker of enige werknemer van die aansoeker—

(aa) die bepalings van hierdie Wet oortree het of versuim het om daaraan te voldoen; of

(bb) aan 'n misdryf kragtens hierdie Wet skuldig bevind is; of

(cc) aan 'n misdryf waarvan oneerlikheid 'n element is, skuldig bevind is; of

(dd) versuim het om te voldoen aan enige voorwaarde of verpligting deur die Kommissaris ten opsigte van sodanige lisensie opgelê:

Met dien verstande dat subparagrafe (aa) tot (cc) nie van toepassing is ten opsigte van enige werknemer indien die aansoeker of houer, na gelang van die geval, bewys dat hy nie aan enige sodanige handeling of versuim deur die werknemer deelgeneem het of dit kon verhoed het nie; of

(b) enige lisensie intrek of vir 'n bepaalde tydperk opskort—

(i) indien die houer van sodanige lisensie—

(aa) gelikwider of gesekwestreer is; of

(bb) nie langer die besigheid bedryf waarvoor die lisensie uitgereik is nie; of

(cc) nie langer gekwalifiseer is ooreenkomstig die kwalifikasies in die reëls voorgeskryf nie; of

(dd) versuim het om enige bedrag aangevra kragtens hierdie Wet binne 30 dae van sodanige aanvraag te betaal; of

(ii) indien die houer van sodanige lisensie of enige werknemer van sodanige lisensiehouer—

(aa) die bepalings van hierdie Wet oortree het of versuim het om daaraan te voldoen; of

(bb) aan 'n misdryf kragtens hierdie Wet skuldig bevind is; of

(cc) aan 'n misdryf waarvan oneerlikheid 'n element is skuldig bevind is; of

(dd) versuim om te voldoen aan enige voorwaarde of verpligting deur die Kommissaris ten opsigte van sodanige lisensie opgelê:

Met dien verstande dat subparagrafe (aa) tot (cc) nie van toepassing is nie op 'n werknemer indien die houer bewys dat hy nie aan enige sodanige handeling of versuim deur sodanige werknemer deelgeneem het of dit kon verhoed nie:

Met dien verstande dat voordat 'n lisensie ingetrek of opgeskort word, behalwe indien enige aanvraag vir enige bedrag onbetaal bly vir 'n tydperk wat dertig dae na die aanvraag te bowe gaan, moet die Kommissaris—

- (a) give 21 days notice to the licensee of the proposed cancellation or suspension;
- (b) provide reasonable information concerning any allegation and grounds for the proposed cancellation or suspension;
- (c) provide a reasonable opportunity to respond and make representations as to why the licence should not be cancelled or suspended.”. 5

Amendment of section 64B of Act 91 of 1964, as inserted by section 19 of Act 112 of 1977, as substituted by section 46 of Act 45 of 1995 and amended by section 58 of Act 53 of 1999

47. Section 64B of the Customs and Excise Act, 1964, is hereby amended by the addition to subsection (2) of the following paragraphs: 10

“(c) The Commissioner may prescribe by rule—

- (i) a date from which the applicant and employees of the applicant must be in possession of a qualification obtained at such time and with at least such qualifying mark as may be stated in such rule; 15
- (ii) any other matter which may be reasonably necessary and useful to achieve the efficient and effective administration of the objects of this section.
- (d) For the purposes of paragraph (c), ‘applicant’ means any natural person or a director of a company or member of a close corporation or a partner of a partnership, who participates in the clearing agents’ business of the company, close corporation or partnership, as the case may be.”. 20

Insertion of sections 64D and 64E in Act 91 of 1964

48. (1) The following sections are hereby inserted in the Customs and Excise Act, 1964, after section 64C: 25

“Licensing of remover of goods in bond

64D. (1) No person, except if exempted by rule, shall remove any goods in bond in terms of section 18(1)(a) or for export in terms of section 18A, or any other goods that may be specified by rule unless licensed as a remover of goods in bond in terms of subsection (3). 30

(2)(a) The expression ‘remover in bond’ in this Act shall, unless the context otherwise indicates, include any person that removes any goods contemplated in subsection (1).

(b) Any remover in bond exempted from licensing by rule shall, in addition to any provisions of this Act governing the removal or carriage of goods in bond generally, comply with such other relevant requirements as may be prescribed in this section and its rules. 35

(3)(a) Application for such licence shall be made on the form prescribed by the Commissioner by rule and the applicant shall comply with all the requirements specified therein and with any additional requirement that may be prescribed in any other rule and as may be determined by the Commissioner in each case. 40

(b) The Commissioner may subject to such conditions as he may prescribe by rule and such obligations as he may in each case impose licence any person applying therefor as a remover of goods in bond. 45

(4)(a) The Commissioner may by rule prescribe technical specifications and other requirements in respect of any vehicle, container or other transport equipment used in the removal or carriage of any goods in bond.

(b) The Commissioner may, after the date this section comes into operation, determine a date by rule from which no person shall remove any goods in bond under this Act in any vehicle container or other transport 50

- (a) aan die lisensiehouer 21 dae kennis gee van die voorgenome intrekking of opskorting;
- (b) redelike inligting aangevande enige bewering en gronde vir die voorgenome intrekking of opskorting verskaf;
- (c) 'n redelike geleentheid bied om te antwoord en verhoë te rig waarom die lisensie nie ingetrek of opgeskort moet word nie.”.

Wysiging van artikel 64B van Wet 91 van 1964, soos ingevoeg deur artikel 19 van Wet 112 van 1977, soos vervang deur artikel 46 van Wet 45 van 1995 en gewysig deur artikel 58 van Wet 53 van 1999

47. Artikel 64B word hierby gewysig deur die invoeging in subartikel (2) van die volgende paragraaf:

“(c) Die Kommissaris kan by reël—

- (i) 'n datum waarvan die aansoeker en werknemers van die aansoeker in besit moet wees van 'n kwalifikasie verwerf op so 'n tyd en met ten minste sulke kwalifiseerde punte soos by sodanige reël vasgestel word;
- (ii) enige ander aangeleentheid wat redelikerwys nodig en nuttig vir die effektiewe en doeltreffende administrasie van die oogmerke van hierdie artikel is,

voorskryf.

(d) Vir die doeleindes van paragraaf (c) beteken ‘aansoeker’ enige natuurlike persoon of 'n direkteur van 'n maatskappy of 'n lid van 'n beslote korporasie of 'n vennoot in 'n vennootskap wat deelneem aan die klaringsagentskapsbesigheid van die maatskappy, beslote korporasie of vennootskap, na gelang van die geval.”.

Invoeging van artikel 64D en E in Wet 91 van 1964

48. (1) Die volgende artikels word hierby na artikel 64C in die Doeane- en Aksynswet, 1964, ingevoeg:

“Lisensiering van vervoerder van goedere onder waarborg

64D. (1) Niemand, behalwe indien by reël vrygestel, mag enige goedere ingevolge artikel 18(1)(a) onder waarborg, of vir uitvoer ingevolge artikel 18A, of enige ander goedere wat by reël vermeld word vervoer tensy hy of sy ingevolge subartikel (3) as 'n vervoerder van goedere onder waarborg gelisensieer is nie.

(2)(a) Die uitdrukking ‘vervoerder onder waarborg’ in hierdie Wet, tensy uit die samehang anders blyk, sluit in enige persoon wat enige goedere bedoel in subartikel (1), vervoer.

(b) Enige vervoerder onder waarborg by reël vrygestel van lisensiering moet, benewens enige bepalinge van hierdie Wet wat die vervoer of karwei van goedere onder waarborg in die algemeen beheer, aan sodanige ander betrokke vereistes voldoen wat in hierdie artikel en sy reëls voorgeskryf word.

(3) (a) Aansoek om sodanige lisensie moet op die vorm wat deur die Kommissaris by reël voorgeskryf word, gedoen word en die aansoeker moet voldoen aan al die vereistes daarin vermeld en aan enige bykomende vereistes wat in enige ander reël voorgeskryf word en wat deur die Kommissaris in elke geval bepaal word.

(b) Die Kommissaris kan behoudens sulke voorwaardes wat hy by reël voorskryf en die verpligtinge wat hy in elke geval oplê enige persoon wat daarvoor aansoek doen as 'n vervoerder van goedere onder waarborg lisensieer.

(4) (a) Die Kommissaris kan by reël tegniese spesifikasies en ander vereistes voorskryf ten opsigte van enige voertuig, houer, of ander vervoertoerusting gebruik in die verwydering of vervoer van goedere onder waarborg.

(b) Die Kommissaris kan, na die datum waarop hierdie artikel in werking tree, 'n datum by reël bepaal waarna niemand enige goedere onder waarborg ingevolge hierdie Wet mag vervoer in enige voertuig, houer of

equipment that is not approved by the Commissioner as complying with the specifications and other requirements prescribed in such rule.

(c) Any vehicle container or other transport equipment used for the removal of goods in bond under this section shall be marked as prescribed by rule.

(5)(a) Before any person is licensed as a remover of goods in bond such person shall furnish such security and enter into such agreement as the Commissioner may require.

(b) The Commissioner may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine.

(6) (a) In addition to any liability incurred under this Act a licensed remover of goods in bond shall be liable for the fulfilment of all obligations imposed under this Act on any other person in respect of any goods removed or carried by such remover including the payment of duties and charges and to any penalties or amounts demanded under section 88(2)(a).

(b) The liability of such remover shall in no way affect the liability incurred under this Act in respect of such goods by the master, pilot, container operator, importer, exporter, manufacturer, licensee or any other principal or any agent referred to in section 99.

(7) No security provided by a licensed remover of goods in bond shall be utilised or accepted as security for the fulfilment of any obligation in terms of this Act by any other such remover of goods in bond.

(8)(a) The Commissioner may—

- (i) refuse any application for a new licence or any application for a renewal of a licence by a remover of goods in bond; or
- (ii) suspend or cancel such licence.

(b) The provisions of section 60(2) shall apply *mutatis mutandis* for the purposes of paragraph (a).

(9) The Commissioner may make rules—

- (a) to delegate or assign, subject to section 3(2), any of the powers that may be exercised or assign any of the duties that shall be performed by the Commissioner in accordance with the provisions of this Act to any officer or any other person;
- (b) to prescribe forms and procedures or any condition to be complied with by any remover for the purpose of regulating the removal of goods in bond;
- (c) in respect of all matters which are required or permitted in terms of this section to be prescribed by rule;
- (d) in respect of any other matter which the Commissioner may consider reasonably necessary and useful for the purposes of administering the provisions of this section.

Accredited clients

64E. (1)(a) The Commissioner may confer accredited client status on any applicant therefor who is licensed or registered under any provision of this Act.

(b) Accredited client status may be acquired on conforming with any reasonable requirements determined by the Commissioner which may include that the applicant proves—

- (i) an appropriate record of compliance with customs and excise procedures;
- (ii) that the accounting records and other documents kept for providing evidence of compliance with customs procedures utilise information prepared in a manner consistent with general accounting principles appropriate to the procedure concerned;

ander vervoertoerusting wat nie deur die Kommissaris goedgekeur is as synde te voldoen aan die spesifikasies en ander vereistes wat by sodanige reël voorgeskryf word nie.

(c) Enige voertuig, houer of ander vervoertoerusting gebruik in die vervoer van goedere onder waarborg ingevolge hierdie artikel moet gemerk wees soos by reël voorgeskryf. 5

(5) (a) Voordat enige persoon as vervoerder van goedere onder waarborg gelisensieer word, moet sodanige persoon sulke sekerheid verskaf en so 'n ooreenkoms aangaan wat die Kommissaris vereis.

(b) Die Kommissaris kan te enige tyd vereis dat die vorm, aard en bedrag van sodanige sekerheid gewysig of hernuwe word op die wyse wat hy bepaal. 10

(6) (a) 'n Gelisensieerde vervoerder van goedere onder waarborg is benewens enige aanspreeklikheid wat kragtens hierdie Wet opgeloop is aanspreeklik vir die nakoming van alle verpligtinge kragtens hierdie Wet enige ander persoon opgelê ten opsigte van enige goedere verwyder of vervoer deur sodanige vervoerder, met inbegrip van die betaling van regte en vorderinge en vir enige penes of bedrae onder artikel 88(2)(a) geëis. 15

(b) Die aanspreeklikheid van sodanige vervoerder beïnvloed geensins die aanspreeklikheid ten opsigte van sodanige goedere kragtens hierdie Wet opgeloop deur die gesagvoerder, loads, houerbediener, invoerder, uitvoerder, vervaardiger, lisensiehouer of enige ander prinsipaal of enige agent in artikel 99 bedoel nie. 20

(7) Geen sekerheid verskaf deur 'n gelisensieerde vervoerder van goedere onder waarborg mag gebruik of aanvaar word as sekerheid vir die nakoming van enige verpligting ingevolge hierdie Wet deur enige ander sodanige vervoerder van goedere onder waarborg nie. 25

(8) (a) Die Kommissaris kan—

(i) enige aansoek om 'n nuwe lisensie of enige aansoek om die hernuwing van 'n lisensie deur 'n vervoerder van goedere onder waarborg weier; en 30

(ii) sodanige lisensie opskort of intrek.

(b) Die bepalinge van artikel 60(2) is *mutatis mutandis* van toepassing vir die doeleindes van paragraaf (a).

(9) Die Kommissaris kan reëls uitvaardig— 35

(a) om, behoudens die bepalinge van artikel 3(2), enige van die bevoegdhede of pligte wat deur die Kommissaris uitgevoer of verrig kan of moet word, ooreenkomstig die bepalinge van hierdie Wet aan enige beampte of ander persoon te delegeer of op te dra;

(b) om vorms en prosedures of enige voorwaarde waaraan voldoen moet word deur enige vervoerder van goedere onder waarborg voor te skryf ten einde die vervoer van goedere onder waarborg te reël; 40

(c) ten opsigte van alle ander aangeleenthede wat ingevolge hierdie artikel by reël voorgeskryf moet of kan word;

(d) ten opsigte van enige ander aangeleentheid wat die Kommissaris redelikerwys nodig of nuttig vir doeleindes van die administrasie van die bepalinge van hierdie artikel beskou. 45

Geakkrediteerde kliënte

64E. (1)(a) Die Kommissaris kan geakkrediteerde kliëntestatus aan enige aansoeker daarom wat kragtens enige bepaling van hierdie Wet gelisensieer of geregistreer is, verleen. 50

(b) Geakkrediteerde kliëntestatus kan verwerf word by voldoening aan enige redelike vereistes deur die Kommissaris bepaal wat kan insluit dat die aansoeker—

(i) 'n toepaslike geskiedenis van nakoming van doeane- en aksynsprosedures bewys; 55

(ii) bewys dat rekeningkundige rekords en ander dokumente wat gehou word om bewys van nakoming van doeane-prosedures te lewer inligting aanwend wat op 'n wyse in ooreenstemming met algemene rekeningkundige beginsels toepaslik op die betrokke prosedure voorberei is; 60

- (iii) that an effective computer system is in operation capable of performing the functions, and in respect of which an agreement has been concluded, as contemplated in section 101A;
- (iv) that the person who will administer the accredited client requirements has sufficient knowledge of customs laws and procedures to implement and maintain an efficient and effective accredited client compliance system; 5
- (v) that the business in respect of which application is made for accredited client status has sufficient financial resources;
- (vi) any other measurable requirements which the Commissioner may require in support of the application. 10
- (2) The Commissioner may—
- (a) conduct such investigation as may be reasonably necessary to verify any statements in the application;
- (b) enter into any agreement with the applicant which may include, notwithstanding any other provisions of this Act, deferment of payment of any duty or value-added tax payable on the importation of any goods into the Republic and payment thereof as may be specified in such agreement; 15
- (c) prescribe by rule the following: 20
 - (i) the application form to be completed and the supporting documents to be furnished by each applicant according to the customs and excise procedures applicable to the activities of the applicant;
 - (ii) the form of agreement to be entered into between the applicant and the Commissioner; 25
 - (iii) standards of conduct which may include procedures to be followed in respect of—
 - (aa) the entry of goods;
 - (bb) the payment of duty; 30
 - (cc) the documents to be processed;
 - (dd) the control of goods; or
 - (ee) goods carried or removed; and
 - (iv) any other matter that may be reasonably necessary and useful to regulate the benefits provided in terms of this section; 35
- (d) delegate, by rule, subject to section 3(2), any power which may be exercised or assign the duties that shall be performed by the Commissioner in accordance with the provisions of this Act to any officer or other person. 40
- (3) (a) The Commissioner may refuse any application for accredited client status or cancel or suspend such status. 40
- (b) The provisions of section 60(2) shall apply *mutatis mutandis* for the purposes of paragraph (a).”.

(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 45

Amendment of section 69 of Act 91 of 1964, as amended by section 22 of Act 105 of 1969, section 6 of Act 93 of 1978, section 9 of Act 101 of 1985, section 7 of Act 69 of 1988, as substituted by section 12 of Act 68 of 1989, section 1 of Act 111 of 1991, as amended and deleted by section 3 of Act 105 of 1992, section 6 of Act 98 of 1993, and amended by section 6 of Act 44 of 1996 and section 61 of Act 53 of 1999 50

49. (1) Section 69 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (1) of the words preceding the proviso of the following words:

“For the purpose of assessing the excise duty on any goods manufactured in the Republic and specified in items 126.01, 126.02, 126.03, 126.04 and 126.05 of Section B of Part 2 of Schedule No. 1, the value thereof shall, subject to the provisions of this section, be taken to be the full and final market price (before deduction of any discounts other than cash discounts) at which, at the time of sale, such or similar goods are freely offered for sale, for consumption in the Republic, for purposes of trade in the principal markets of the Republic in the ordinary course of

- (iii) bewys dat 'n effektiewe rekenaarsstelsel wat geskik is om dié funksies te verrig, en ten opsigte waarvan 'n ooreenkoms soos in artikel 101A beoog aangegaan is, in werking is;
- (iv) bewys dat die persoon wat die geakkrediteerde kliënt vereistes gaan administreer voldoende kennis het van doeane- en -prosedures om 'n effektiewe en doeltreffende geakkrediteerde kliënt nakomingstelsel te implementeer en in stand te hou; 5
- (v) bewys dat die besigheid ten opsigte waarvan aansoek om geakkrediteerde kliëntstatus gedoen word voldoende finansiële hulpbronne het; 10
- (vi) enige ander meetbare vereistes bewys wat die Kommissaris ter ondersteuning vir die aansoek vereis.
- (2) Die Kommissaris kan—
- (a) sodanige ondersoek instel wat redelik nodig is om die stellings in die aansoek te verifieer; 15
- (b) 'n ooreenkoms met die aansoeker aangaan wat kan insluit, ondanks enige ander bepaling van hierdie Wet, uitstel van betaling van reg of belasting op toegevoegde waarde betaalbaar by die invoer van goedere in die Republiek en betaling daarvan soos in sodanige ooreenkoms vermeld; 20
- (c) by reël die volgende voorskryf—
- (i) die aansoekvorm wat voltooi moet word en die ondersteunende dokumente wat ooreenkomstig die doeane- en aksynsprosedures van toepassing op die aktiwiteite van die aansoeker verskaf moet word; 25
- (ii) die vorm van ooreenkoms wat tussen die aansoeker en die Kommissaris aangegaan moet word;
- (iii) standarde van optrede wat prosedures kan insluit om gevolg te word ten opsigte van—
- (aa) die klaring van goedere; 30
- (bb) betaling van reg;
- (cc) die dokumente wat geprosesseer moet word;
- (dd) die beheer van goedere; of
- (ee) goedere gekarwei of verwyder; en
- (iv) enige ander aangeleentheid wat redelikerwys nodig en nuttig is om die voordele bepaal ingevolge hierdie artikel te reël; 35
- (d) behoudens die bepalings van artikel 3(2), by reël enige bevoegdheid of pligte wat deur die Kommissaris uitgevoer of verrig kan of moet word ooreenkomstig die bepalings van hierdie Wet aan enige beampte of ander persoon te deleger of op te dra. 40
- (3) (a) Die Kommissaris kan enige aansoek om geakkrediteerde kliëntstatus weier of sodanige status intrek of opskort.
- (b) Die bepalings van artikel 60(2) is *mutatis mutandis* vir die doeleindes van paragraaf (a) van toepassing.”

(2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal. 45

Wysiging van artikel 69 van Wet 91 van 1964, soos gewysig deur artikel 22 van Wet 105 van 1969, artikel 6 van Wet 93 van 1978, artikel 9 van Wet 101 van 1985, artikel 7 van Wet 69 van 1988, soos vervang deur artikel 12 van Wet 68 van 1989, artikel 1 van Wet 111 van 1991, soos gewysig deur artikel 3 van Wet 105 van 1992, artikel 6 van Wet 98 van 1993, artikel 6 van Wet 44 van 1996 en artikel 61 van Wet 53 van 1999 50

49. (1) Artikel 69 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur in paragraaf (a) van subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang: 55
- “Vir die doel van die berekening van die aksynsreg op enige goedere in die Republiek vervaardig en vermeld in items 126.01, 126.02, 126.03, 126.04 en 126.05 van Afdeling B van Deel 2 van Bylae 1 word daar, behoudens die bepalings van hierdie artikel, aangeneem dat die waarde daarvan die volle en finale markprys (voor aftrekking van enige afslag, behalwe afslag vir kontant) 60
- is waarteen sodanige of soortgelyke goedere, ten tyde van die verkoping, vrylik vir handelsdoeleindes in die vernaamste markte van die Republiek in die gewone loop van die handel, in die gewone groothandelhoeveelhede en in die toestand en die gewone verpakking gereed vir verkoop in die kleinhandel,

trade, in the usual wholesale quantities and in the condition and the usual packing ready for sale in the retail trade, to any merchant wholesaler in the Republic not deemed to be related as specified in section 66(2)(a) under fully competitive conditions, plus the cost of packing and packages and all other expenses incidental to placing the goods on any vehicle for delivery to the purchaser, plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods, but excluding the non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1 or any value-added tax payable on such goods:";

- (b) by the substitution in paragraph (c) of subsection (1) for the words preceding subparagraph (i) of the following words:

"(c) For the purpose of **[this subsection]** paragraph (a) the Commissioner may specify—";

- (c) by the addition to subsection (1) of the following paragraphs:

"(d) For the purposes of assessing the excise duty on any goods manufactured in the Republic and specified in any items of Section B of Part 2 of Schedule No. 1 other than those specified in paragraph (a), the value thereof shall be the 'invoice price' which shall mean—

- (i) the price paid or payable as contemplated in subsection (2)(b), and as the Commissioner may further prescribe by rule, for such goods when sold for home consumption in the ordinary course of trade, in the condition and the usual trade packing ready for sale in the retail trade, to any buyers not deemed to be related as specified in section 66(2)(a); or

- (ii) where the buyers are deemed to be related as specified in section 66(2)(a), the price of the goods when sold at comparable trade and quantity levels to unrelated buyers at or about the same time as the sale to such related buyers;

(e) The invoice price contemplated in paragraph (d) shall—

- (i) exclude the non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1 and any value-added tax payable on such goods;

- (ii) be reduced by any deduction from such price as may be prescribed by the Commissioner by rule in respect of any goods specified in any such item of Section B of Part 2 of Schedule No. 1.";

- (d) by the substitution for subsection (3) of the following subsection:

"(3) If in the opinion of the Commissioner goods are sold or otherwise disposed of under such conditions that the value thereof cannot be ascertained or has been incorrectly ascertained in terms of subsection (1)[(a)] or (2), as the case may be, the Commissioner may, having regard to the relevant provisions of subsection (1) or (2), determine a value, which shall, subject to the right of appeal to the court, be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force."

- (2) Subsection (1) shall be deemed to have come into operation on 1 July 2001.

Amendment of section 75 of Act 91 of 1964, as amended by section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 25 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973, section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 28 of Act 93 of 1978, section 10 of Act 110 of 1979, section 19 of Act 86 of 1982, section 6 of Act 89 of 1984, section 11 of Act 101 of 1985, section 9 of Act 52 of 1986, section 23 of Act 84 of 1987, section 8 of Act 69 of 1988, section 13 of Act 68 of 1989, section 29 of Act 59 of 1990, section 13 of Act 61 of 1992, section 7 of Act 98 of 1993, section 10 of Act 19 of 1994, section 53 of Act 45 of 1995 and section 61 of Act 30 of 2000

- 50.** (1) Section 75 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs:

aan enige aankoopgrootshandelaar in die Republiek wat nie geag word verbonde te wees nie soos vermeld in artikel 66(2)(a), onder omstandighede van vrye mededinging te koop aangebied word vir verbruik in die Republiek, plus die koste van pak en verpakking en alle ander uitgawes verbonde aan die plasing van die goedere op enige voertuig vir lewering aan die koper, plus enige ongekorte aksynsreg betaalbaar ingevolge Afdeling A van Deel 2 van Bylae 1 op sodanige goedere, maar uitgesonderd die ongekorte aksynsreg betaalbaar ingevolge Afdeling B van Deel 2 van Bylae 1 of enige belasting op toegevoegde waarde betaalbaar op sodanige goedere.”

(b) deur die woorde wat subparagraaf (i) van paragraaf (c) voorafgaan deur die volgende woorde te vervang:

“(c) By die toepassing van [hierdie subartikel] paragraaf (a) kan die Kommissaris—”;

(c) deur die volgende paragrafe by subartikel (1) te voeg:

“(d) Vir die doel van die berekening van die aksynsreg op enige goedere in die Republiek vervaardig en vermeld in enige items in Afdeling B van Deel 2 van Bylae Nr 1, uitgesonderd daardie in paragraaf (a) vermeld, is die waarde daarvan die ‘faktuurprys’, wat beteken—

(i) die prys betaal of betaalbaar soos bedoel in subartikel 2(b), en soos die Kommissaris verder by reël voorskryf, vir sodanige goedere wanneer hulle verkoop word vir binnelandse verbruik in die gewone loop van handel, in die toestand en die gewone handelsverpakking gereed vir verkoop in die kleinhandel aan enige kopers wat nie geag word verbonde te wees soos in artikel 66(2)(a) vermeld nie; of

(ii) waar die kopers geag word verbonde te wees soos in artikel 66(2)(a) vermeld die prys van die goedere wanneer hulle verkoop word op vergelykbare handels- en hoeveelhedsvlakke aan onverbonde kopers op of naasteby dieselfde tydstop as die verkoping aan sodanige verbonde kopers.

(e) Die faktuurprys in paragraaf (d) beoog—

(i) sluit die ongekorte aksynsreg betaalbaar ingevolge Afdeling B van Deel 2 van Bylae Nr. 1 en enige belasting op toegevoegde waarde betaalbaar op sulke goedere uit;

(ii) word verminder deur enige aftrekking van so ’n prys wat deur die Kommissaris ten opsigte van enige van die goedere vermeld in enige sodanige item van Afdeling B van Deel 2 van Bylae Nr. 1 by reël voorgeskryf word.”;

(d) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Indien, volgens die oordeel van die Kommissaris, goedere verkoop of op ander wyse van die hand gesit word in sulke omstandighede dat die waarde daarvan nie ingevolge subartikel (1) [(a)] of (2), na gelang van die geval, vasgestel kan word nie, of indien dit verkeerd vasgestel is, kan die Kommissaris, met inagneming van die betrokke bepalings van subartikels (1) en (2), ’n waarde bepaal, wat, behoudens ’n reg van appèl na die hof, geag by die toepassing van hierdie Wet korrek te wees, en ’n bedrag wat ingevolge so ’n bepaling verskuldig is, bly betaalbaar solank dié bepaling van krag bly.”.

(2) Subartikel (1) word geag op 1 Julie 2001 in werking te getree het.

Wysiging van artikel 75 van Wet 91 van 1964, soos gewysig deur artikel 13 van Wet 95 van 1965, artikel 10 van Wet 57 van 1966, artikel 8 van Wet 85 van 1968, artikel 25 van Wet 105 van 1969, artikel 8 van Wet 103 van 1972, artikel 2 van Wet 68 van 1973, artikel 9 van Wet 71 van 1975, artikel 27 van Wet 112 van 1977, artikel 28 van Wet 93 van 1978, artikel 10 van Wet 110 van 1979, artikel 19 van Wet 86 van 1982, artikel 6 van Wet 89 van 1984, artikel 11 van Wet 101 van 1985, artikel 9 van Wet 52 van 1986, artikel 23 van Wet 84 van 1987, artikel 8 van Wet 69 van 1988, artikel 13 van Wet 68 van 1989, artikel 29 van Wet 59 van 1990, artikel 13 van Wet 61 van 1992, artikel 7 van Wet 98 van 1993, artikel 10 van Wet 19 van 1994, artikel 53 van Wet 45 van 1995 en artikel 61 van Wet 30 van 2000

50. (1) Artikel 75 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

(a) deur paragrafe (c) en (d) van subartikel (1) deur die volgende paragrafe te vervang:

- “(c) a drawback or a refund of the ordinary customs duty, anti-dumping duty, countervailing duty, safeguard duty, surcharge and fuel levy actually paid on entry for home consumption on any imported goods described in Schedule No. 5 shall **[subject to the provisions of paragraph (f)(i)]** be paid to the person who paid such duties or any person indicated in the notes to the said Schedule, subject to compliance with the provisions of the item of the said Schedule in which those goods are specified; and 5
- (d) in respect of any excisable goods or fuel levy goods described in Schedule No. 6, a rebate of the excise duty specified in Part 2 of Schedule No. 1 or of the fuel levy specified in Part 5 of Schedule No. 1 in respect of such goods at the time of entry for home consumption thereof or a refund of the excise duty or fuel levy actually paid at the time of entry for home consumption shall **[subject to the provisions of paragraph (f)(i)]** be granted to the extent and in the circumstances stated in the item of Schedule No. 6 in which such goods are specified, subject to compliance with the provisions of the said item and any refund under this paragraph may be paid to the person who paid the duty or any person indicated in the notes to the said Schedule No. 6;” 10 15 20
- (b) by the deletion of paragraph (f) of subsection (1);
- (c) by the substitution for subsection (1A) of the following subsections:
- “(1A) Notwithstanding anything to the contrary contained in this Act or any other law—
- (a) (i) a refund of the fuel levy leviable on distillate fuel in terms of Part 5 of Schedule No. 1; and 25
- (ii) a refund of the Road Accident Fund levy leviable on diesel as contemplated in section 5 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996); or
- (iii) only a refund of such Road Accident Fund levy, shall be granted in accordance with the provisions of this section and of item 540.02 of Schedule No. 5 or item 640.03 of Schedule No. 6 to the extent stated in those items; 30
- (b) such refunds shall be granted to any person who—
- (i) has purchased and used such fuel in accordance with the provisions of this section and the said items of Schedule No. 5 or 6; and 35
- (ii) is registered, in addition to any other registration required under this Act, for value-added tax purposes under the provisions of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and for diesel refund purposes on compliance with the requirements determined by the Commissioner for the purposes of this Act and the Value-Added Tax Act; 40
- (c) the Commissioner may withdraw money from the National Revenue Fund for refunding the amount of such Road Accident Fund levy as if it were a fuel levy leviable and paid under this Act and refundable in terms of the said items of Schedule No. 5 or 6; 45
- (d) the Commissioner may—
- (i) pay any such refund upon receipt of a duly completed return from any person who has purchased distillate fuel for use as contemplated in the said item of Schedule No. 5 or 6; 50
- (ii) pay any such refund by means of the system in operation for refunding value-added tax; and
- (iii) for the purposes of payment, set off any amount refundable to any person in terms of the provisions of this section and the said items against any amount of value-added tax payable by such person; 55
- (e) any such payment or set-off by the Commissioner shall be deemed to be a provisional refund for the purpose of this section and the said items of Schedule No. 5 or 6 subject to the production of proof by the user referred to in subsection (1C)(b) at such time and in such form as the Commissioner may determine that the distillate fuel has been— 60

- “(c) ’n teruggawe of terugbetaling van die gewone doeanereg, anti-dumpingreg, kontrareg, beveiligingsreg, bobelasting en brandstofheffing wat werklik op enige ingevoerde goedere in Bylae No. 5 vermeld by klaring vir binnelandse verbruik betaal is, **[behoudens die bepalinge van paragraaf (f)(i)]** aan die persoon wat sodanige regte betaal het of enige persoon aangedui in die opmerkings by genoemde Bylae, onderworpe aan nakoming van die bepalinge van die item van genoemde Bylae waarin daardie goedere vermeld word, betaal; 5
- (d) ten opsigte van enige synsbare goedere of brandstofheffinggoedere in Bylae No. 6 vermeld, ’n korting op die aksynsreg in Deel 2 van Bylae 1 of op die brandstofheffing in Deel 5 van Bylae 1 vermeld ten opsigte van sodanige goedere, ten tyde van klaring vir binnelandse verbruik daarvan vermeld of ’n terugbetaling van die aksynsreg of brandstofheffing wat werklik ten tyde van klaring vir binnelandse verbruik betaal is, **[behoudens die bepalinge van paragraaf (f)(i)]** in die mate en in die omstandighede vermeld in die item van Bylae No. 6 waarin sodanige goedere vermeld word, onderworpe aan nakoming van die bepalinge van bedoelde item, toegestaan en enige terugbetaling ingevolge hierdie paragraaf kan aan die persoon wat die regte betaal het of enige persoon in die opmerkings by bedoelde Bylae No. 6 aangedui, betaal word;” 10 15 20
- (b) deur paragraaf (f) van subartikel (1) te skrap;
- (c) deur subartikel (1A) deur die volgende subartikels te vervang:
- “(1A) Ondanks andersluidende bepalinge in hierdie Wet of enige ander Wet—
- (a) (i) word ’n terugbetaling van die brandstofheffing hefbaar op distillaat-brandstof ingevolge Deel 5 van Bylae No. 1; en 25
- (ii) word ’n terugbetaling van die Padongelukfondsheffing wat op diesel hefbaar is soos in artikel 5 van die Padongelukfondswet, 1996 (Wet No. 56 van 1996), bedoel; of
- (iii) word slegs ’n terugbetaling van die Padongelukfondsheffing, ooreenkomstig die bepalinge van hierdie artikel en van item 540.02 van Bylae No. 5 of item 640.03 van Bylae No. 6 in die mate in daardie items vermeld, toegestaan; 30
- (b) word sodanige terugbetalinge toegestaan aan iemand wat—
- (i) sodanige brandstof ooreenkomstig die bepalinge van hierdie artikel en bedoelde items van Bylae No. 5 of 6 aangekoop en gebruik het; 35
- (ii) benewens enige ander registrasie wat kragtens hierdie Wet vereis word vir doeleindes van die belasting op toegevoegde waarde kragtens die bepalinge van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), en vir diesel-terugbetalingsdoeleindes by nakoming van enige vereistes wat deur die Kommissaris vir die doeleindes van hierdie Wet en die Wet op Belasting op Toegevoegde Waarde bepaal is, geregistreer is; 40
- (c) kan die Kommissaris geld van die Nasionale Inkomstefonds onttrek om sodanige Padongelukfondsheffing terug te betaal asof dit ’n brandstofheffing is wat kragtens hierdie Wet hefbaar en betaal is en ingevolge die bedoelde items van Bylae No. 5 of 6 terugbetaalbaar is; 45
- (d) kan die Kommissaris—
- (i) enige sodanige terugbetaling betaal by ontvangs van ’n behoorlik voltooide opgawe van enige persoon wat distillaatbrandstof vir gebruik soos beoog in die bedoelde item van Bylae No. 5 of 6, aangekoop het; 50
- (ii) enige sodanige terugbetaling betaal deur middel van ’n stelsel in werking om belasting op toegevoegde waarde terug te betaal; en
- (iii) vir betalingsdoeleindes, enige bedrag terugbetaalbaar aan enigiemand ingevolge die bepalinge van hierdie artikel en bedoelde items verreken teen enige bedrag van belasting op toegevoegde waarde wat deur sodanige persoon betaalbaar is; 55
- (e) word enige sodanige betaling of verrekening geag ’n voorlopige betaling vir die doeleindes van hierdie artikel en die bedoelde items van Bylae No. 5 of 6 te wees, onderworpe aan die voorlegging van bewys deur die gebruiker in subartikel (1C)(b) bedoel op sodanige tyd en in sodanige vorm soos die Kommissaris bepaal dat die distillaatbrandstof— 60

- (i) purchased as claimed on the application for a diesel refund; and
 - (ii) used in accordance with the provisions of this section and the said items of Schedule No. 5 or 6;
- (f) the provisions of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), shall *mutatis mutandis* apply in respect of the payment of interest on any amount of fuel levy or Road Accident Fund levy which is being recovered as it is in excess of the amount due or is not duly refundable. 5
- (1B)(a) The Commissioner shall, at the end of each calendar month, furnish an audited statement, as may be agreed upon between the Commissioner and the Chief Executive Officer of the Road Accident Fund referred to in section 12 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996), to the said Chief Executive Officer, reflecting the quantity of diesel in litres and the amount of the Road Accident Fund levy refunded thereon during such month 10 15
- (b) The Chief Executive Officer of the Road Accident Fund shall repay to the Commissioner the amount of the Road Accident Fund levy refunded by the Commissioner not later than the last working day of each calendar month immediately succeeding the calendar month covered by the statement furnished by the Commissioner. 20
- (c) Any amount so repaid by the Road Accident Fund shall be paid into the National Revenue Fund as if it were a recovery of fuel levy refunded under this section.
- (d) For the purposes of this Act, any refund of Road Accident Fund levy by the Commissioner to any applicant shall be deemed to be a refund of duty and any amount paid which was not duly payable or in excess of the amount due to the applicant shall be recoverable as provided in section 76A and shall, when recovered, be repaid to the Road Accident Fund by the Commissioner each calendar month. 25 30
- (e) The Commissioner may enter into a written agreement with the Chief Executive Officer of the Road Accident Fund to regulate any incidental matter which it may be necessary or expedient to regulate in order to achieve or promote the objects of this subsection.
- (1C)(a) Notwithstanding the provision of subsection (1A), the Commissioner may investigate any application for a refund of such levies on distillate fuel to establish whether the fuel has been— 35
- (i) duly entered or is deemed to have been duly entered in terms of this Act;
 - (ii) purchased in the quantities stated in such return;
 - (iii) delivered to the premises of the user and is being stored and used or has been used in accordance with the purpose declared on the application for registration and the said items of Schedule No. 5 or 6. 40
- (b) For the purposes of this section and the said items of Schedule No. 5 or 6— 45
- (i) 'user' shall mean, according to the context and subject to any note in the said Schedule No. 5 or 6, the person registered for a diesel refund as contemplated in subsection (1A) and as a user as provided in subsection (4A); 50
 - (ii) 'distillate fuel' includes diesel and 'diesel' includes distillate fuel.
- (c)(i) The refunds specified in the said items of Schedule No. 5 or 6 shall apply to fuel purchased on or after the date the amendment contemplated in section 75(15) comes into operation.
- (ii) Any such fuel purchased shall be deemed to have been used in the order of the dates of such purchases. 55
- (iii) The extent of the refund referred to in subparagraph (i) shall be the rate of such refund specified in such item of Schedule No. 5 or 6 in operation on the date of issue of the invoice concerned, referred to in subsection (4A)(c). 60
- (iv) If the extent of such refund is amended and for any reason any liability to repay any refund of such levies in respect of any quantity of

- (i) aangekoop is soos op die aansoek om 'n diesel-terugbetaling beweer word; en
- (ii) ooreenkomstig die bepalinge van hierdie artikel en bedoelde items van Bylae No. 5 of 6 gebruik is;
- (f) is die bepalinge van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), van toepassing *mutatis mutandis* ten opsigte van die betaling van rente op enige bedrag van brandstofheffing of Padongelukfondsheffing wat teruggevorder word aangesien dit die verskuldigde bedrag oorskry of nie behoorlik terugbetaalbaar was nie.
- (1B)(a) Die Kommissaris moet aan die einde van elke kalendermaand 'n geouditeerde staat soos ooreengekom tussen die Kommissaris en die Hoof-Uitvoerende Beampte van die Padongelukfonds in artikel 12 van die Padongelukfondswet, 1996 (Wet No. 56 van 1996), bedoel, aan die bedoelde Hoof-Uitvoerende Beampte stuur, wat die hoeveelheid diesel in liters en die bedrag van Padongelukfondsheffing terugbetaal daarop gedurende sodanige maand weergee.
- (b) Die Hoof-Uitvoerende Beampte van die Padongelukfonds moet die bedrag van die Padongelukfondsheffing deur die Kommissaris terugbetaal nie later nie as die laatste werksdag van elke kalendermaand wat onmiddellik volg op die kalendermaand wat gedek word deur die staat deur die Kommissaris gelewer, terugbetaal.
- (c) Enige bedrag aldus deur die Padongelukfonds terugbetaal moet in die Nasionale Inkomstefonds gestort word asof dit 'n verhaling is van brandstofheffing wat kragtens hierdie artikel terugbetaal is.
- (d) By die toepassing van hierdie Wet, word enige terugbetaling van Padongelukfondsheffing deur die Kommissaris aan enige aansoeker geag 'n terugbetaling van reg te wees en enige bedrag wat nie behoorlik terugbetaalbaar was aan die aansoeker nie of die bedrag verskuldig oorskry het, is invorderbaar soos bepaal in artikel 76A en word, wanneer teruggevorder aan die Padongelukfonds deur die Kommissaris elke kalendermaand terugbetaal.
- (e) Die Kommissaris kan 'n geskrewe ooreenkoms met die Hoof-Uitvoerende Beampte van die Padongelukfonds aangaan om enige bykomstige aangeleentheid te reël wat noodsaaklik of dienstig kan wees om te reël ten einde die oogmerke van hierdie subartikel te verwesenlik of te bevorder.
- (1C)(a) Ondanks die bepalinge van subartikel (1A), kan die Kommissaris enige aansoek om 'n terugbetaling van sodanige heffings op distillaat-brandstof ondersoek om te bepaal of die brandstof—
 - (i) behoorlik ingevolge hierdie Wet geklaar is of geag word behoorlik geklaar te wees;
 - (ii) aangekoop is in die hoeveelhede in sodanige opgawe verklaar;
 - (iii) afgelewer is by die persele van die gebruiker en geberg en ooreenkomstig die doel wat op die aansoek om registrasie verklaar is en die bedoelde items van Bylae No. 5 of 6 gebruik word of gebruik is.
- (b) By die toepassing van hierdie artikel en die bedoelde items van Bylae No. 5 of 6—
 - (i) beteken 'gebruiker' ooreenkomstig die samehang en behoudens enige opmerking in die bedoelde Bylae No. 5 of 6, die persoon geregistreer vir 'n diesel-terugbetaling soos in subartikel (1A) bedoel en as 'n gebruiker soos in subartikel (4A) bepaal;
 - (ii) sluit 'distillaatbrandstof' diesel in en 'diesel' distillaatbrandstof in.
- (c)(i) Die terugbetalinge in die bedoelde items van Bylae No. 5 of 6 vermeld is van toepassing op brandstof aangekoop op of na die datum waarop die wysigings in artikel 75(15) beoog, in werking tree.
- (ii) Enige sodanige distillaatbrandstof aangekoop, word geag gebruik te gewees het in die volgorde van die datums van sodanige aankope.
- (iii) Die mate van die terugbetaling in subparagraaf (i) bedoel, is die skaal van sodanige terugbetaling in sodanige item van Bylae No. 5 of 6 vermeld wat geld op die uitreikingsdatum van die betrokke faktuur bedoel in subartikel (4A)(c).
- (iv) Indien die mate van sodanige terugbetaling gewysig word en om enige rede enige aanspreeklikheid om enige terugbetaling van sodanige heffings

fuel which the user may incur in respect of the use of such fuel cannot be assessed or the amount of the levies refundable to such user in terms of any item of Schedule No. 5 or 6 cannot be calculated on any quantity of such fuel purchased by such user before such amendment, the quantity of such fuel in respect of any refund which the user is liable to repay, or the quantity used in accordance with any such item for the calculation of the amount refundable to such user, shall be determined by the Commissioner according to the information at his disposal.

(d)(i) Any user who has been granted such a provisional refund shall, in relation to the purchase and use by him of the fuel concerned, furnish the Commissioner at such times as may be prescribed in the notes to item 640.03, with a declaration in such form and supported by such documents as may be prescribed in such notes.

(ii) Any user who fails to comply with the provisions of paragraph (d)(i) shall be deemed to have used such fuel for a purpose or use other than the purpose or use stated in the said items of Schedule No. 5 or 6 and the amount of such refund shall be deemed to be a refund not duly payable to such user and shall be recoverable in terms of section 76A.

(e)(i) If the amount of the provisional refund paid to the user concerned was not duly refundable or exceeds the amount refundable in terms of the said items of Schedule No. 5 or 6, any such amount or the excess shall be paid by that user upon demand by the Commissioner.

(ii) If that user fails to pay the amount demanded in terms of subparagraph (i), such amount shall be recoverable in terms of section 76A.”;

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

“(4A)(a) Any person who registers for a diesel refund as contemplated in subsection (1A) shall in addition register as a user under the provisions of this Act.

(b) Any return for refund of such levies shall be in such form and shall declare such particulars and shall be for such quantities and for such periods and shall be submitted within such period as may be determined by the Commissioner.

(c) Any seller of such fuel shall furnish such user with an original invoice reflecting the particulars, and shall keep a copy of such invoice for such time, as may be prescribed in the notes to the item 640.03.

(d) Any user shall complete and keep such books, accounts and documents and furnish to the Commissioner at such times such particulars of the purchase, use or storage of such fuel or any other particulars as may be prescribed in the notes to item 640.03.

(e)(i) Notwithstanding anything to the contrary in this Act contained, any user of distillate fuel who has been granted such refund and who fails to—

(aa) keep any such invoice;

(bb) complete and keep such books, accounts and documents; or

(cc) forthwith furnish any officer at such officer’s request with such invoice and the books, accounts and documents required to be completed and kept,

shall, in addition to any other liability incurred in terms of this Act in respect of the fuel to which such failure relates, be liable, as the Commissioner may determine, for payment of an amount not exceeding the levies refunded on such fuel, unless it is shown by the user within 30 days of the date of any demand for payment of such amount in terms of this section that the fuel has been used in accordance with the provisions of the said items of Schedule No. 5 or 6.

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

(f) The Commissioner may, subject to review by the High Court—

terug te betaal ten opsigte van enige hoeveelheid brandstof wat die gebruiker opgeloopt het ten opsigte van die gebruik van sodanige brandstof, nie aangeslaan of die bedrag aan heffings terugbetaalbaar aan sodanige gebruiker ingevolge enige item van Bylae No. 5 of 6, nie bereken kan word nie op enige hoeveelheid van sodanige brandstof aangekoop deur sodanige gebruiker voor sodanige wysiging word die hoeveelheid van sodanige brandstof ten opsigte van enige terugbetaling wat die gebruiker aanspreeklik is om terug te betaal, of die hoeveelheid gebruik in ooreenstemming met enige sodanige item vir die berekening van die bedrag terugbetaalbaar aan sodanige gebruiker, deur die Kommissaris volgens die inligting tot sy beskikking bepaal. 5 10

(d)(i) Enige gebruiker aan wie so 'n voorlopige terugbetaling toegestaan is, moet met betrekking tot die aankoop en gebruik deur hom van die betrokke brandstof, op die tye in die opmerkings by item 640.03 voorgeskryf aan die Kommissaris 'n verklaring verstrek in die vorm en gestaaf deur die dokumente wat in sodanige opmerkings voorgeskryf word. 15

(ii) Enige gebruiker wat versuim om aan die bepalings van paragraaf (d)(i) te voldoen, word geag sodanige brandstof te gebruik het vir 'n ander doel of gebruik as die doel of gebruik gemeld in die bedoelde items van Bylae No. 5 of 6 en die bedrag van sodanige terugbetaling word geag 'n terugbetaling te wees wat nie behoorlik aan sodanige gebruiker betaalbaar was nie en is ingevolge artikel 76A verhaalbaar. 20

(e)(i) Indien die bedrag van die voorlopige terugbetaling wat aan die betrokke gebruiker betaal is nie behoorlik terugbetaalbaar was nie of die bedrag terugbetaalbaar ingevolge die bedoelde items van Bylae No. 5 of 6 oorskry, word enige sodanige bedrag of die oorbetalings op aanvraag aan die Kommissaris betaal. 25

(ii) Indien daardie gebruiker versuim om die bedrag aangevra ingevolge subparagraaf (i) te betaal, is sodanige bedrag ingevolge artikel 76A verhaalbaar.”;

(d) deur subartikel (4A) deur die volgende subartikel te vervang: 30

“(4A)(a) Iemand wat vir 'n diesel-terugbetaling registreer soos in subartikel (1A) bedoel moet bykomend as 'n gebruiker kragtens die bepalings van hierdie Wet registreer.

(b) Enige opgawe vir terugbetaling van sodanige heffings moet in sodanige vorm wees en moet sodanige besonderhede verklaar en moet vir sodanige hoeveelhede en vir sodanige tydperke wees en binne sodanige tydperk voorgelê word soos die Kommissaris bepaal. 35

(c) Enige verkoper van sodanige brandstof moet aan sodanige gebruiker 'n oorspronklike faktuur verskaf wat die besonderhede weergee en moet 'n afskrif van sodanige faktuur vir die tydperk hou, soos in die opmerkings by item 640.03 voorgeskryf word. 40

(d) Enige gebruiker moet die boeke, rekeninge en dokumente voltooi en hou en op sodanige tye die besonderhede van die aankoop, gebruik of opberging van sodanige brandstof of enige ander besonderhede aan die Kommissaris verstrek soos in die opmerkings by item 640.03 voorgeskryf word. 45

(e)(i) Ondanks andersluidende bepalings van hierdie Wet, is enige gebruiker van distillaatbrandstof wat sodanige terugbetaling toegestaan is en versuim het om—

(aa) enige faktuur te hou; 50

(bb) sodanige boeke, rekeninge en dokumente te voltooi en te hou; en

(cc) onverwyld aan enige beampte op sodanige beampte se versoek, sodanige faktuur, en die boeke, rekeninge en dokumente wat voltooi en gehou moet word, te verskaf,

benewens enige ander aanspreeklikheid opgeloopt ingevolge hierdie Wet ten opsigte van die brandstof waarop sodanige versuim betrekking het, soos die Kommissaris bepaal aanspreeklik vir betaling van 'n bedrag van hoogstens die heffings wat op sodanige brandstof terugbetaal is, tensy daar binne 30 dae vanaf die datum van enige aanvraag vir betaling van sodanige bedrag ingevolge hierdie artikel bewys word dat die brandstof ooreenkomstig die bepalings van bedoelde items van Bylae No. 5 of 6 gebruik is. 60

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

(f) Die Kommissaris kan, behoudens hersiening deur die Hoë Hof—

- (i) refuse to register any applicant for registration as contemplated in subsection (1A)(b)(ii) or (4A)(a) if such applicant—
- (aa) has made a false or misleading statement with respect to any material fact or omits to state any material fact which was required to be stated in the application for registration;
 - (bb) has contravened or failed to comply with the provisions of this Act or the Value-Added Tax Act 1991 (Act 89 of 1991);
 - (cc) has been convicted of an offence under this Act, or the said Value-Added Tax Act; or
 - (dd) has been convicted of an offence involving dishonesty;
- (ii) cancel, or suspend for such period as the Commissioner may determine such registration, if such person—
- (aa) could have been refused registration as contemplated in subparagraph (i);
 - (bb) fails to complete, keep or furnish such accounts, books or documents or keep such invoice, as may be prescribed in the notes to item 640.03; or
 - (cc) fraudulently claims or receives any payment in respect of any refund provided for in this subsection and the said items of Schedule No. 5 or 6.
- (g) For the purposes of the administration of the refunds of levies on distillate fuel as provided in this section and item 540.02 of Schedule No. 5 or item 640.03 of Schedule No. 6 the Commissioner may, subject to the provisions of section 3(2), delegate by rule any of the Commissioner's powers, duties or functions under this Act to any officer, including any officer employed in administering the provisions of the Value-Added Tax Act, 1991 (Act 89 of 1991).
- (h) Any person to whom a refund of levies has been granted in accordance with the provisions of this section and of item 540.02 of Schedule No. 5 or item 640.03 of Schedule No. 6 who falsely applied for such refund or who uses or disposes of such fuel contrary to such provisions, shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or double the amount of any levies refunded, whichever is the greater, or to imprisonment for a period not exceeding ten years, or to both such fine and imprisonment and the fuel in respect of which the offence has been committed shall be liable to forfeiture under this Act.
- (i) The Commissioner may by rule prescribe any form or procedure or condition reasonably required for the effective administration of such refunds.”;
- (e) by the substitution for subsection (7A) of the following subsection:
- “(7A) Any person to whom a refund of **[customs or excise duty or fuel levy]** levies has been granted on any distillate fuel in terms of the provisions of item **[533.01 or]** 540.02 of Schedule No. 5 or item **[609.05.10 or]** 640.03 of Schedule No. 6, as the case may be, and who has disposed of such fuel or has applied such fuel or any portion thereof for any purpose or use otherwise than in accordance with the provisions of such items and the use declared in the relevant application for **[refund]** registration shall pay on demand to the Commissioner the full amount of any refund granted to him in respect of such fuel or such portion thereof, failing which such amount or such portion shall be recoverable **[in terms of this Act]** as if it were **[the duty or levy concerned]** a duty payable under this Act.”;
- (f) by the substitution for subparagraph (i) of paragraph (b) of subsection (14) of the following paragraph:
- “(i) in respect of any refund referred to in subsection (1A) within a period determined by the Commissioner as contemplated in subsection (4A)(b);”;
- (g) by the substitution for paragraphs (a) and (b) of subsection (15) of the following paragraphs:
- “(a) The Minister may from time to time by notice in the *Gazette*—

- (i) weier om enige aansoeker om registrasie soos beoog in subartikel (1A)(b)(ii) of (4A)(a) te registreer, indien die aansoeker—
- (aa) 'n vals of misleidende verklaring gedoen het met betrekking tot enige wesenlike feit of versuim om enige wesenlike feit wat vermeld moes gewees het in die aansoek om registrasie te vermeld; 5
 - (bb) die bepalings van hierdie Wet of die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), oortree het of versuim het om daaraan te voldoen;
 - (cc) aan 'n misdryf kragtens hierdie Wet of die bedoelde Wet op Belasting op Toegevoegde Waarde skuldig bevind is; of 10
 - (dd) aan 'n misdryf waarvan oneerlikheid 'n element is, skuldig bevind is;
- (ii) sodanige registrasie intrek of dit opskort vir die tydperk wat die Kommissaris bepaal, indien sodanige persoon—
- (aa) registrasie geweier kon gewees het soos in subparagraaf (i) beoog; 15
 - (bb) weier om die rekeninge, boeke of dokumente te voltooi en te hou of sodanige faktuur te hou, soos in die opmerkings by item 640.03 voorgeskryf word; of
 - (cc) bedrieglik enige betaling ten opsigte van enige terugbetaling soos in hierdie subartikel en die genoemde items van bylae No. 5 of 6 20
bedoel, eis of ontvang.
- (g) Vir die doeleindes van die administrasie van die terugbetalings van heffings op distillaatbrandstof soos bepaal in hierdie artikel en item 540.02 van Bylae No. 5 of item 640.03 van Bylae No. 6 kan die Kommissaris, behoudens die bepalings van artikel 3(2), by reël enige van die Kommissaris 25
se bevoegdhede, pligte of werksaamhede kragtens hierdie Wet aan enige beampte, met inbegrip van 'n beampte in diens om die bepalings van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), te administreer, delegeer.
- (h) Iemand aan wie 'n terugbetaling van heffings toegestaan is ooreenkomstig die bepalings van hierdie artikel en van item 540.02 van Bylae 30
No. 5 of item 640.03 van Bylae No. 6, wat valslik om die terugbetaling aansoek gedoen het of wat die brandstof teenstrydig met sodanige bepalings gebruik of van die hand sit, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 000 of twee maal die waarde van 35
enige heffings terugbetaal, na gelang van watter die hoogste is, of met gevangenisstraf van hoogstens tien jaar, of met sowel sodanige boete as sodanige gevangenisstraf en die brandstof ten opsigte waarvan die misdryf gepleeg is, is aan verbeuring kragtens hierdie Wet onderhewig.
- (i) Die Kommissaris kan by reël enige vorm of prosedure of voorwaarde 40
wat redelikerwys nodig is vir die effektiewe administrasie van sodanige terugbetalings voorskryf.”;
- (e) deur subartikel (7A) deur die volgende subartikel te vervang:
- “(7A) Enige persoon aan wie 'n terugbetaling van **[doeane- of aksynsreg of brandstofheffing]** heffings op 'n distillaatbrandstof ingevolge die 45
bepalings van item **[533.01 of]** 540.02 van Bylae 5 of item **[609.05.10 of]** 640.03 van Bylae 6, na gelang van die geval, toegestaan is en wat sodanige brandstof van die hand gesit het of sodanige brandstof of enige gedeelte daarvan aangewend het vir enige ander doel of gebruik anders as ooreenkomstig die bepalings van sodanige items en die verklaarde gebruik in 50
die tersaaklike aansoek om **[terugbetaling]** registrasie, moet op aanvraag aan die Kommissaris die volle bedrag betaal van enige terugbetaling aan hom toegestaan ten opsigte van sodanige brandstof of gedeelte daarvan, by ontstentenis waarvan sodanige bedrag of sodanige gedeelte **[ingevolge hierdie Wet]** verhaalbaar is asof dit **[die betrokke reg of heffing]** 'n reg 55
[betaalbaar ingevolge hierdie Wet] is.”;
- (f) deur subparagraaf (i) van paragraaf (b) van subartikel (14) deur die volgende paragraaf te vervang:
- “(i) ten opsigte van enige terugbetaling in subartikel (1A) bedoel binne 'n tydperk deur die Kommissaris bepaal soos in subartikel (4A)(b) beoog;”;
- (g) deur paragraawe (a) en (b) van subartikel (15) deur die volgende paragraawe te vervang:
- “(a) Die Minister kan van tyd tot tyd by kennisgewing in die Staatskoerant—

- (i) amend Schedule 3, 4, 5 or 6—
 - (aa) in order to give effect to any request by the Minister of Trade and Industry; or
 - (bb) whenever he deems it expedient in the public interest to do so; or
 - (ii) amend Schedule No. 5 or 6 to provide for a refund of fuel levy and the Road Accident Fund levy as contemplated in subsections (1A) and (4A).
- (b) An amendment made under paragraph (a) which repeals any existing provision in Schedule No. 5 or which excludes any goods from any existing provision of that Schedule, shall not apply in respect of goods, excluding distillate fuels referred to in item [533.01 or] 540.[00]02 of Schedule No. 5, which were imported prior to the date of the relevant notice in the *Gazette*, and an amendment made under the said paragraph which embodies any additional provision in that Schedule or applies any existing provision of that Schedule in respect of additional goods, shall not, except in so far as the Commissioner so directs and subject to such conditions as he may determine, apply in respect of goods which were imported prior to the date of the relevant notice in the *Gazette*.”;
- (h) by the substitution in subsection (18) for the words preceding paragraph (a) and paragraphs (a) and (b) of the following words and paragraphs:

“Subject to the provisions of the proviso to section 20(5) and items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 and 615.03 of Schedules Nos. 4, 5 and 6 no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Commissioner may allow a deduction from the dutiable quantity of the undermentioned goods of a quantity [equal to] not exceeding the percentage stated below in each case, namely—

 - (a) in the case of wine spirits (ethyl alcohol) manufactured in the Republic and entered for [storage] use and used in a customs and excise [storage] manufacturing warehouse, excluding spirits specified in paragraph (bA), [1,5 per cent] in the manufacture of spirituous beverages, the actual manufacturing loss of [the] any quantity so entered and used or 1,5 per cent thereof, whichever is the least;
 - (b) in the case of spirits (ethyl alcohol), other than wine spirits, manufactured in the Republic, [1,5 per cent, of the quantity so manufactured] and entered for use and used in a customs and excise manufacturing warehouse in [making] the manufacture of spirituous beverages, the actual manufacturing loss of any quantity so entered and used or 1,5 per cent thereof, whichever is the least;”;
- (i) by the substitution in paragraph (d) of subsection (18) for the words preceding the proviso of the following words:

“in the case of imported crude petroleum naphtha for use in the refining of petroleum products, or imported [or excisable] petrol, a percentage equal to the full net loss incurred but not exceeding 0,25 of any quantity entered for storage and stored in a customs and excise storage warehouse during such period as the Commissioner may determine;”;
- (j) by the substitution for paragraph (e) of subsection (18) of the following paragraph:

“(e) in the case of imported [or excisable] petrol, distillate fuels or residual fuel oils, such percentage of any quantity removed in bond unpacked by ship from one place in the Republic to another place in the Republic, as the Commissioner may determine, or, where no such percentage has been so determined, a percentage equal to the full net loss incurred while the goods in question are so removed;”;
- (k) by the substitution in paragraph (f) of subsection (18) for the words preceding the proviso of the following words:

- (i) Bylae 3, 4, 5 of 6 wysig—
 (aa) ten einde gevolg te gee aan enige versoek deur die Minister van Handel en Nywerheid; of
 (bb) wanneer hy dit in die openbare belang dienstig ag om dit te doen; of 5
- (ii) Bylae No. 5 of 6 wysig om voorsiening te maak vir 'n terugbetaling van brandstofheffing en die Padongelukfondsheffing soos in subartikels (1A) en (4A) beoog.
 (b) 'n Wysiging kragtens paragraaf (a) aangebring wat 'n bestaande bepaling in Bylae 5 herroep of wat enige goedere van 'n bestaande bepaling van daardie Bylae uitsluit, is nie van toepassing nie ten opsigte van goedere, uitgesonderd distillaatbrandstowwe vermeld in item [533.01 of] 540.[00]02 van Bylae 5, wat voor die datum van die toepaslike kennisgewing in die *Staatskoerant* ingevoer is, en 'n wysiging kragtens bedoelde paragraaf aangebring wat 'n bykomende bepaling in daardie Bylae invoeg of 'n bestaande bepaling van daardie Bylae ten opsigte van bykomende goedere van toepassing maak, is, behalwe vir sover die Kommissaris aldus gelas en onderworpe aan die voorwaardes wat hy bepaal, nie ten opsigte van goedere wat voor die datum van die toepaslike kennisgewing in die *Staatskoerant* ingevoer is van toepassing nie.”; 10 15 20
- (h) deur subartikel (18) deur die volgende subartikel te vervang:
 “(18) Behoudens die bepalings van die voorbehoudsbepaling by artikel 20(5) en items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 en 615.03 van Bylaes 4, 5 en 6 word geen korting op of terugbetaling van reg ten opsigte van enige verlies of tekort van enige aard van enige goedere toegestaan nie, maar die Kommissaris kan die aftrekking toelaat van die belasbare hoeveelheid van die hieronder genoemde goedere van 'n hoeveelheid **[gelyk aan]** hoogstens die persentasie hieronder in elke geval vermeld, naamlik— 25 30
- (a) in die geval van wynspiritus (etielalkohol) in die Republiek vervaardig, en wat vir **[opslag]** gebruik in 'n doeane- en **[aksynsopslagpakhuis]** aksynsvervaardigingspakhuis geklaar is en gebruik is, uitgesonderd spiritus in paragraaf (bA) vermeld, **[1,5 persent]** in die vervaardiging van spiritusdranke, die werklike vervaardigingsverlies van **[die]** enige hoeveelheid aldus geklaar en gebruik of 1.5 persent daarvan, na gelang van wat die minste is; 35
- (b) in die geval van ander spiritus (etielalkohol) as wynspiritus, in die Republiek vervaardig, **[1,5 persent van die hoeveelheid aldus vervaardig]** en geklaar vir gebruik en gebruik in 'n doeane- en aksynsvervaardigingspakhuis, vir **[gebruik by die maak]** die vervaardiging van spiritusdranke, die werklike vervaardigingsverlies vir enige hoeveelheid aldus geklaar en gebruik of 1,5 persent daarvan na gelang van wat die minste is;” 40
- (i) deur in paragraaf (d) van subartikel (18) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang: 45
 “in die geval van ingevoerde ru-petroleumnafta, vir gebruik by die raffinering van petroleumprodukte, of ingevoerde **[of sinsbare]** petrol, 'n persentasie gelyk aan die volle netto verlies opgeloopt, maar hoogstens 0,25 van enige hoeveelheid geklaar vir opslag en opgeslaan in 'n doeane- en aksynsopslagpakhuis gedurende sodanige tydperk as wat die Kommissaris bepaal.”; 50
- (j) deur paragraaf (e) van subartikel (18) deur die volgende paragraaf te vervang:
 “(e) in die geval van ingevoerde **[of sinsbare]** petrol, distillaatbrandstowwe of residubrandolies, die persentasie wat die Kommissaris bepaal van enige hoeveelheid wat onverpak per skip onder waarborg van een plek in die Republiek na 'n ander plek in die Republiek vervoer word, of waar so 'n persentasie nie aldus bepaal is nie, 'n persentasie gelyk aan die volle netto verlies opgeloopt terwyl die betrokke goedere aldus vervoer word;” 55 60
- (k) deur in paragraaf (f) van subartikel (18) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“in the case of imported distillate fuels entered for storage and stored in a customs and excise storage warehouse, a percentage equal to the full net loss incurred but not exceeding 0,15 of any quantity so entered and stored in such warehouse during such period as the Commissioner may determine: Provided that only the owner of a warehouse referred to in section 61(4) shall be entitled to such deduction.”; and 5

(l) by the insertion after subsection (18) of the following subsection:

“(18A) Notwithstanding the provisions of subsection (18), the Commissioner may by rule prescribe an average percentage deduction, and the circumstances under which such deduction will be allowed, from the dutiable quantity of any excisable goods removed from a customs and excise manufacturing warehouse.” 10

(2) (a) Subsection (1)(a), (b), (c), (d), (e), (f) and (g) shall be deemed to have come into operation on 4 July 2001.

(b) Subsection (1)(h), (i), (j), (k) and (l) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 15

Insertion of section 101A in Act 91 of 1964

51. (1) The following section is hereby inserted in the Customs and Excise Act, 1964, after section 101:

“Electronic communication for the purposes of customs and excise procedures 20

101A. (1) In this section and the rules thereto, unless the context otherwise indicates, the following words and phrases, and their grammatical variations where applicable, shall have the following meanings:

‘access’, means gaining entry into, instructing or communicating with the logical, arithmetical or memory function resources of a computer, computer system or computer network; 25

‘addressee’, means a person who is intended by the originator to receive the electronic message, but does not include an intermediary;

‘affixing a digital signature’, means adoption of a methodology or procedure by a person for the purposes of authenticating an electronic record by means of a digital signature; 30

‘computer’, means any electronic, magnetic, optical or other high speed data processing device or system which performs logical, arithmetic and memory functions by manipulation of electronic, magnetic or optical impulses and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or a computer network; 35

‘computer network’, means the interconnection of one or more computers through— 40

(i) the use of satellite, microwave, terrestrial line or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained; 45

‘computer system’, means a device or collection of devices, including input and output devices and capable of being used with external files which contain computer programmes, electronic instructions, input and output data that performs logic, arithmetic, data storage and retrieval, communication control and other functions; 50

‘data’, means a representation of information, knowledge, facts, concepts or instructions which are being or have been prepared in a formalised manner and is intended to be processed, is being or has been processed in a computer system or network and may be in any form (including computer printouts, magnetic optical storage media, punched cards and punched tapes) or stored internally in the memory of the computer; 55

‘digital signature’, means an electronic signature allocated to a registered user for authentication of electronic records in conformity with the requirements prescribed in this section, the rules and the user agreement;

“in die geval van ingevoerde distillaatbrandstowwe geklaar vir opslag en opgeslaan in ’n doeane- en aksynsopslagpakhuis, ’n persentasie gelyk aan die volle netto verlies opgeloopt, maar hoogstens 0,15 van enige hoeveelheid aldus geklaar en opgeslaan in sodanige pakhuis gedurende sodanige tydperk as wat die Kommissaris bepaal.”;

(l) deur die volgende subartikel na subartikel (18) in te voeg:

“(18A) Ondanks die bepalings van subartikel (18), kan die Kommissaris ’n gemiddelde persentasie-aftrekking, en die omstandighede waaronder sodanige aftrekking toegelaat word, van die belasbare hoeveelheid van enige synsbare goedere wat van ’n doeane- en aksynsvervaardigingspakhuis verwyder word, by reël voorskryf.”.

(2)(a) Subartikel (1)(a), (b), (c), (d), (e), (f) en (g) word geag op 4 Julie 2001 in werking te getree het.

(b) Subartikel (1)(h), (i), (j), (k) en (l) tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

Invoeging van artikel 101A van Wet 91 van 1964

51. (1) Die volgende artikel word hierby na artikel 101 in die Doeane- en Aksynswet, 1964, ingevoeg:

“Elektroniese kommunikasie vir die doeleindes van doeane- en aksynsprosedures

101A. (1) Tensy uit die samehang anders blyk, het die volgende woorde en frases en hul grammatikale variasies, waar toepaslik, die volgende betekenisse—

‘aanbring van ’n digitale handtekening’ beteken die aanvaarding van ’n metodologie of prosedure deur ’n persoon vir die waarmerk van ’n elektroniese rekord deur middel van ’n digitale handtekening;

‘data’ beteken ’n weergawe van inligting, kennis, feite, konsepte of opdragte wat voorberei word of voorberei is op ’n geformaliseerde manier en bedoel is om geprosesseer te word, wat geprosesseer word of wat geprosesseer is in ’n rekenaarsstelsel of -netwerk en kan in enige vorm wees (met inbegrip van rekenaardrukstukke, magnetiese optiese bergingsmedia, ponskaarte en geponsde bande) of intern in die geheue van die rekenaar geberg;

‘digitale handtekening’ beteken ’n elektroniese handtekening toegewys aan ’n geregistreerde gebruiker vir die waarmerking van elektroniese rekords ooreenkomstig die vereistes van hierdie artikel, die reëls en die gebruikersooreenkoms;

‘elektroniese rekord’ beteken opgeneemde of gegenereerde data, beeld of klanke, geberg, ontvang of versend in ’n elektroniese vorm of mikrofilm of rekenaar gegenereerde mikrofiche;

‘elektroniese vorm’ met verwysing na inligting beteken enige inligting gegenereer, versend, ontvang of geberg in media, magneties, opties, rekenaar geheue of soortgelyke toestel;

‘funksie’ met betrekking tot ’n rekenaar sluit in, logika, rekenkundige beheerproses, uitwissing, opberging en herwinning en kommunikasies of telekommunikasie vanaf of binne in ’n rekenaar;

‘geadresseerde’ beteken ’n persoon wat deur die opsteller bedoel is om die elektroniese boodskap te ontvang, maar sluit nie ’n tussenganger in nie;

‘gebruikersooreenkoms’ beteken die ooreenkoms aangegaan tussen die geregistreerde gebruiker en die Kommissaris;

‘geregistreerde gebruiker’ beteken ’n persoon geregistreer ingevolge die bepalings van subartikel (3);

‘inligting’ sluit data, teks, beelde, klank, stem, kode, rekenaar programme, sagteware en databasisse of mikrofilm of rekenaar gegenereerde mikrofiche;

‘opsteller’ beteken ’n persoon wat enige elektroniese boodskap wat gestuur, gegenereer, geberg of versend moet word aan enige ander persoon stuur, genereer, berg of versend maar sluit nie ’n tussenganger in nie;

‘rekenaar’ beteken enige elektroniese, magnetiese, optiese of ander hoëspoed dataproseringsstoestel of stelsel wat logiese rekenkundige en

'electronic form', with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, or similar device;

'electronic record', means data recorded or generated, image or sound stored, received or sent in an electronic form or microfilm or computer generated microfiche;

'function' in relation to a computer, includes logic, control arithmetical process, deletion, storage and retrieval and communications or telecommunication from or within a computer;

'information', includes data, text, images, sound, voice, code, computer programmes, software and databases or microfilm or computer generated microfiche;

'intermediary', with respect to any particular electronic message, means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message;

'originator', means a person who sends, generates, stores or transmits any electronic message to be sent, generated, stored or transmitted to any other person, but does not include an intermediary;

'registered user' means a person registered in terms of the provisions of subsection (3);

'user agreement', means the agreement entered into between the registered user and the Commissioner.

(2)(a) The Commissioner may, notwithstanding anything to the contrary in this Act contained, establish and maintain a computer system for the purposes of the electronic processing of any document and procedure to which this Act relates and matters incidental thereto, which may include—

- (i) the receipt and processing of reports and other documents relating to the arrival and departure of ships, aircraft, vehicles and railway trains and their passengers and cargo and the control of such passengers or cargo;
- (ii) the accounting for the receipt, clearance and release of goods, the storage of goods in customs and excise warehouses or other places and the removal or carriage of goods for any purpose under this Act; and
- (iii) the production or manufacture of any goods and the accounting therefor in compliance with any procedure prescribed under this Act.

(b) No person shall communicate with the Commissioner, a Controller or any officer for any purpose to which this section relates by computer unless such person is a registered user who has entered into a user agreement and complies with any other requirements prescribed under this Act.

(c) Any such user may access the computer system of the Commissioner for purposes of electronically communicating with the Commissioner, a Controller or an officer to the extent specified in the user agreement provided the computer system of the Commissioner can accept the communication.

(3)(a) Application for registration as a user shall be in the form and shall be accompanied by a practice statement and the completed user agreement prescribed by rule.

(b) The applicant shall comply with—

- (i) all the requirements specified in such form and in subsection (5);
- (ii) any additional requirements that may be prescribed in the rules and as may be determined by the Commissioner;
- (iii) the requirements specified in the user agreement.

(4) The Commissioner may set out in such agreement—

- (a) any terms and conditions for regulating computer communication with and by a registered user, including conditions that—
 - (i) the user will use computer equipment and facilities of a class or kind specified in the agreement;

geheue funksies verrig deur die manipulasie van elektroniese, magnetiese of optiese impulse en sluit in alle inset, uitset, prosessering, berging, rekenaar sagteware of kommunikeringsfasiliteite wat gekoppel is aan of verwant is met die rekenaar in 'n rekenaar stelsel of 'n rekenaar netwerk; 'rekenaarnetwerk' beteken die onderlinge verbinding van een of meer rekenaars deur—

- (i) die gebruik van satelliet, mikrogolf, landlyn of ander kommunikasie media; en
- (ii) aansluitings of 'n kompleks bestaande uit twee of meer onderling verbonde rekenaars ongeag of die onderlinge verbinding deurlopend gehandhaaf word;

'rekenaarstelsel' beteken 'n toestel of versameling van toestelle, met inbegrip van inset en uitset toestelle en in staat om gebruik te word met eksterne lêers wat rekenaar programme, elektroniese opdragte, inset en uitset data bevat wat logiese, rekenkundige, databerging en herwinning, kommunikasie beheer en ander funksies verrig;

'toegang' beteken die verkryging van toegang tot, om opdrag te gee of te kommunikeer met, die logiese, rekenkundige of geheue funksie hulpbronne van 'n rekenaar, rekenaarstelsel of rekenaarnetwerk;

'tussenganger' ten opsigte van 'n besondere elektroniese boodskap beteken enige persoon wat namens 'n ander persoon daardie boodskap ontvang, berg of versend of enige diens lewer ten opsigte van daardie boodskap.

(2)(a) Die Kommissaris kan, ondanks andersluidende bepalings in hierdie Wet, 'n rekenaarstelsel instel en in stand hou vir doeleindes van die elektroniese prosessering van enige dokument en prosedure waarop hierdie Wet betrekking het en enige aangeleentheid wat daarmee in verband staan, met inbegrip van—

- (i) die ontvang en prosessering van rapporte en ander dokumente rakende die aankoms en vertrek van skepe, vliegtuie, voertuie en spoorwegtreine en hul passassiers en vrag en die beheer oor sodanige passassiers en vrag;
- (ii) die verantwoording van die ontvangs, klaring en lossing van goedere, die opslag van goedere in doeane- en aksynspakhuse of ander plekke en die verwydering of karwei van goedere vir enige doel onder hierdie Wet; en
- (iii) die produksie of vervaardiging van enige goedere en die verantwoording daarvoor in ooreenstemming met enige prosedure wat kragtens hierdie Wet voorgeskryf is.

(b) Niemand mag deur middel van rekenaar met die Kommissaris, 'n Kontroleur of enige beampte vir enige doel waarop hierdie artikel betrekking het kommunikeer nie, tensy nodanige persoon 'n geregistreerde gebruiker is wat 'n gebruikersooreenkoms aangegaan het en aan enige ander vereistes voorgeskryf in die Wet voldoen nie.

(c) Enige sodanige gebruiker kan toegang verkry tot die rekenaarstelsel van die Kommissaris met die doel om elektronies met die Kommissaris 'n Kontroleur of enige beampte te kommunikeer mits die rekenaarstelsel van die Kommissaris die kommunikasie kan aanvaar.

(3)(a) Aansoek om registrasie as 'n gebruiker moet in die vorm wees en moet vergesel wees van 'n praktyksverklaring en die voltooide gebruikersooreenkoms soos by reël voorgeskryf.

(b) Die aansoeker moet voldoen aan—

- (i) al die vereistes vermeld in sodanige vorm en in subartikel (5);
- (ii) enige addisionale vereistes wat in die reëls voorgeskryf en deur die Kommissaris bepaal word;
- (iii) die vereistes vermeld in die gebruikersooreenkoms.

(4) Die Kommissaris kan in sodanige ooreenkoms uiteensit—

(a) enige bedinge en voorwaardes vir die reël van rekenaar kommunikasie met en deur enige geregistreerde gebruiker, met inbegrip van voorwaardes dat—

- (i) die gebruiker rekenaartoerusting en fasiliteite van 'n klas of soort vermeld in sodanige ooreenkoms moet gebruik;

- (ii) the user, when assigned a digital signature by the Commissioner, will ensure the security of the signature in the manner agreed to in the agreement;
 - (iii) where electronic data is received by the Commissioner from the registered user authenticated by electronic signature—
 - (aa) without the authority of the user to whom such signature was allocated; and
 - (bb) before notification to the Commissioner by the user of a breach of security,
 such data shall be taken by the Commissioner to have been communicated by the registered user of such digital signature, as the case may be;
 - (b) whether the applicant has complied with the provisions of subsection (5);
 - (c) any other requirement, including reasonable access to the computer system of the registered user by the Commissioner for such verification and audit purposes as may be required in terms of any provision of this Act;
 - (d) the method and period for which electronic records shall be kept.
- (5)(a) Any applicant for registration shall produce proof in support of the application that—
- (i) adequate measures have been introduced to exercise reasonable care to—
 - (aa) retain control of the digital signature allocated by the Commissioner and for the prevention of its disclosure to any person not authorised to affix such signature;
 - (bb) ensure that information remains complete and unaltered apart from the addition of any change which may occur in the normal course of communication storage and display;
 - (ii) the standard of reliability is in accordance with the standard required in the user agreement and the provisions of this section and the rules.
- (b) If the digital signature has been compromised in any manner the applicant shall inform the Commissioner without delay in the manner prescribed by rule.
- (6)(a) The Commissioner may, after due consideration of the application and the practice statement and after making such enquiries as he may deem necessary, approve the application subject to any reasonable conditions as he may impose in each case.
- (b) The Commissioner may, subject to review by the High Court—
- (i) refuse any application for registration if—
 - (aa) the applicant—
 - (A) does not comply in respect of such application with the requirements contemplated in subsection (3);
 - (B) has made a false or misleading statement with respect to any material fact or omits to state any material fact which was required to be stated in the application for registration;
 - (bb) the applicant or any employee of such applicant—
 - (A) has contravened or failed to comply with the provisions of this Act;
 - (B) has been convicted of an offence under this Act;
 - (C) has been convicted of an offence involving dishonesty; or
 - (D) has failed to comply with any condition or obligation imposed by the Commissioner in respect of such registration:
- Provided that subparagraphs (A) to (C) shall not apply in respect of an employee if the applicant proves that he was not a party to or could not prevent any such act or omission by such employee; or

- (ii) wanneer die Kommissaris aan die gebruiker 'n digitale handtekening toegewys het die sekerheid van die handtekening op die wyse in die ooreenkoms ooreengehom verseker sal word;
 - (iii) waar elektroniese data deur die Kommissaris ontvang word, wat deur elektroniese handtekening gewaarmerk is— 5
 - (aa) sonder die magtiging van die gebruiker aan wie sodanige handtekening toegewys is;
 - (bb) voor kennisgewing aan die Kommissaris deur die gebruiker van so 'n verbreking van sekerheid, sodanige data, na gelang van die geval, deur die Kommissaris geag sal word deur die geregistreerde gebruiker van sodanige digitale handtekening gestuur te gewees het; 10
 - (b) of die aansoeker aan die bepalings van subartikel (5) voldoen het;
 - (c) enige ander vereiste, met inbegrip van redelike toegang deur die Kommissaris tot die rekenaarstelsel van die geregistreerde gebruiker vir verifikasie en ouditdoeleindes soos ingevolge enige bepalings van hierdie Wet vereis word; 15
 - (d) die metode en tydperk waarvoor elektroniese rekords gehou moet word.
 - (5) (a) Enige aansoeker om registrasie moet ter ondersteuning van die aansoek bewys voorlê dat— 20
 - (i) voldoende maatreëls ingestel is om redelike sorg uit te oefen om—
 - (aa) beheer te behou oor die digitale handtekening deur die Kommissaris toegewys en om die openbaarmaking daarvan aan enige persoon wat nie toegelaat is om sodanige handtekening aan te bring nie, te voorkom; 25
 - (bb) te verseker dat inligting volledig en ongewysig bly behalwe vir die byvoeging van enige verandering wat mag plaasvind in die normale verloop van kommunikasie-berging en -vertoon;
 - (ii) die standaard van betroubaarheid in ooreenstemming is met die standaard wat in die gebruikersooreenkoms en die bepalings van hierdie artikel en die reëls vereis word. 30
 - (b) Indien die digitale handtekening op enige wyse gekompromiteer is moet die aansoeker die Kommissaris sonder versuim op die wyse by reël voorgeskryf inlig. 35
 - (6) (a) Die Kommissaris kan, na behoorlike oorweging van die aansoek en die praktyksverklaring en nadat hy sodanige navrae gedoen het soos hy noodsaaklik ag, die aansoek goedkeur, onderhewig aan enige redelike voorwaardes wat hy in elk geval oplê.
 - (b) Die Kommissaris kan, behoudens hersiening deur die Hoë Hof— 40
 - (i) enige aansoek om registrasie weier—
 - (aa) indien die aansoeker—
 - (A) nie ten opsigte van sodanige aansoek aan die vereistes soos beoog in subartikel (3) voldoen nie; 45
 - (B) 'n vals of misleidende verklaring gemaak het met betrekking tot enige wesenlike feit of versuim het om enige wesenlike feit wat vermeld moes gewees het in die aansoek om 'n lisensie te vermeld;
 - (bb) indien die aansoeker of enige werknemer van sodanige aansoeker— 50
 - (A) die bepalings van hierdie Wet oortree het of versuim het om daaraan te voldoen;
 - (B) aan 'n misdryf kragtens hierdie Wet skuldig bevind is;
 - (C) aan 'n misdryf waarvan oneerlikheid 'n element in skuldiging bevind is; of 55
 - (D) versuim het om te voldoen aan enige voorwaarde of verpligting deur hierdie Wet of die Kommissaris ten opsigte van sodanige registrasie opgelê;
- Met dien verstande dat paragrawe (A) tot (C) nie van toepassing is ten opsigte van enige werknemer indien die aansoeker bewys dat hy nie aan enige sodanige handeling of versuim deur die werknemer deelgeneem het of dit kon verhoed nie; of 60

(ii) cancel or suspend for a specified period any registration—

(aa) if the registered user—

(A) is sequestered or liquidated;

(B) no longer carries on the business for which the registration was issued;

(C) is no longer qualified according to the qualifications prescribed in the rules; or

(D) fails to meet in respect of the computer system used all the compliance requirements and the operational standards required in terms of the user agreement and prescribed by the Commissioner as contemplated in this section;

(bb) if the registered user or the employee of such user has—

(A) contravened or failed to comply with the provisions of this Act;

(B) been convicted of an offence under this Act;

(C) been convicted of an offence involving dishonesty; or

(D) failed to comply with any condition or obligation imposed by this Act or by the Commissioner in respect of such registration:

Provided that subparagraphs (A) to (C) shall not apply in respect of an employee except an employee to whom a digital signature was allocated, if the holder proves that he was not a party to or could not prevent any such act or omission by such employee:

Provided further that before a registration is cancelled or suspended, the Commissioner shall—

(a) give 21 days notice to the registered user of the proposed cancellation or suspension;

(b) provide reasonable information concerning any allegation and grounds for the proposed cancellation or suspension;

(c) provide a reasonable opportunity to respond and make representations as to why the registration should not be cancelled or suspended.

(7)(a) When the Commissioner so registers a person or cancels or suspends such registration, the registration, cancellation or suspension shall have effect from the day on which the notice was signed.

(b) The Commissioner may prescribe a registration fee or fee for the issuance of a digital signature by rule.

(c) The Commissioner shall, on registering a user, allocate to the user—

(i) if the user is a natural person, a digital signature or sufficient digital signatures for the user and each employee of the user nominated in the agreement; or

(ii) if the user is not a natural person, sufficient digital signatures for each employee of the user nominated in the agreement.

(d) Where the registered user is a clearing agent, licensed under this Act no employee of such agent who is not licensed as a clearing agent shall be allocated a digital signature.

(8)(a) For the purposes of section 101(2B), where any provision of this Act prescribes or requires that documents, records, information or the like shall be retained for a specific period, that requirement shall be deemed to have been satisfied if such documents, records, information or the like are so retained in electronic form, if—

(i) the information contained therein remains accessible so as to be subsequently usable;

- (ii) enige registrasie intrek of vir 'n bepaalde tydperk opskort—
- (aa) indien die geregistreerde gebruiker—
- (A) gesekwestreer of gelikwideer is;
 - (B) nie langer die besigheid bedryf waarvoor die registrasie uitgereik is nie;
 - (C) nie langer gekwalifiseer is ooreenkomstig die kwalifikasies in die reël voorgeskryf nie; of
 - (D) versuim om ten opsigte van die rekenaarstelsel in gebruik al die voldoeningsvereistes en die operasionele standaarde wat ingevolge die gebruikersooreenkoms vereis word en deur die Kommissaris soos in hierdie artikel beoog, voorgeskryf is, na te kom;
- (bb) indien die geregistreerde gebruiker of die werknemer van daardie gebruiker—
- (A) die bepalings van hierdie Wet ootree het of versuim het om daaraan te voldoen;
 - (B) aan 'n misdryf ingevolge hierdie Wet skuldigbevind is;
 - (C) aan 'n misdryf waarvan oneerlikheid 'n element is skuldigbevind is;
 - (D) versuim het om aan enige voorwaarde of verpligting deur hierdie Wet of die Kommissaris opgelê ten opsigte van daardie registrasie te voldoen:
- Met dien verstande dat subparagrafe (A) tot (C) nie van toepassing is nie ten opsigte van 'n werknemer behalwe 'n werknemer aan wie 'n digitale handtekening toegeken is, indien die houer bewys dat hy nie 'n party tot 'n handeling of nalate van daardie werknemer was nie of dit kon verhoed nie: Met dien verstande voorts dat voordat sodanige registrasie gekanselleer of opgeskort word, die Kommissaris—
- (a) 21 dae kennis aan die geregistreerde gebruiker moet gee van die voorgenome intrekking of opskorting;
 - (b) redelike inligting aangaande enige bewering en gronde vir die voorgenome intrekking of opskorting moet verskaf;
 - (c) 'n redelike geleentheid moet bied om te antwoord en verhoë te rig waarom die registrasie nie ingetrek of opgeskort moet word nie.
- (7) (a) Wanneer die Kommissaris 'n persoon aldus registreer of sodanige registrasie aldus intrek of opskort tree sodanige registrasie, intrekking of opskorting in werking vanaf die datum waarop die kennisgewing geteken is;
- (b) Die Kommissaris kan 'n registrasiefooi of 'n fooi vir die uitreik van 'n digitale handtekening by reël voorskryf;
- (c) Die Kommissaris moet by die registrasie van 'n gebruiker—
- (i) indien die gebruiker 'n natuurlike persoon is, 'n digitale handtekening of voldoende digitale handtekeninge vir die gebruiker en elke werknemer van die gebruiker in die ooreenkoms genomineer; of
 - (ii) indien die gebruiker nie 'n natuurlike persoon is nie, voldoende digitale handtekeninge vir elke werknemer van die gebruiker in die ooreenkoms genomineer;
- aan die gebruiker toeken;
- (d) Waar die gereregistreerde gebruiker 'n klaringsagent is wat kragtens hierdie Wet gelisensieer is mag aan geen werknemer van sodanige agent wat nie as 'n klaringsagent gelisensieer is nie 'n digitale handtekening toegeken word nie.
- (8) (a) Waar enige bepaling van hierdie Wet vir die doeleindes van artikel 101(2B) voorskryf of vereis dat dokumente, rekords, inligting en so meer vir 'n bepaalde periode behou moet word, word daardie vereistes geag om aan voldoen te wees indien sodanige dokumente, rekords, inligting en so meer in elektroniese vorm gehou word, indien—
- (i) die inligting wat daarin vervat is toeganklik bly sodat dit daarna bruikbaar is;

- (ii) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;
- (iii) the details which will facilitate the identity of the origin, destination, date and time of dispatch or receipt of such electronic record are available in the electronic record. 5
- (b) An electronic communication or the record of such communication shall be attributed to the originator—
 - (i) if it was sent by the originator; 10
 - (ii) if it was sent by a person who had the authority to act on behalf of the originator in respect of that communication or record; or
 - (iii) if it was sent by a computer system programmed by or on behalf of the originator to operate automatically.
- (9)(a) Where the Commissioner and a registered user have not agreed that an acknowledgment of receipt of electronic communication be given in any particular form or by any particular method, an acknowledgement may be given by— 15
 - (i) any communication by the Commissioner, electronic or otherwise; or 20
 - (ii) conduct by the Commissioner or any officer sufficient to indicate to the registered user that the electronic communication has been received.
- (b) Where the Commissioner and the registered user have agreed that an electronic communication shall be binding only on the receipt of an acknowledgement of such electronic communication, then, unless such acknowledgement has been so received within such time as agreed upon, such electronic communication shall be deemed not to have been sent. 25
- (c)(i) The dispatch of an electronic communication occurs when it enters a computer resource outside the control of the originator. 30
- (ii) The time of receipt of an electronic communication shall be when the electronic communication enters the designated computer—
 - (aa) where the electronic communication is by a registered user, at any office of a Controller set out in item 202.00 of the Schedule to the rules, or of the Commissioner, to whichever it was addressed, and such office shall be the place of receipt; or 35
 - (bb) if the electronic communication is by the Commissioner or any Controller or officer to a registered user, at the place of receipt that is stipulated in the 'user agreement' referred to in subsection (4). 40
- (10)(a) Whenever any registered user is authorised to submit and sign electronically any manifest, bill of entry, return, prescribed form, document, schedule, application, declaration, statement, report, notice or the like, which is required to be submitted and signed in terms of the provisions of this Act, such signature electronically affixed to such electronic communication and communicated to the Commissioner, a Controller or any officer, shall, for the purposes of this Act, have the force and effect as if it was affixed thereto in manuscript and acceptance thereof, shall not be denied if it is in conformity with the electronic signature agreed to by and between the Commissioner and the registered user. 50
- (b) The signature and authentication of any electronic communication referred to in paragraph (a) shall be effected as prescribed by rule.
- (c) For the purposes of the definition of digital signature, a digital signature is an electronic signature created by computer, intended by the registered user using it and by the Commissioner accepting it to have the same force and effect as the use of a manual signature and which is— 55
 - (i) unique to the registered user;

- (ii) die elektroniese rekord behou word in die formaat waarin dit oorspronklik gegenereer, versend of ontvang is of in 'n formaat wat gedemonstreer word dat dit die inligting oorspronklik gegenereer, versend of ontvang akkuraat weergee;
- (iii) die besonderhede wat die identiteit van die oorsprong, bestemming, datum en tyd van versending of ontvangs van sodanige elektroniese rekord sal fasiliteer, in die elektroniese rekord beskikbaar is. 5
- (b) 'n Elektroniese kommunikasie of die rekord van sodanige kommunikasie word aan die opsteller toegeskryf—
- (i) indien dit deur die opsteller versend is; 10
- (ii) indien dit deur 'n persoon versend is wat die magtiging gehad het om namens die opsteller op te tree ten opsigte van daardie kommunikasie of rekord; of
- (iii) indien dit deur 'n rekenaarstelsel, wat deur of namens die opsteller geprogrammeer is om automaties te opereer, gestuur is. 15
- (9)(a) Waar die Kommissaris en 'n geregistreerde gebruiker nie ooreengekom het dat ontvangserkenning vir elektroniese kommunikasie in enige besondere vorm of deur enige bepaalde metode gegee moet word nie kan 'n ontvangserkenning gegee word deur—
- (i) enige kommunikasie deur die Kommissaris, elektronies of andersins; 20
- (ii) optrede deur die Kommissaris, of enige beampte, wat voldoende is om vir die geregistreerde gebruiker aan te dui dat die elektroniese kommunikasie ontvang is.
- (b) Waar die Kommissaris en die geregistreerde gebruiker ooreengekom het dat 'n elektroniese kommunikasie bindend sal wees slegs by erkenning van die ontvangs van sodanige elektroniese kommunikasie, word sodanige elektroniese kommunikasie geag nie versend te gewees het nie tensy dit aldus ontvang word binne sodanige tyd as waarop ooreengekom is. 25
- (c)(i) Die versending van 'n elektroniese kommunikasie geskied wanneer dit 'n rekenaar hulpbron buite die beheer van die opsteller binnegaan. 30
- (ii) Die tydstop van die ontvangs van 'n elektroniese kommunikasie is die tydstop wanneer die elektroniese kommunikasie die aangewese rekenaar binnegaan—
- (aa) waar die elektroniese kommunikasie deur 'n geregistreerde gebruiker is, by enige kantoor van 'n Kontroleur soos uiteengesit in item 202-00 van die Bylae by die reëls, of van die Kommissaris, waarheen ook al dit gerig was, en sodanige kantoor sal die plek van ontvangs wees; of 35
- (bb) indien die elektroniese kommunikasie deur die Kommissaris, 'n Kontroleur of enige beampte is aan enige geregistreerde gebruiker, by die plek van ontvangs bepaal in die gebruikersooreenkoms, in subartikel (4), bedoel. 40
- (10) (a) Wanneer 'n geregistreerde gebruiker deur die bepalings van hierdie Wet gemagtig word om enige manifes, klaringsbrief, opgawe, voorgeskrewe vorm, dokument, skedule, aansoek, deklarasie, verklaring, verslag en so meer, wat kragtens die bepalings van hierdie Wet vereis word om voorgelê en geteken te word, elektronies voor te lê en te teken, het sodanige handtekening, elektronies op sodanige elektroniese kommunikasie aangebring, en aan die Kommissaris, 'n Kontroleur of enige beampte voorgelê, by die toepassing van hierdie Wet, die krag en gevolg asof dit in manuskrip daarop aangebring is en die aanvaarding daarvan word nie geweier indien dit in ooreenstemming is met die elektroniese handtekening soos ooreengekom deur en tussen die Kommissaris en die gebruiker nie; 45
- (b) Die handtekening en die waarmerk van enige elektroniese kommunikasie in paragraaf (a) bedoel word uitgevoer soos by reël voorgeskryf. 50
- (c) Vir die doel van die definisie van 'digitale handtekening' is 'n digitale handtekening 'n elektroniese handtekening deur 'n rekenaar geskep, deur die geregistreerde gebruiker wat dit gebruik en deur die Kommissaris wat dit ontvang bedoel om diselfde krag en effek te hê as 'n handgeskrewe handtekening wat— 55
- (i) uniek aan die geregistreerde gebruiker is; 60

- (ii) capable of verification;
- (iii) linked or attached to electronically transmitted data in such a manner so as to authenticate the attachment of the signature to particular data and the integrity of the data transmitted so that if the data is changed the electronic signature is invalidated;
- (iv) under the sole control of the registered user; and
- (v) conforms in all respects to the requirements prescribed by the Commissioner by rule and contained in the user agreement.

(11) Where in any proceedings or prosecution under this Act or in any dispute in which the State, the Minister, the Commissioner or any officer is a party, the question arises whether an electronic signature affixed to any electronic communication to the Commissioner was used in such communication with or without the consent and authority of the registered user, it shall, in the absence of proof to the contrary, for purposes of this Act be assumed that such signature was, subject to the provisions of subsection (4), so used with the consent and authority of the registered user.

(12)(a) Notwithstanding anything to the contrary in this Act or in any other law contained, whenever in any proceedings or prosecution under this Act or in any dispute in which the State, the Minister, the Commissioner or any officer is a party, it is necessary to prove the authenticity, the veracity, the origin, the contents, an electronic signature or any other aspect of any electronic communication transmitted to and received by the Commissioner under this section, the provisions and conditions of the user agreement referred to in subsection (4) shall establish the basis upon which any court of competent jurisdiction shall determine such issues.

(b) Notwithstanding anything to the contrary contained in any other law, nothing in the application of the rules of evidence shall be applied so as to deny the admissibility of any electronic communication under this section for purposes of this Act in evidence—

- (i) on the sole grounds that it is an electronic data message; or
- (ii) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in original form.

(c)(i) Information in the form of a data message shall be given due evidential weight.

(ii) In assessing the evidential weight of a data message a court shall have regard to—

- (aa) the reliability of the manner in which the data message was generated, stored and communicated;
- (bb) the reliability of the manner in which the integrity of the information was maintained;
- (cc) the manner in which its originator was identified;
- (dd) whether these functions were in compliance with the user agreement; and
- (ee) the requirements of this section, and any other relevant factor.

(13) Whenever, because a computer system is inoperative, a registered user or the Commissioner cannot transmit or receive an electronic transmission required for purposes of this Act, the registered user and the Commissioner shall communicate with each other by paper document as prescribed by rule.

(14) The Commissioner may at any time require from any registered user who transmitted any electronic communication under this section for purposes of this Act the production of any original document required to be produced under any of the provisions of the Act.

(15)(a) Any person, other than the registered user of an electronic signature, using such signature in any electronic communication to the Commissioner for any purpose under this Act without the consent and authority of such registered user, shall be guilty of an offence and liable on

- (ii) geskik is vir verifiëring;
- (iii) verband hou of verbind is met elektronies versende data op so 'n wyse om die verleiding van die handtekening aan besondere data en die integriteit van die data versend te waarmerk sodat indien die data verander word, die elektroniese handtekening ongeldig word;
- (iv) onder die uitsluitlike beheer van die geregistreerde gebruiker is; en
- (v) in alle opsigte ooreenstem met die vereistes deur die Kommissaris by reël voorgeskryf en in die gebruikersooreenkoms vervat.

(11) Wanneer in enige geding of vervolging kragtens hierdie Wet of in enige geskil waarby die Staat die Minister die Kommissaris of enige beampte 'n party is, die vraag ontstaan of 'n elektroniese handtekening wat op 'n elektroniese kommunikasie aan die Kommissaris aangebring is in sodanige kommunikasie gebruik is met of sonder die instemming en magtiging van die geregistreerde gebruiker, word daar, in die afwesigheid van enige bewys tot die teendeel, vir doeleindes van hierdie Wet aanvaar dat sodanige handtekeninge behoudens die bepalings van subartikel (4), met die instemming en magtiging van die geregistreerde gebruiker so gebruik is.

(12) (a) Wanneer dit ookal nodig is, in enige geding of vervolging kragtens hierdie Wet of in enige geskil waarby die Staat, die Minister, die Kommissaris of 'n beampte 'n party is, om die betroubaarheid, die geloofwaardigheid, die oorsprong, die inhoud, 'n elektroniese handtekening of enige ander aspek van enige elektroniese kommunikasie, versend aan en ontvang deur die Kommissaris kragtens hierdie artikel te bewys, vestig die bepalings en voorwaardes van die gebruikersooreenkoms in subartikel (4) bedoel, ondanks ondersluitende bepalings van hierdie Wet of van enige ander Wet, die basis op grond waarvan 'n hof van kompetente jurisdiksie sodanige geskilpunte beslis.

(b) Ondanks ondersluitende bepalings van enige ander Wet word niks in die toepassing van bewysleweringsreëls so aangewend sodat die toelaatbaarheid van enige elektroniese kommunikasie kragtens hierdie artikel vir doeleindes van hierdie Wet geweier word as getuienis nie—

- (i) op die uitsluitlike grond dat dit 'n elektroniese databoodskap is;
- (ii) indien dit die beste getuienis is wat van die persoon wat dit aanvoer redelikerwys verwag kan word om te verkry, op grond daarvan dat dit nie in oorspronklike vorm is nie.

(c)(i) Aan inligting in die vorm van 'n databoodskap moet behoorlike bewysregtelike status gegee word.

(ii) In die beoordeling van die bewysregtelike waarde van 'n databoodskap moet 'n hof die volgende in ag neem—

- (aa) die betroubaarheid van die wyse waarop die databoodskap geskep, gestoor en gekommunikeer is;
- (bb) die betroubaarheid van die wyse waarop die integriteit van die inligting in stand gehou is;
- (cc) die wyse waarop die opsteller geïdentifiseer is;
- (dd) of hierdie funksies ooreenkomstig die gebruikersooreenkoms was al dan nie; en
- (ee) die vereistes van hierdie artikel en enige ander relevante faktor.

(13) Wanneer 'n geregistreerde gebruiker of die Kommissaris nie 'n elektroniese versending wat vereis word vir doeleindes van hierdie Wet kan versend of ontvang nie aangesien 'n rekenaarstelsel buite werking is, kommunikeer die geregistreerde gebruiker en die Kommissaris met mekaar deur papier-dokumente soos by reël voorgeskryf.

(14) Die Kommissaris kan te enige tyd van enige geregistreerde gebruiker wat enige elektroniese kommunikasie, kragtens hierdie artikel vir doeleindes van hierdie Wet, versend het, die voorlegging van enige oorspronklike dokument vereis wat ingevolge hierdie Wet voorgelê moet word.

(15) (a) Iemand, behalwe die geregistreerde gebruiker van 'n elektroniese handtekening, wat sodanige handtekening in enige elektroniese kommunikasie met die Kommissaris gebruik sonder die toestemming en magtiging van sodanige geregistreerde gebruiker, is aan 'n

conviction for every time such signature was so used to a fine not exceeding R100 000 or treble the value of the goods in respect of which the offence was committed, whichever is the greater, or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture under this Act. 5

(b) Any person who—

- (i) makes a false electronic record or a part of an electronic record or who makes a false entry in any electronic record or who makes a false statement in such electronic record; or 10
- (ii) dishonestly or fraudulently—
 - (aa) makes, signs or executes an electronic record;
 - (bb) makes or transmits any electronic record or part of any electronic record;
 - (cc) affixes any digital signature on any electronic record; or 15
- (iii) without lawful authority dishonestly and fraudulently alters any electronic record in any material part thereof after it had been made, executed or affixed with digital signature; or
- (iv) dishonestly or fraudulently causes any other person to sign, execute or alter an electronic record or to affix a digital signature on any electronic record, 20

shall be guilty of an offence and liable on conviction for every such offence to a fine not exceeding R100 000 or treble the value of the goods in respect of which the offence was committed, whichever is the greater, or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture under this Act. 25

(16) The Commissioner may make rules—

- (a) to delegate, subject to section 3(2), any power which may be exercised or assign any of the duties which shall be performed in terms of this Act to any officer or any other person; 30
- (b) regarding all matters which are required or permitted in terms of this section to be prescribed by rule; and
- (c) in respect of any other matter which the Commissioner may reasonably consider to be necessary and useful to achieve the efficient and effective administration of the provisions of this section.”. 35

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

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, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999 and section 64 of Act 30 of 2000 40 45 50

52. (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, subsection (1) shall be deemed to have come into operation on 21 February 2001.

misdryf skuldig en by skuldigbevinding strafbaar, vir elke keer wat sodanige handtekening aldus gebruik is, met 'n boete van hoogstens R100 000 of drie maal die waarde van die goedere ten opsigte waarvan die misdryf gepleeg is, na gelang van watter die hoogste is, of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of met sowel sodanige boete as sodanige gevangenisstraf, en die goedere ten opsigte van waarvan die misdryf gepleeg is, is kragtens hierdie Wet aan verbeuring onderhewig.

(b) Iemand wat—

(i) 'n vals elektroniese rekord, of 'n deel van so 'n rekord, maak of wat 'n vals inskrywing in enige elektroniese rekord maak of wat 'n vals verklaring in sodanige rekord maak; of

(ii) oneerlik en bedrieglik—

(aa) 'n elektroniese rekord maak, onderteken of uitvoer;

(bb) 'n elektroniese rekord of 'n gedeelte van enige elektroniese rekord maak of versend;

(cc) enige digitale handtekening op enige elektroniese rekord aanbring; of

(iii) sonder wettige magtiging, oneerlik en bedrieglik enige elektroniese rekord in enige wesenlike gedeelte daarvan wysig nadat dit gemaak, uitgevoer of 'n digitale handtekening daarop aangebring is;

(iv) op 'n oneerlike en bedrieglike wyse enige ander persoon oorhaal om 'n elektroniese rekord te onderteken, uit te voer of te wysig of om 'n digitale handtekening op so 'n elektroniese rekord aan te bring,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar, vir elke sodanige oortreding, met 'n boete van hoogstens R100 000 of drie maal die waarde van die goedere ten opsigte waarvan die misdryf gepleeg is, na gelang van watter die hoogste is, of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of met sowel sodanige boete as sodanige gevangenisstraf, en die goedere ten opsigte van waarvan die misdryf gepleeg is, is kragtens hierdie Wet aan verbeuring onderhewig.

(16) Die Kommissaris kan reëls uitvaardig—

(a) om, behoudens die bepalinge van artikel 3(2), enige bevoegdheid of pligte wat uitgevoer of verrig kan of moet word ingevolge die bepalinge van hierdie Wet aan enige beampte of ander persoon te deleger of op te dra;

(b) aangaande alle ander aangeleenthede wat deur hierdie artikel vereis of toegelaat word om deur reëls voorgeskryf te word;

(c) ten opsigte van enige ander aangeleentheid wat die Kommissaris redelikerwys nodig of nuttig ag om die doeltreffende en effektiewe administrasie van die bepalinge van hierdie artikel te bewerkstellig.”

Wysiging van Bylae No. 1 van 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 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, artikel 12 van Wet 19 van 1994, artikel 74 van Wet 45 van 1995, artikel 8 van Wet 44 van 1996, artikel 15 van Wet 27 van 1997, artikel 75 van Wet 30 van 1998, artikel 7 van Wet 32 van 1999 en artikel 64 van Wet 30 van 2000

52. (1) Bylae No. 1 by die Doeane- en Aksynswet, 1964, word hierby gewysg soos in Artikel 2 van die Wet uiteengesit.

(2) Subartikel (1) word, behoudens die bepalinge van artikel 58(1) van die Doeane- en Aksyns, 1964, geag op 21 Februarie 2001 in werking te getree het.

Continuation of certain amendments of Schedules Nos. 1 to 6 and 10 to Act 91 of 1964

53. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2000 shall not lapse by virtue of the provisions of section 48(6), 49, 56(3) or 75(16) of that Act. 5

(2) The amendments of Part 2 and Part 5 of Schedule No. 1 of the Customs and Excise Act, 1964, made under section 48 of that Act by Government Notice R184 and R185 of 21 February 2001 in respect of the said Part 2 and Government Notice R332 of 6 April 2001 in respect of the said Part 5 shall nor lapse by virtue of the provisions of section 48(6) of that Act. 10

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, section 4 of Act 20 of 1994, section 77 of Act 30 of 1998, section 74 of Act 53 of 1999 and section 40 of Act 5 of 2001 15

54. Section 1 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion of the definition of “bill of exchange”;
- (b) by the deletion of the definition of “cheque”; and
- (c) by the deletion of the definition of “promissory note”. 20

Amendment of section 7 of Act 77 of 1968, as amended by section 18 of Act 103 of 1969, section 10 of Act 89 of 1972, section 8 of Act 66 of 1973, section 3 of Act 70 of 1975, section 5 of Act 87 of 1982, section 7 of Act 118 of 1984 and section 5 of Act 69 of 1989 25

55. (1) Section 7 of the Stamp Duties Act, 1968, is hereby amended by the deletion of paragraph (c) of subsection (1).

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any bill of exchange or promissory note executed on or after that date. 30

Amendment of section 10 of Act 77 of 1968, as amended by section 5 of Act 95 of 1978

56. (1) Section 10 of the Stamp Duties Act, 1968, is hereby amended by the deletion of paragraph (c) of subsection (1).

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any promissory note executed on or after that date. 35

Repeal of section 16 of Act 77 of 1968

57. (1) Section 16 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any bill of exchange or promissory note executed on or after that date. 40

Repeal of section 17 of Act 77 of 1968, as amended by section 22 of Act 87 of 1988

58. (1) Section 17 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any bill of exchange executed on or after that date. 45

Repeal of section 18 of Act 77 of 1968, as amended by section 23 of Act 87 of 1988

59. (1) Section 18 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any promissory note executed on or after that date.

Voortdoring van sekere wysigings van Bylae Nos. 1 tot 6 en 10 by Wet 91 van 1964

53. (1) Elke wysiging of intrekking van of invoeging in Bylaes Nos. 1 tot en met 6, en 10 by die Doeane- en Aksynswet, 1964, kragtens artikel 48, 49, 56 of 75(15) van daardie Wet aangebring gedurende die kalenderjaar wat op 31 Desember 2000 geëindig het, verval nie uit hoofde van die bepalings van artikel 48(6), 49, 56(3) of 75(16) van daardie Wet nie. 5

(2) Die wysigings van Deel 2 en Deel 5 van Bylae No. 1 by die Doeane- en Aksynswet, 1964, wat kragtens artikel 48 van daardie Wet by Goewermentskennisgewing No. R.184 en R.185 van 21 Februarie 2001 ten opsigte van bedoelde Deel 2 en Goewermentskennisgewing No. R.332 van 6 April 2001 ten opsigte van bedoelde Deel 5 aangebring is, verval nie uit hoofde van die bepalings van artikel 48(6) van daardie Wet nie. 10

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, artikel 4 van Wet 20 van 1994, artikel 77 van Wet 30 van 1998, artikel 74 van Wet 53 van 1999 en artikel 40 van Wet 5 van 2001 15

54. Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig—

- (a) deur die omskrywing van “promesse” te skrap; 20
- (b) deur die omskrywing van “tjek” te skrap; en
- (c) deur die omskrywing van “wissel” te skrap.

Wysiging van artikel 7 van Wet 77 van 1968, soos gewysig deur artikel 18 van Wet 103 van 1969, artikel 10 van Wet 89 van 1972, artikel 8 van Wet 66 van 1973, artikel 3 van Wet 70 van 1975, artikel 5 van Wet 87 van 1982, artikel 7 van Wet 118 van 1984 en artikel 5 van Wet 69 van 1989 25

55. (1) Artikel 7 van die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (c) van subartikel (1) te skrap.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige wissel of promesse op of na daardie datum verly. 30

Wysiging van artikel 10 van Wet 77 van 1968, soos gewysig deur artikel 5 van Wet 95 van 1978

56. (1) Artikel 10 van die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (c) van subartikel (1) te skrap.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige promesse op of na daardie datum verly. 35

Herroeping van artikel 16 van Wet 77 van 1968

57. (1) Artikel 16 van die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige wissel of promesse op of na daardie datum verly. 40

Herroeping van artikel 17 van Wet 77 van 1968, soos gewysig deur artikel 22 van Wet 87 van 1988

58. (1) Artikel 17 van die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige wissel op of na daardie datum verly. 45

Herroeping van artikel 18 van Wet 77 van 1968, soos gewysig deur artikel 23 van Wet 87 van 1988

59. (1) Artikel 18 van die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige promesse op of na daardie datum verly. 50

Repeal of section 25 of Act 77 of 1968

60. (1) Section 25 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any document of security or pledge, or any act of suretyship, indemnity or guarantee executed on or after that date.

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Repeal of Item 5 of Schedule 1 to Act 77 of 1968, as amended by section 24 of Act 103 of 1969, section 16 of Act 88 of 1974, section 14 of Act 114 of 1977, section 9 of Act 92 of 1983 and section 9 of Act 118 of 1984

61. (1) Item 5 of Schedule 1 to the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any bill of exchange or promissory note executed on or after that date.

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Amendment of Item 6 of Schedule 1 to Act 77 of 1968, as inserted by section 10 of Act 118 of 1984 and amended by section 4 of Act 71 of 1986, section 32 of Act 87 of 1988, section 7 of Act 136 of 1992, section 15 of Act 37 of 1996 and section 78 of Act 53 of 1999

62. Item 6 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution in paragraph (c) for the words following subparagraph (ii) of the following words:

“into which the depositor may deposit money and from which the institution or the Postbank where the account is held, may make a payment to any other person or electronically transfer an amount to any other account of such depositor or to the account of any other person.”

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Repeal of Item 11 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 89 of 1972, section 16 of Act 114 of 1977, section 7 of Act 102 of 1979, section 10 of Act 92 of 1983 and section 11 of Act 32 of 1999

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63. (1) Item 11 of Schedule 1 to the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any customs and excise document executed on or after that date.

Repeal of Item 20 of Schedule 1 to Act 77 of 1968, as amended by section 27 of Act 103 of 1969, section 19 of Act 66 of 1973, section 24 of Act 88 of 1974, section 17 of Act 92 of 1983, section 35 of Act 87 of 1988, section 36 of Act 9 of 1989 and section 74 of Act 30 of 2000

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64. (1) Item 20 of Schedule 1 to the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2001 and shall apply in respect of any document of security or pledge, or any act of suretyship, indemnity or guarantee executed on or after that date.

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Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000 and section 64 of Act 59 of 2000

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65. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the insertion after the definition of “commencement date” of the following definition:

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“ ‘commercial accommodation’ means—

(a) accommodation, including the supply of domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guesthouse, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat,

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Herroeping van artikel 25 van Wet 77 van 1968

60. (1) Artikel 25 van die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige dokument van waarborg of enige verpanding of akte van borgtog of skadeloosstelling of waarborg op of na datum datum verly.

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Herroeping van Item 5 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 24 van Wet 103 van 1969, artikel 16 van Wet 88 van 1974, artikel 14 van Wet 114 van 1977, artikel 9 van Wet 92 van 1983 en artikel 9 van Wet 118 van 1984

61. (1) Item 5 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige wissel of promesse op of na datum datum verly.

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Wysiging van Item 6 van Bylae 1 by Wet 77 van 1968, soos ingevoeg deur artikel 10 van Wet 118 van 1984 en gewysig deur artikel 4 van Wet 71 van 1986, artikel 32 van Wet 87 van 1988, artikel 7 van Wet 136 van 1992, artikel 15 van Wet 37 van 1996 en artikel 78 van Wet 53 van 1999

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62. Item 6 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur in paragraaf (c) die woorde wat subparagraaf (ii) volg deur die volgende woorde te vervang:

“waarin die deposant geld kan deponeer en waaruit die instelling of die Posbank waar die rekening gehou is, ’n betaling aan enige ander persoon kan maak of elektronies ’n bedrag kan oordra na enige ander rekening van daardie deposant of die rekening van enige ander persoon.”

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Herroeping van Item 11 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 12 van Wet 89 van 1972, artikel 16 van Wet 114 van 1977, artikel 7 van Wet 102 van 1979, artikel 10 van Wet 92 van 1983 en artikel 11 van Wet 32 van 1999

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63. (1) Item 11 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige doeane- en aksynsdokument op of na daardie datum verly.

Herroeping van Item 20 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 27 van Wet 103 van 1969, artikel 19 van Wet 66 van 1973, artikel 24 van Wet 88 van 1974, artikel 17 van Wet 92 van 1983, artikel 35 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989 en artikel 74 van Wet 30 van 2000

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64. (1) Item 20 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 April 2001 in werking te getree het en is van toepassing ten opsigte van enige dokument van waarborg of verpanding of akte van borgtog of skadeloosstelling of waarborg op of na datum datum verly.

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Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, paragraaf 1 van Goewermentkennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1996, artikel 23 van Wet 27 van 1997, artikel 81 van Wet 53 van 1999, artikel 76 van Wet 30 van 2000 en artikel 64 van Wet 59 van 2000

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65. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

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(a) deur die volgende woordskrywing na die woordskrywing van “inwoner van die Republiek” in te voeg:

“ ‘kommersiële huisvesting’ —

(a) huisvesting, met inbegrip van die verskaffing van huishoudelike goed en dienste, in enige huis, woonstel, kamer, hotel, motel, herberg, gastehuis, losieshuis, huishoudelike inrigting, vakansieverblyfsplek, chalet, tent, karavaan, kampeerplek, huisboot, of soortgelyke inrigting, wat gereeld

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- or similar establishment, which is regularly or systematically let and where the total annual receipts from the letting thereof is reasonably expected to exceed R48 000 per annum;
- (b) accommodation in a home for the aged, children, physically or mentally handicapped persons; and
- (c) a hospice;”;
- (b) by the deletion of the definition of “commercial rental establishment”;
- (c) by the substitution for the definition of “domestic goods and services” of the following definition:
- “ ‘domestic goods and services’ means the provision to a natural person of the right to occupy for residential purposes the whole or part of the accommodation provided in any **[commercial rental establishment] enterprise supplying commercial accommodation**, including, where it is provided as part of the right of occupation, the provision of—
- (a) cleaning and maintenance;
- (b) electricity, gas, air conditioning or heating;
- (c) a telephone, television set, radio or other similar article;
- (d) furniture and other fittings;
- (e) meals;”;
- (d) by the substitution for the definition of “dwelling” of the following definition:
- “ ‘dwelling’ means any building, premises, structure or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person or which is intended for use as a place of residence or abode of any natural person, together with any appurtenances belonging thereto and enjoyed therewith, but does not include **[a commercial rental establishment] the supply of domestic goods and services in an enterprise supplying commercial accommodation**;”;
- (e) by the deletion of the definition of “residential rental establishment”.
- (2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of section 6 of Act 89 of 1991, as amended by section 20 of Act 37 of 1996, section 34 of Act 34 of 1997 and section 88 of Act 30 of 1998

66. Section 6 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the deletion of paragraph (d) of subsection (2); and
- (b) by the insertion in subsection (2) of the following paragraph:
- “(e) publishing and making known the name and registration number of any vendor.”.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996, section 25 of Act 27 of 1997 and section 83 of Act 53 of 1999.

67. Section 8 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the deletion of the word “and” at the end of paragraph (a) of subsection (6);
- (b) by the addition of the word “and” at the end of paragraph (b) of subsection (6); and
- (c) by the addition to subsection (6) of the following paragraph:
- “(c) the transfer of all its assets and liabilities by an administrative unit of a local authority that is separately registered under subsection (2) of section 50, to the vendor intended in subsection (1) of that section, shall be deemed not to be a supply.”.

- of stelselmatig verhuur word en waar die totale jaarlikse ontvangste uit die verhuring daarvan redelikerwys verwag word R48 000 te oorskry;
- (b) huisvesting in 'n tehuis vir bejaardes, kinders, fisies of verstandelik gestremde persone;
- (c) 'n hospies;";
- (b) deur die woordskrywing van "kommersiële huurinrigting" te skrap;
- (c) deur die woordskrywing van "huishoudelike goed en dienste" deur die volgende woordskrywing te vervang:
- "'huishoudelike goed en dienste' die voorsiening aan 'n natuurlike persoon van die reg om die huisvesting wat in 'n [kommersiële huurinrigting] onderneming wat kommersiële huisvesting verskaf voorsien word in geheel of gedeeltelik vir woondoeleindes te okkupeer, met inbegrip van die verskaffing, waar dit as deel van die reg van okkupasie voorsien word, van—
- (a) skoonmaak en instandhouding;
- (b) elektrisiteit, gas, lugreëling of verhitting;
- (c) 'n telefoon, televisiestel, radio of ander soortgelyke artikel;
- (d) meubels en ander toebehore;
- (e) maaltye;";
- (d) deur die woordskrywing van "woning" deur die volgende woordskrywing te vervang:
- "'woning' 'n gebou, perseel, struktuur of enige ander plek, of 'n deel daarvan, hoofsaaklik gebruik as 'n woon- of verblyfplek van 'n natuurlike persoon of wat bedoel is vir gebruik as 'n woon- of verblyfplek van 'n natuurlike persoon, tesame met enige toebehore daarby en daarmee geniet, maar met uitsluiting van ['n kommersiële huurinrigting] die verskaffing van huishoudelike goed en dienste in 'n onderneming wat kommersiële huisvesting verskaf;";
- (e) deur die woordskrywing van "inwonershuurinrigting" te skrap.
- (2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van artikel 6 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 37 van 1996, artikel 34 van Wet 34 van 1997 en artikel 88 van Wet 30 an 1998

66. Artikel 6 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur paragraaf (d) van subartikel (2) te skrap; en
- (b) deur die volgende paragraaf in subartikel (2) te voeg:
- "(e) die naam en registrasienommer van enige ondernemer te publiseer en bekend te maak."

Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 1991, artikel 15 van Wet 136 van 1992, artikel 24 van Wet 97 van 1993, artikel 11 van Wet 20 van 1994, artikel 20 van Wet 46 van 1996, artikel 25 van Wet 27 van 1997 en artikel 83 van Wet 53 van 1999

67. Artikel 8 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur die woord "en" aan die einde van paragraaf (a) van subartikel (6) te skrap;
- (b) deur die woord "en" aan die einde van paragraaf (b) van subartikel (6) by te voeg; en
- (c) deur die volgende paragraaf by subartikel (6) te voeg:
- "(c) word die oordrag van alle bates en laste van 'n administratiewe eenheid van 'n plaaslike bestuur wat ingevolge subartikel (2) van artikel 50 afsonderlik geregistreer is, na die ondernemer bedoel in subartikel (1) van genoemde artikel, geag nie 'n lewering te wees nie."

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 22 of Act 46 of 1996, section 21 of Act 37 of 1996, section 27 of Act 27 of 1997 and section 84 of Act 53 of 1999

68. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended— 5

(a) by the substitution for paragraph (a) of subsection (10) of the following paragraph:

“(a) where domestic goods and services are supplied [by a commercial rental establishment] at an all-inclusive charge in any enterprise supplying commercial accommodation for [a] an unbroken period exceeding [45] 28 days, the value of the [portion of the] supply [as relates to that part of the period of the supply as exceeds 45 days] shall [(unless the provisions of paragraph (b) are applicable)] be deemed to be 60 per cent of the value of the supply [for the said part, as determined before applying this paragraph].”; and 10 15

(b) by the deletion of subparagraphs (b) and (c) of subsection (10).

(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, section 18 of Act 136 of 1992, section 28 of Act 97 of 1993, section 14 of Act 20 of 1994 and section 22 of Act 37 of 1996 20

69. (1) Section 12 of the Value-Added Tax Act, 1991, is hereby amended by the addition to paragraph (c) of the following subparagraphs:

“(iii) where an employer operates a hostel or boarding establishment mainly for the benefit of the employees otherwise than for the purpose of making profit; or 25

(iv) where a local authority operates a hostel or boarding establishment otherwise than for the purpose of making profit.”.

(2) Subsection (1) shall come into operation on 1 October 2001.

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 15 of Act 20 of 1994, section 30 of Act 27 of 1997 and section 86 of Act 53 of 1999 30

70. Section 13 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (5) for the words preceding paragraph (a) and paragraph (a) of the following words and paragraph:

“The Commissioner [and the postal company] may make such arrangements as [they] the Commissioner may deem necessary— 35

(a) for the collection (in such manner as [they] the Commissioner may determine) by—

(i) any officer performing his or her duties under the control, direction or supervision of the Commissioner; or 40

(ii) the postal company on behalf of the Commissioner, of the [value-added] tax payable in terms of this Act in respect of the importation of any goods into the Republic; and”.

Amendment of section 16 of Act 89 of 1991, as amended by section 21 of Act No. 136 of 1992, section 30 of Act No. 97 of 1993, section 16 of Act No. 20 of 1994, section 23 of Act No. 37 of 1996, section 32 of Act No. 27 of 1997, section 91 of Act No. 30 of 1998 and section 87 of Act No. 53 of 1999 45

71. (1) Section 16 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(k) an amount of input tax as determined by the Commissioner paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the 50

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993, artikel 12 van Wet 20 van 1994, artikel 22 van Wet 46 van 1996, artikel 21 van Wet 27 van 1997 en artikel 84 van Wet 53 van 1999

68. (1) Artikel 10 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur paragraaf (a) van subartikel (10) deur die volgende paragraaf te vervang:
 “[(a)] waar huishoudelike goed en dienste gelewer word [deur ’n kommersiële huurinrigting] teen ’n alomvattende prys in ’n onderneming wat kommersiële huisvesting verskaf vir ’n ononderbroke tydperk van meer as [45] 28 dae, word [(tensy die bepaling van paragraaf (b) van toepassing is)] die waarde van die [gedeelte van die] lewering [wat betrekking het op die gedeelte van die tydperk van die lewering wat 45 dae oorskry] geag 60 persent van die waarde van die lewering [vir bedoelde gedeelte] te wees [soos vasgestel voordat hierdie paragraaf toegepas word].” en

(b) deur subparagrafe (b) en (c) van subartikel (10) te skrap.

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van artikel 12 van Wet 89 van 1991, soos gewysig deur artikel 28 van Wet 136 van 1991, artikel 18 van Wet 136 van 1992, artikel 28 van Wet 97 van 1993, artikel 14 van Wet 20 van 1994 en artikel 22 van Wet 37 van 1996

69. (1) Artikel 12 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subparagrafe by paragraaf (c) te voeg:

“(iii) waar ’n werkgewer ’n koshuis of losieshuis hoofsaaklik vir die voordeel van die werknemers bedryf anders as vir die maak van wins; of
 (iv) waar ’n plaaslike bestuur ’n koshuis of losieshuis bedryf anders as vir die maak van wins.”

(2) Subartikel (1) tree op 1 Oktober 2001 in werking.

Wysiging van artikel 13 van Wet 89 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1991, artikel 19 van Wet 136 van 1992, artikel 15 van Wet 20 van 1994, artikel 30 van Wet 27 van 1997 en artikel 86 van Wet 53 van 1999.

70. Artikel 13 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan en paragraaf (a) deur die volgende woorde en paragraaf te vervang:

“Die Kommissaris [en die Posmaatskappy] kan die reëlins. wat [hulle] die Kommissaris nodig mag ag, tref—

(a) vir die invordering (op die wyse wat [hulle] die Kommissaris mag bepaal) deur—

(i) ’n beampte wat sy pligte onder die beheer, leiding of toesig van die Kommissaris uitvoer; of

(ii) die posmaatskappy ten behoeve van die Kommissaris, van die belasting [op toegevoegde waarde] betaalbaar ingevolge hierdie Wet ten opsigte van die invoer van goed in die Republiek; en”.

Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur 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, artikel 32 van Wet 27 van 1997, artikel 91 van Wet 30 van 1998 en artikel 87 van Wet 53 van 1999

71. (1) Artikel 16 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur die volgende paragraaf by subartikel (3) te voeg:

“(k) ’n bedrag aan insetbelasting soos deur die Kommissaris bepaal wat deur ’n ondernemer betaal is aan ’n leweraar van vee-, landbou- of ander boerderyprodukte wat nie ’n ondernemer is nie, ingevolge ’n skema bedryf deur die beherende liggaam van ’n nywerheid vir die ontwikkeling van kleinskaalboere goedgekeur deur die Minister met die instemming van die Minister van Landbou en Grondsake, om die

Minister of Agriculture and Land Affairs to compensate that supplier for tax incurred in the production of such goods.”; and

- (b) by the substitution for the first proviso to subsection (3) of the following proviso:

“Provided that where any vendor is entitled under the preceding provisions of this subsection to deduct any amount in respect of any tax period from the said sum, the vendor may deduct that amount from the amount of output tax attributable to [any] a later tax period which ends no later than five years after the end of the tax period during which the vendor for the first time became entitled to such deduction and to the extent that it has not previously been deducted by the vendor under this subsection.”

- (2) Subsection (1)(b) shall be deemed to have come into operation on 22 June 2001.

Amendment of section 58 of Act 89 of 1991, as amended by section 41 of Act 136 of 1991, section 39 of Act 97 of 1993, section 25 of Act 46 of 1996 and section 102 of Act 53 of 1999.

72. Section 58 of the Value-Added Tax, 1991, is hereby amended by the substitution for paragraph (l) of the following paragraph:

“(l) being a registered vendor, fails to provide [another registered vendor] a recipient with a tax invoice, credit note or debit note as required by this Act.”.

Amendment of Item 2 and Item 15 of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, section 44 of Act 136 of 1992, section 45 of Act 97 of 1993, section 33 of Act 20 of 1994 and section 104 of Act 30 of 1998.

73. Schedule 2 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in Part B for Items 2 and 15 of the following items:

“Item 2 Maize meal graded as super maize meal, special maize meal, sifted maize meal or unsifted maize meal, not further processed other than by the addition of minerals and vitamins not exceeding one per cent by mass of the final product, solely for the purpose of increasing the nutritional value”;

“Item 15 Milk, including high-fat, full-fat, low-fat or fat-free milk, being the milk of cattle, sheep or goats that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any other process other than homogenization or preservation by pasteurization, ultra-high temperature treatment, sterilization, chilling or freezing or the addition of minerals, vitamins, enzymes and other similar additives not exceeding one per cent by volume of the final product, solely for the purpose of increasing the nutritional value.”.

Amendment of section 5 of Act 56 of 1996

74. Section 5 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996), is hereby amended by the addition of the following subsection:

“(3) The Chief Executive Officer shall from time to time withdraw money from the Fund for repayment to the Commissioner for the South African Revenue Service of amounts of fuel levy in respect of diesel refunded by the Commissioner and recoverable from the Fund in accordance with the provisions of section 75(1A) and (1B), respectively, of the Customs and Excise Act, 1964 (Act No. 91 of 1964).”.

Amendment of section 6 of Act 31 of 1998

75. Section 6 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the substitution for subparagraph (iii) of paragraph (b) of subsection (1) of the following subparagraph:

leweraar te vergoed vir belasting opgeloop by die produksie van die betrokke goed.”; en

- (b) deur die eerste voorbehoudsbepaling by subartikel (3) deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat waar ’n ondernemer ingevolge die voorafgaande bepalings van hierdie subartikel geregtig is om ’n bedrag ten opsigte van ’n belastingtydperk van bedoelde totaal af te trek, die ondernemer daardie bedrag kan aftrek van die bedrag aan uitsetbelasting van toepassing ten opsigte van ’n daaropvolgende belastingtydperk wat eindig nie langer as vyf jaar na die einde van die belastingtydperk waartydens die ondernemer vir die eerste keer op bedoelde aftrekking geregtig geword het nie en vir sover dit nie voorheen ingevolge hierdie subartikel deur die ondernemer afgetrek is nie.”

- (2) Subartikel (1)(b) word geag op 22 Junie 2001 in werking te getree het.

Wysiging van artikel 58 van Wet 89 van 1991, soos gewysig deur artikel 41 van Wet 136 van 1991, artikel 39 van Wet 97 van 1993, artikel 25 van Wet 46 van 1996, artikel 24 van Wet 27 van 1997, artikel 87 van Wet 30 van 1998 en artikel 102 van Wet 53 van 1999

72. Artikel 58 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (l) daarvan deur die volgende paragraaf te vervang:

“(l) ’n geregistreerde ondernemer is en versuim om ’n [~~ander geregistreerde ondernemer~~] ontvanger van ’n belastingfaktuur, kreditnota of debetnota te voorsien soos deur hierdie Wet vereis;”.

Wysiging van item 2 en item 15 van Bylae 2 by Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 136 van 1991, artikel 44 van Wet 136 van 1992, artikel 45(1) van Wet 97 van 1993, artikel 33 van Wet 20 van 1994 en artikel 104 van Wet 30 van 1998.

73. Bylae 2 by die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in Deel B Items 2 en 15 deur die volgende items te vervang:

“Item 2 Mielie-meel gegradeer as super-mielie-meel, spesiale mielie-meel, gesifte mielie-meel of ongesifte mielie-meel wat nie verder geprosesseer is nie behalwe deur die byvoeging van minerale en vitamienes wat nie een persent van die massa van die finale produk te bowe gaan nie, uitsluitlik om die voedingswaarde te verhoog.”;

“Item 15 Melk, insluitend hoëvet, volvet, laëvet of vetvrye melk synde die melk van vee, skape of bokke wat nie gekonsentreer, gekondenseer, ingedamp, versoet, gegeur of aangesuur is of aan enige ander proses behalwe homogenisasie of bewaring deur pasteurisasie, ultra-hoë temperatuur-behandeling, sterilisasie, verkoeling of bevriesing of die byvoeging van minerale, vitamienes, ensiem en ander soortgelyke bymiddels wat nie een persent van die volume van die finale produk te bowe gaan nie, uitsluitlik om die voedingswaarde te verhoog, onderwerp is nie.”.

Wysiging van artikel 5 van Wet 56 van 1996

74. Artikel 5 van die Padongelukfonds, 1996 (Wet No. 56 van 1996), word hierby gewysig deur die volgende subartikel by te voeg:

“(3) Die Hoof- Uitvoerende Beampte moet van tyd tot tyd geld uit die Fonds onttrek vir oorbetalings aan die Kommissaris van die Suid-Afrikaanse Inkomstediens van bedrae van brandstofheffing ten opsigte van diesel deur die Kommissaris terugbetaal en van die Fonds verhaalbaar ooreenkomstig die bepalings van artikel 75(1A) en (1B), onderskeidelik van die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964).”.

Wysiging van artikel 6 van Wet 31 van 1998

75. Artikel 6 van die Wet op Belasting op Sertifikaatlose Aandele, 1998, word hierby gewysig deur subparagraaf (iii) van paragraaf (b) van subartikel (1) deur die volgende subparagraaf te vervang:

- “(iii) if the securities are interest bearing debentures (including debenture stock, debenture bonds and similar securities of a juristic person, whether constituting a charge on the assets of the juristic person or not) listed by any stock exchange or by any financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989);”.

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Amendment of section 6 of Act 9 of 1999

76. Section 6 of the Skills Development Levies Act, 1999, is hereby amended by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

- “The Commissioner must, before the seventh day of each month, or such longer period as the Commissioner and Director-General may agree, notify the Director-General of—”.

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Insertion of section 20A in Act 9 of 1999

77. The following section is hereby inserted in the Skills Development Levies Act, 1999, after section 20:

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“Jurisdiction of Courts

20A. A person charged with an offence under this Act may, notwithstanding anything to the contrary in any law, be tried in respect of that offence by any court having jurisdiction within any area in which that person resides or carries on business.”.

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Amendment of section 21 of Act 30 of 2000

78. (1) Section 21 of the Taxation Laws Amendment Act, 2000, is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

- “(d) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

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“(d) the receipts and accruals of any [terminating building society]—

- (i) pension fund, provident fund, retirement annuity fund;
- (ii) benefit fund; or
- (iii) [mutual savings bank] mutual loan association, fidelity or indemnity fund, trade union, chamber of commerce or industries (or an association of such chambers), local publicity association or non-proprietary stock exchange approved by the Commissioner subject to such conditions as the Minister may prescribe by regulation; or
- (iv) company, society or other association of persons established to—
 - (aa) provide social and recreational amenities or facilities for the members of such company, society or other association; or
 - (bb) promote the common interests of persons (being members of such company, society or association of persons) carrying on any particular kind of business, profession or occupation, approved by the Commissioner subject to such conditions as the Minister may prescribe by regulation;”.

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(2) Subsection (1) shall come into operation on the date that section 21 of the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), comes into operation.

Amendment of section 7 of Act 5 of 2001

79. Section 7 of the Taxation Laws Amendment Act, 2001, is hereby amended by the deletion of paragraph (d) of subsection (1).

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Short title and commencement

80. (1) This Act shall be called the Revenue Laws Amendment Act, 2001.

(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

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- “(iii) indien die aandeel rentedraende skuldbriewe is (met inbegrip van skuldbriefeffekte, skuldbriefverbande en soortgelyke aandeel van ’n regspersoon, hetsy dit ’n las teen die bates van die regspersoon uitmaak, al dan nie) wat op ’n aandeelbeurs of ’n finansiële beurs soos omskryf in die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989) genoteer is;” 5

Wysiging van artikel 6 van Wet 9 van 1999

76. Artikel 6 van die uMthetho weZibizontela wokuThuthukise aMakhono, 1999, word hierby gewysig deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Ukhomishinali makabikele umQondisi-Jikelele, ngaphambi kosuku lwesi-khombisa lwenyanga ngayinye noma lesosikhathi esengeziwe ngokuvumelana kukaKhomishinali kanye nomQondisi-Jikelele—”. 10

Invoeging van artikel 20A in Wet 9 van 1999

77. Die volgende artikel word hierby in die uMthetho weZibizontela wokuThuthukise aMakhono, 1999, ingevoeg na artikel 20: 15

“20A. Umuntu obekwe icala phansi kwaloMthetho, nakuba kukhona umthetho ophikisana nalona, icala lakhe liyoqulwa maqondana nalelocala yinoma iyiphi inkantolo enamandla okulikula icala kunoma iyiphi indawo lapho lowomuntu ehlala khona noma eqhuba khona ibhizinisi.”.

Wysiging van artikel 21 van Wet 30 van 2000 20

78. (1) Artikel 21 van die Wysigingswet op Belastingwette, 2000, word hierby gewysig deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

“(d) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

“(d) die ontvangste en toevallings van ’n [tydelike bouvereniging]—

(i) pensioenfonds, voorsorgsfonds, uitredingannuïteitsfonds; 25

(ii) bystandsfonds; of

(iii) [onderlinge spaarbank] onderlinge leningsvereniging, getrouheids- of vrywaringsfonds, vakvereniging, sake- of nywerheidskamer (of ’n vereniging van sulke kamers), plaaslike publisiteitsvereniging of nie-eiendomseffektebeurs [is] deur die 30
Kommissaris goedgekeur behoudens die voorwaardes wat die Minister by regulasie voorskryf; of

(iv) maatskappy, genootskap of ander vereniging van persone opgerig om—

(aa) sosiale of ontspanningsgeriewe of -fasiliteite aan die lede van bedoelde maatskappy, genootskap of ander vereniging te verskaf; of 35

(bb) die gemeenskaplike belange van persone (wat lede is van bedoelde maatskappy, genootskap of vereniging van persone) wat ’n besigheid, professie of beroep van ’n besondere soort beoefen, te bevorder, 40

deur die Kommissaris goedgekeur behoudens die voorwaardes wat die Minister by regulasie voorskryf;”.

(2) Subartikel (1) tree in werking op die datum wat artikel 21 van die Wysigingswet op Belastingwette, 2000 (Wet No. 30 van 2000), in werking tree. 45

Wysiging van artikel 7 van Wet 5 van 2001

79. Artikel 7 van die Wysigingswet op Belastingwette, 2001, word hierby gewysig deur paragraaf (d) van subartikel (1) te skrap.

Kort titel en inwerkingtreeding

80. (1) Hierdie Wet heet die Wysigingswet op Inkomstewette, 2001. 50

(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 die doeleindes van aanslae ten opsigte van normale belasting ingevolge die

Act No. 19, 2001**REVENUE LAWS AMENDMENT ACT, 2001**

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 ending on or after 1 January 2002.

Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van die begin van
jare van aanslag wat op of na 1 Januarie 2002 eindig.

SCHEDULE 1**RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2002 AND 30 JUNE 2002, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2002**

(Section 2)

1. The rates of normal tax referred to in section 2 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 R38 000 | 18 per cent of each R1 of the taxable income; |
| Exceeds R38 000 but does not exceed R55 000 | R6 840 plus 26 per cent of the amount by which the taxable income exceeds R38 000; |
| " R55 000 " " " " R80 000 | R11 260 plus 32 per cent of the amount by which the taxable income exceeds R55 000; |
| " R80 000 " " " " R100 000 | R19 260 plus 37 per cent of the amount by which the taxable income exceeds R80 000; |
| " R100 000 " " " " R215 000 | R26 660 plus 40 per cent of the amount by which the taxable income exceeds R100 000; |
| " R215 000 | R72 660 plus 42 per cent of the amount by which the taxable income exceeds R215 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 | 32 per cent of each R1 of the taxable income; |
| Exceeds R100 000 | R32 000 plus 42 per cent of the amount by which the taxable income exceeds R100 000. |

2. The rates of normal tax referred to in section 2 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), (f), (g) and (h)), 30 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, 38 cents;
- (b) in respect of the taxable income of any company which qualifies as a small business corporation, on each rand of the taxable income as does not exceed R100 000, 15 cents, and on each rand of the taxable income of such company as exceeds R100 000, 30 cents;
- (c) on each rand of the taxable income of any employment company, 35 cents;

BYLAE 1

SKALE VAN NORMALE BELASTING BETAALBAAR DEUR PERSONE (BEHALWE MAATSKAPPE) TEN OPSIGTE VAN DIE JARE VAN AANSLAG EINDIGENDE OP 28 FEBRUARIE 2002 EN 30 JUNIE 2002, EN DEUR MAATSKAPPE TEN OPSIGTE VAN JARE VAN AANSLAG WAT EINDIG GEDURENDE DIE TYDPERK VAN 12 MAANDE EINDIGENDE OP 31 MAART 2002

(Artikel 2)

1. Die skale van normale belasting bedoel in artikel 2 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— | |
| R38 000 nie te bowe gaan nie | 18 persent van elke R1 van die belasbare inkomste; |
| R38 000 te bowe gaan, maar nie R55 000 nie | R6 840 plus 26 persent van die bedrag waarmee die belasbare inkomste R38 000 oorskry; |
| R55 000 " " " " " " R80 000 " | R11 260 plus 32 persent van die bedrag waarmee die belasbare inkomste R55 000 oorskry; |
| R80 000 " " " " " " R100 000 " | R19 260 plus 37 persent van die bedrag waarmee die belasbare inkomste R80 000 oorskry; |
| R100 000 " " " " " " R215 000 " | R26 660 plus 40 persent van die bedrag waarmee die belasbare inkomste R100 000 oorskry; |
| R215 000 te bowe gaan | R72 660 plus 42 persent van die bedrag waarmee die belasbare inkomste R215 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 | 32 persent van elke R1 van die belasbare inkomste |
| R100 000 te bowe gaan | R32 000 plus 42 persent van die bedrag waarmee die belasbare inkomste R100 000 oorskry. |

2. Die skale van normale belasting bedoel in artikel 2 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 subparagrafe (b), (c), (d), (e), (f), (g) en (h) bedoel), 30 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, 38 sent;
- (b) ten opsigte van die belasbare inkomste van 'n maatskappy wat as 'n kleinsakekorporasie kwalifiseer, op elke rand van die belasbare inkomste wat nie R100 000 te bowe gaan nie, 15 sent, en op elke rand van die belasbare inkomste wat R100 000 te bowe gaan, 30 sent;
- (c) op elke rand van die belasbare inkomste van 'n werknemersmaatskappy, 35 sent;

- (d) 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:

$$y = 37 - \frac{185}{x}$$

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:

$$y = 46 - \frac{230}{x}$$

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);

- (e) 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 30 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 mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of its individual policyholder fund, company policyholder fund and corporate fund, 30 cents;
- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) 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, 35 cents;
- (h) 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 the said section, zero cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (h), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. 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 paragraph 2—

- (a) "small business corporation" means any close corporation or any company registered as a private company in terms of the Companies Act, 1973 (Act No. 61 of 1973), the entire shareholding of which is at all times during the year of assessment held by shareholders or members that are natural persons, where—
- (i) the gross income for the year of assessment does not exceed R1 million;

- (d) 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:

$$y = 37 - \frac{185}{x}$$

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:

$$y = 46 - \frac{230}{x}$$

in welke formules y bedoelde persentasie voorstel en x die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreeë belasbare inkomste (met genoemde uitsluiting, maar voor die verrekening van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde goudmyn toeskryfbaar is nie) staan tot die aldus verkreeë inkomste (met genoemde uitsluiting);

- (e) 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 30 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 op enige goudmyn vir die tydperk van wanneer daardie maatskappy sy goudmynbedrywighede op daardie goudmyn begin het tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal rande wat genoemde totale belasbare inkomste bevat;
- (f) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die dryf van langtermynversekeringsbesigheid verkry word ten opsigte van sy individuele polishouersfonds, maatskappypolishouersfonds en korporatiewe fonds, 30 sent;
- (g) op elke rand van die belasbare inkomste (uitgesonderd belasbare inkomste bedoel in subparagrafe (b), (c), (d), (e), (f) en (h)) 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, 35 sent;
- (h) op elke rand van die belasbare inkomste wat deur 'n kwalifiserende maatskappy, soos beoog in artikel 37H van die Inkomstebelastingwet, 1962, verkry word, behoudens die bepalinge van gemelde artikel, nul sent:

Met dien verstande dat die belasting ooreenkomstig enige van subparagrafe (a) tot en met (h) vasgestel, benewens die belasting vasgestel ooreenkomstig enige ander van genoemde subparagrafe betaalbaar is.

3. Dat die skale uiteengesit in paragrafe 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 paragraaf 2—

- (a) beteken "beleggingsinkomste"—

- (i) enige inkomste in die vorm van dividende, tantième, huurinkomste, jaargelde of inkomste van 'n dergelike aard;
- (ii) enige rente in artikel 24J van die Inkomstebelastingwet, 1962, bedoel, enige bedrag in artikel 24K van daardie Wet bedoel en enige ander

- (ii) none of the shareholders or members at any time during the year of assessment of the company or close corporation holds any shares or has any interest in the equity of any other company as defined in section 1 of the Income Tax Act, 1962 (other than a company listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any unit portfolio contemplated in paragraph (e) of the definition of 'company' in section 1);
- (iii) not more than 20 per cent of the gross income of the company or close corporation consists collectively of investment income and income from the rendering of a personal service; and
- (iv) such company is not an employment company;
- (b) "employment company" means any company—
 - (i) which is a labour broker as defined in the Fourth Schedule to the Income Tax Act, 1962, other than a labour broker in respect of which a certificate of exemption has been issued in terms of paragraph 2(5) of the said Schedule; or
 - (ii) which is a personal service company as defined in the said Fourth Schedule;
- (c) "investment income" means—
 - (i) any income in the form of dividends, royalties, rental, annuities or income of a similar nature;
 - (ii) any interest as contemplated in section 24J of the Income Tax Act, 1962, any amount contemplated in section 24K of the said Act and any other income which, by the laws of the Republic administered by the Commissioner, is subject to the same treatment as income from money lent; and
 - (iii) any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property;
- (d) "personal service" means any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, broking, commercial arts, consulting, draftsmanship, education, engineering, entertainment, health, information technology, journalism, law, management, performing arts, real estate, research, secretarial services, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the company or close corporation; and
- (e) 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 other income which results directly from mining for gold.

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.

- inkomste wat, ingevolge die wette van die Republiek wat deur die Kommissaris geadminestreer is, onderworpe aan dieselfde behandeling as inkomste van geleende geld is; en
- (iii) enige opbrengs van die belegging of handeldryf in finansiële instrumente (met inbegrip van termyntransaksies, opsies en ander afgeleide instrumente), handelseffekte of onroerende eiendom;
- (b) beteken “kleinsakekorporasie” enige beslote korporasie of enige maatskappy wat as ’n private maatskappy ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf is waarvan al die aandele gedurende die volle jaar van aanslag deur aandeelhouders of lede wat natuurlike persone is, gehou is, waar—
- (i) die bruto inkomste vir die jaar van aanslag nie R1 miljoen te bowe gaan nie;
- (ii) nie een van die aandeelhouders of lede te eniger tyd gedurende die jaar van aanslag van die maatskappy of beslote korporasie enige aandele of enige belang in die ekwiteit van enige ander maatskappy in artikel 1 van die Inkomstebelastingwet, 1962, omskryf (behalwe ’n maatskappy wat op ’n aandeelbeurs soos in die Wet op Beheer van Aandeelbeurse, 1985 (Wet No. 1 van 1985), omskryf, genoteer is, of ’n effektegroep in paragraaf (e) van die omskrywing van ‘maatskappy’ in artikel 1 bedoel); en
- (iii) nie meer as 20 persent van die bruto inkomste van die maatskappy of beslote korporasie gesamentlik uit beleggingsinkomste en inkomste uit hoofde van die lewering van ’n persoonlike diens, verkry is nie;
- (iv) bedoelde maatskappy nie ’n werknemersmaatskappy is nie;
- (c) beteken “persoonlike diens” enige diens in die rigting van afslaery, aktuariële wetenskap, argitektuur, bestuurswese, eiendomsmakelary, gesondheid, ingenieurswese, inligtingstechnologie, joernalistiek, makelary, navorsing, onderrig, opmeting, ouditering, raadgewende dienste, regte, rekeningkunde, reklamekuns, tekenkuns, sekretariële dienste, sport, uitsaaiery, uitvoerende kunste, veeartsenykunde, vermaaklikheid, vertaling of waardering wat persoonlik deur ’n persoon wat enige belang in die maatskappy of beslote korporasie hou, uitgevoer word;
- (d) beteken “werknemersmaatskappy” enige maatskappy—
- (i) wat ’n arbeidsmakelaar soos in die Vierde Bylae by die Inkomstebelastingwet, 1962, omskryf, is, behalwe ’n arbeidsmakelaar ten opsigte waarvan ’n vrystellingsertifikaat ingevolge paragraaf 2(5) van genoemde Bylae uitgereik is; of
- (ii) wat ’n persoonlike diensmaatskappy soos in bedoelde Vierde Bylae omskryf is; en
- (e) sluit inkomste uit die myn van goud verkry inkomste in wat verkry is van silwer, osmiridium, uraan, piriet 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.

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. 19, 2001

REVENUE LAWS AMENDMENT ACT, 2001

SCHEDULE 2**AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964**

(SECTION 52)

| 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 | 34.7c/kg | 34.7c/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) | 6c/l | 6c/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) | 6c/l | 6c/l |

BYLAE 2

WYSIGINGS VAN BYLAE NO. 1 BY DIE DOEANE- EN AKSYNSWET, 1964

(Artikel 52)

| 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 | 34.7c/kg | 34.7c/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 houters gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houters verpak is en wat normaalweg in 'n bevrore toestand verbruik word) | 6c/l | 6c/l |
| .20 | | Limonade en gegeurde mineraalwater, met inbegrip van gegeurde mineraalbad- en spuitwater, bemark in toegemaakte bottels of ander toegemaakte houters gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houters verpak is en wat normaalweg in 'n bevrore toestand verbruik word) | 6c/l | 6c/l |

Act No. 19, 2001

REVENUE LAWS AMENDMENT ACT, 2001

| TARIFF ITEM | TARIFF HEADING | DESCRIPTION | RATE OF DUTY | |
|----------------|-------------------|--|-----------------------------------|---|
| | | | EXCISE | CUSTOMS |
| .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) | 6c/l | 6c/l |
| 104.10 | 22.03 | BEER MADE FROM MALT | 2373c/l of absolute alcohol | 2373c/l of absolute alcohol |
| 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) | 7.82c/l | 7.82c/l |
| .10 | | Unfortified still wine | 74.7c/l | 74.7c/l |
| .40 | | Fortified still wine | 169c/l | 169c/l |
| .50 | | Other still fermented beverages, unfortified | 120.8c/l | 120.8c/l |
| .60 | | Other still fermented beverages, fortified | 214.3c/l | 214.3c/l |
| .70 | | Sparkling wine | 206.9c/l | 206.9c/l |
| .80 | | Other fermented beverages (excluding sorghum beer) | 254.8c/l | 254.8c/l |
| 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: | | |
| .10 | | Wine spirits, manufactured in the Republic by the distillation of wine | 3337c/l of absolute alcohol | — |
| .15 | | Spirits, manufactured in the Republic by the distillation of any sugar cane product | 3337c/l of absolute alcohol | — |
| .25 | | Spirits, manufactured in the Republic by the distillation of any grain product | 3337c/l of absolute alcohol | — |
| .29 | | Other spirits, manufactured in the Republic | 3337c/l 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 | — | 3241c/l of absolute alcohol or 1394c/l |

WYSIGINGSWET OP INKOMSTEWETTE, 2001

Wet No. 19, 2001

| TARIEF-ITEM | TARIEF-POS | BESKRYWING | SKAAL VAN REG | |
|-------------|------------|---|--------------------------------|--------------------------------|
| | | | AKSYNS | DOEANE |
| .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) | 6c/l | 6c/l |
| 104.10 | 22.03 | BIER VAN MOUT GEMAAK | 2373c/l absolute alkohol | 2373c/l absolute alkohol |
| 104.15 | 22.04 | WYN VAN VARS DRUIWE, MET INBEGRIIP VAN GEFORTIFISEERDE WYN; DRUIWEMOS, BEHALWE DIE 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) | 7.82c/l | 7.82c/l |
| .10 | | Ongefortifiseerde nie-vonkelende wyn | 74.7c/l | 74.7c/l |
| .40 | | Gefortifiseerde nie-vonkelende wyn | 169c/l | 169c/l |
| .50 | | Ander nie-vonkelende gegiste drankie, ongefortifiseerd | 120.8c/l | 120.8c/l |
| .60 | | Ander nie-vonkelende gegiste drankie, gefortifiseerd | 214.3c/l | 214.3c/l |
| .70 | | Vonkelwyn | 206.9c/l | 206.9c/l |
| .80 | | Ander gegiste drankie (uitgesonderd sorghumbier) | 254.8c/l | 254.8c/l |
| 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 | | |
| .10 | | Wynspiritus, in die Republiek vervaardig deur die distillering van wyn | 3337c/l absolute alkohol | — |
| .15 | | Spiritus, in die Republiek vervaardig deur die distillering van enige suikerrietproduk | 3337c/l absolute alkohol | — |
| .25 | | Spiritus, in die Republiek vervaardig deur die distillering van enige graanproduk | 3337c/l absolute alkohol | — |
| .29 | | Ander spiritus, in die Republiek vervaardig | 3337c/l absolute alkohol | — |

Act No. 19, 2001

REVENUE LAWS AMENDMENT ACT, 2001

| TARIFF ITEM | TARIFF HEADING | DESCRIPTION | RATE OF DUTY | |
|----------------|-------------------|---|-------------------------|-----------------------------|
| | | | EXCISE | CUSTOMS |
| .70 | | Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances | — | 3241c/l of absolute alcohol |
| 104.30 | 24.02 | CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR TOBACCO SUBSTITUTES | | |
| .10 | | Cigars | 66 420c/kg net | 66 420c/kg net |
| .20 | | Cigarettes | 158.4c/10 cigarettes | 158.4c/10 cigarettes |
| 104.35 | 24.03 | OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES 'HOMOGENISED' OR 'RECONSTITUTED' TOBACCO EXTRACTS AND ESSENCES: | | |
| .10 | | Cigarette tobacco | 7167c/kg | 7167c/kg |
| .20 | | Pipe tobacco | 4677c/kg net | 4677c/kg net" |

| TARIEF-ITEM | TARIEF-POS | BESKRYWING | SKAAL VAN REG | |
|-------------|------------|---|---------------------|-------------------------------------|
| | | | AKSYNS | DOEANE |
| .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 | — | 3241c/l absolute alkohol of 1394c/l |
| .70 | | Spiritus van enige aard in ingevoerde likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat, met of sonder geurende bestanddele | — | 3241c/l absolute alkohol |
| 104.30 | 24.02 | SIGARE, SEROETE, SIGARILLOS EN SIGARETTE, VAN TABAK OF TABAKSURROGATE | | |
| .10 | | Sigare | 66 420c/kg netto | 66 420c/kg netto |
| .20 | | Sigarette | 158.4c/10 sigarette | 158.4c/10 sigarette |
| 104.35 | 24.03 | ANDER BEWERKTE TABAK EN BEWERKTE TABAKSURROGATE, 'GEHOMOGENISEERDE' OF 'HERSAAMGESTELDE' TABAK-EKSTRAKTE EN ESSENSE: | | |
| .10 | | Sigarettabak | 7167c/kg | 7167c/kg |
| .20 | | Pyptabak | 4677c/kg netto | 4677c/kg netto". |

