



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

NOTICE IS HEREBY GIVEN THAT ON THE 15 DECEMBER 1993, THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA HAS ASSENTED TO THE INCOME TAX AMENDMENT ACT, 1993 (ACT NO. 168 OF 1993) WHICH IS HEREBY PUBLISHED FOR INFORMATION.—

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 342

CAPE TOWN, 15 DECEMBER 1993

No. 15346

KAAPSTAD, 15 DESEMBER 1993

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2429.

15 December 1993

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

No. 168 of 1993: Income Tax Amendment Act, 1993.

No. 2429.

15 Desember 1993

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

No. 168 van 1993: Wysigingswet op Inkomstbelasting, 1993.

GENERAL EXPLANATORY NOTE:

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

GOVERNMENT GAZETTE ACT

To amend the Income Tax Act, 1962, so as to provide for the transfer of certain amounts between companies within the same group of companies; and to further provide for the refund of Standard Income Tax on Employees (SITE) under certain circumstances; to amend the Income Tax Act, 1993, so as to make further provision with regard to unbundling transactions; and to provide for matters connected therewith.

*(Afrikaans text signed by the Acting State President.)
(Assented to 8 December 1993.)*

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

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991 and section 17 of Act 113 of 1993 5

1. (1) Section 22 of the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion of paragraph (f) of subsection (5); and
- (b) by the insertion after subsection (5) of the following subsection:

“(5A) Where—

- (a) any commercial or industrial undertaking has been acquired by one company from another company;
- (b) both such companies are managed, controlled or owned by substantially the same persons; and
- (c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (3B), or a LIFO reserve as contemplated in subsection (5)(d) has been determined in relation to such last-mentioned company, the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsection (3B) or paragraphs (d) and (e) of subsection (5), as the case may be, be regarded as being one company.”.

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1994. 25

Amendment of section 23E of Act 58 of 1962, as inserted by section 19 of Act 113 of 1993

2. (1) Section 23E of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection: 30

ALGEMENE VERDUIDELIKENDE NOTA:

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

01

WET

21

Tot wysiging van die Inkomstebelastingwet, 1962, ten einde voorsiening te maak vir die oordrag van sekere bedrae tussen maatskappye binne dieselfde groep maatskappye; en verdere voorsiening te maak vir die terugbetaling van Standaard Inkomstebelasting op Werknemers (SIBW) onder sekere omstandighede; om die Inkomstebelastingwet, 1993, te wysig ten einde verdere voorsiening met betrekking tot onthondelingstransaksies te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

05

(Afrikaanse teks deur die Waarnemende Staatspresident geteken.)
(Goedgekeur op 8 Desember 1993.)

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

05 Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990, artikel 22 van Wet 129 van 1991 en artikel 17 van Wet 113 van 1993

- 10 1. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur paragraaf (f) van subartikel (5) te skrap; en
 (b) deur na subartikel (5) die volgende subartikel in te voeg:
 “(5A) Waar—
 (a) 'n handels- of nywerheidsonderneming deur een maatskappy van 'n ander maatskappy verkry is;
 (b) beide daardie maatskappye deur wesentlik dieselfde persone bestuur, beheer of besit word; en
 (c) die laasgenoemde maatskappy in paragraaf (a) beoog op 'n aftrekking soos beoog in subartikel (3B) geregtig is, of 'n LIEU-reserwe soos beoog in subartikel (5)(d) met betrekking tot daardie laasgenoemde maatskappy vasgestel is,
 kan die Kommissaris gelas dat, onderworpe aan die voorwaardes wat hy ople, genoemde twee maatskappye by die toepassing van subartikel (3B) of paragrawe (d) en (e) van subartikel (5), na gelang van die geval, as een maatskappy beskou word.”.
- 15 25 (2) Subartikel (1) word geag in werking te getree het met ingang van jare van aanslag wat op of na 1 Januarie 1994 eindig.

Wysiging van artikel 23E van Wet 58 van 1962, soos ingevoeg deur artikel 19 van Wet 113 van 1993

- 30 2. (1) Artikel 23E van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel by te voeg:

- "(8) Where—**
- (a) any commercial or industrial undertaking has been acquired by one company from another company;
 - (b) both such companies are managed, controlled or owned by substantially the same persons; and
 - (c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (7), the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsections (1), (3), (4), (5), (6) and (7) be regarded as being one company.”.
- (2) Subsection (1) shall be deemed to have come into operation on 20 July 1993.

Amendment of paragraph 11B of 4th Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991 and section 34 of Act 141 of 1992

3. Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (4) of the following subparagraph:

"(4A) Where in respect of any tax period falling within a year of assessment which ended on the last day of February 1991, 1992 or 1993 any employee failed to furnish his employer with a return of personal particulars or a fresh return as required in terms of paragraph 12(1) and in consequence of such failure the employer determined an amount of Standard Income Tax on Employees in relation to such employee which exceeded the amount of Standard Income Tax on Employees which would have been determined had such return or fresh return been duly furnished, the Commissioner may, notwithstanding the provisions of subparagraph (6), amend the determination of the amount of Standard Income Tax on Employees payable by the employee in respect of such tax period and may, notwithstanding the provisions of section 102(2), make a refund of the amount paid in excess.”.

Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993

4. (1) Section 60 of the Income Tax Act, 1993, is hereby amended—

- (a) by the addition of the word “and” at the end of paragraph (b) of the definition of “distributable shares” in subsection (1); and
- (b) by the addition to the definition of “distributable shares” in subsection (1) of the following paragraph:

"(c) any shares in an unlisted company held on 22 November 1993 by such holder for its own benefit if—

- (i) such holder’s interest in such unlisted company constitutes at least 30 per cent of the equity share capital of such unlisted company; or
- (ii) such shares so held represent at least 70 per cent of the market value of the assets of such holder,

and such shares are, in pursuance of a distribution *in specie* thereof in the course of an unbundling transaction, listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), within six months of such distribution *in specie*, or within such further period as the Commissioner, having regard to the circumstances of the case, may approve;”.

(2) Subsection (1) shall be deemed to have come into operation on 22 November 1993.

Short title

5. This Act shall be called the Income Tax Amendment Act, 1993.

"(8) Waar—

- (a) 'n handels- of nywerheidsonderneming deur een maatskappy van 'n ander maatskappy verkry is;
- 5 (b) beide daardie maatskappye deur wesentlik dieselfde persone bestuur, beheer of besit word; en
- (c) die laasgenoemde maatskappy in paragraaf (a) beoog op 'n aftrekking soos beoog in subartikel (7) geregtig is,
10 kan die Kommissaris gelas dat, onderworpe aan die voorwaardes wat hy oplê, genoemde twee maatskappye by die toepassing van subartikels (1), (3), (4), (5), (6) en (7) as een maatskappy beskou word.”.
- 10 (2) Subartikel (1) word geag op 20 Julie 1993 in werking te getree het.

Wysiging van paragraaf 11B van 4de Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 41 van Wet 90 van 1988 en gewysig deur artikel 22 van Wet 70 van 1989, artikel 47 van Wet 101 van 1990, artikel 46 van Wet 129 van 1991 en artikel 15 34 van Wet 141 van 1992

3. Paragraaf 11B van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na subparagraaf (4) die volgende subparagraaf in te voeg:

“**(4A) Waar ten opsigte van 'n belastingtydperk wat val binne 'n jaar van aanslag wat op die laaste dag van Februarie 1991, 1992 of 1993 20 geëindig het, enige werknemer versuim het om sy werkewer te voorsien van 'n opgawe van persoonlike besonderhede of 'n nuwe opgawe soos vereis ingevolge paragraaf 12(1) en as gevolg van daardie versuim die werkewer 'n bedrag aan Standaard Inkomstebelasting op Werknemers met betrekking tot daardie werknemer vasgestel het wat hoër is as die bedrag aan Standaard Inkomstebelasting op Werknemers 25 wat vasgestel sou gewees het indien daardie opgawe of nuwe opgawe behoorlik verstrekk was, kan die Kommissaris, ondanks die bepalings van subparagraaf (6), die vasstelling van die bedrag aan Standaard Inkomstebelasting op Werknemers betaalbaar deur die werknemer ten 30 opsigte van daardie belastingtydperk wysig en kan hy, ondanks die bepalings van artikel 102(2), 'n terugbetaling doen van die bedrag wat te veel betaal is.”.**

Wysiging van artikel 60 van Wet 113 van 1993, soos gewysig deur artikel 20 van Wet 140 van 1993

- 35 **4. (1) Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig—**
 (a) deur die woord “en” aan die einde van paragraaf (b) van die omskrywing van “uitkeerbare aandele” in subartikel (1) by te voeg; en
 (b) deur die volgende paragraaf by die omskrywing van “uitkeerbare aandele” in subartikel (1) te voeg:
 40 “**(c) enige aandele in 'n ongenoteerde maatskappy op 22 November 1993**
 deur daardie houer vir sy eie voordeel gehou indien—
 (i) daardie houer se belang in bedoelde ongenoteerde maatskappy uit ten minste 30 persent van die ekwiteitsaandekapitaal van bedoelde ongenoteerde maatskappy bestaan; of
 45 (ii) bedoelde aandele aldus gehou ten minste 70 persent van die markwaarde van die bates van daardie houer verteenwoordig, en bedoelde aandele, na aanleiding van 'n uitkering *in specie* daarvan in die loop van 'n ontbondelingstransaksie, binne ses maande vanaf bedoelde uitkering *in specie*, of binne die verdere tydperk wat die Kommissaris met inagneming van die omstandighede van die geval mag goedkeur, op 'n gelisensieerde effektebeurs soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985), genoteer word;”.
- 50 55 (2) Subartikel (1) word geag op 22 November 1993 in werking te getree het.

Kort titel

5. Hierdie Wet heet die Wysigingswet op Inkomstebelasting, 1993.

