



**REPUBLIEK VAN SUID-AFRIKA**

**STAATSKOERANT**

**GOVERNMENT GAZETTE**

**OF THE REPUBLIC OF SOUTH AFRICA**

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

VOL. 353

KAAPSTAD, 25 NOVEMBER 1994

No. 16104

CAPE TOWN, 25 NOVEMBER 1994

**KANTOOR VAN DIE PRESIDENT**

No. 2009.

25 November 1994

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

No. 20 van 1994: Wysigingswet op Belastingwette, 1994.

**OFFICE OF THE PRESIDENT**

No. 2009.

25 November 1994

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

No. 20 of 1994: Taxation Laws Amendment Act, 1994.

**ALGEMENE VERDUIDELIKENDE NOTA:**

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

---

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

---

**WET**

Tot wysiging van die Handelseffektebelastingwet, 1948, ten einde 'n uitgediende artikel te skrap; tot wysiging van die Wet op Hereregte, 1949, ten einde voorsiening te maak vir 'n vermindering van die hereregte betaalbaar onder bepaalde omstandighede; tot wysiging van die Boedelbelastingwet, 1955, ten einde voorsiening te maak vir bepaalde aftrekkings; tot wysiging van die Wet op Seëlregte, 1968, ten einde voorsiening te maak vir die invoeging van 'n omskrywing van "paaientementkredietooreenkoms"; die geldigmakende boete te verhoog; voorsiening te maak vir krediet ten opsigte van seëlregte betaal ingevolge sekere wette wat herroep staan te word; voorsiening te maak vir die skraping van 'n verwysing na 'n omskrywing in die Wet op Belasting op Toegevoegde Waarde, 1991; en om voorsiening te maak vir 'n vrystelling in die geval van die oorspronklike uitreiking van aandele in 'n aandeleblokmaatskappy; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings nader te omskryf; sekere bedrywighede van "finansiële dienste" uit te sluit; die doen of nie-doen van sekere lewerings van goed of dienste te ag; verdere of ander voorsiening te maak ten opsigte van die waarde van lewerings van sekere goed of dienste, die lewering van 'n onderneming as 'n lopende saak, die lewering van dienste aan nie-inwoners, die lewering van dienste ten opsigte van intellektuele eiendomsregte, die lewering van goed of dienste wat noodsaklik is vir die lewering van finansiële dienste, die toelaatbare aftrekkings ten opsigte van insetbelasting, die berekening van uitsetbelasting, die toelaatbare aftrekking ten opsigte van die aflossing van tekens, bewyse of seëls, die insetbelasting wat 'n mediese skema ontsê word, die verrekening ten opsigte van verandering in gebruik of verbruik van goed of dienste, 'n verrekening ten opsigte van die vermindering van die prys van tweedehandse goed, die verrekening wat gedoen moet word ten opsigte van 'n onderneming as 'n lopende saak verkry, maar geheel en al of hoofsaaklik vir ander doeleindes as die doen van belasbare lewerings, die kansellasie van 'n ondernemer se registrasie, die betaling van rente ten opsigte van appèlle deur die Kommissaris van Binnelandse Inkomste toegegee, addisionele belasting en vertraagde terugbetelings, toelaatbare belastingverligting aan diplomate, reëlings en opdragte wat die Kommissaris van Binnelandse Inkomste mag tref of gee om probleme, anomalieë of ongerymdhede te oorkom, wysigings aan die Wet wanneer die Parlement in sitting is of nie is nie; vir die sluiting van internasionale belastingooreenkomsvoorsiening te maak; vir vrystellings ten opsigte van sekere invoere van goed voorsiening te maak; en om sekere teksveranderings aan te bring; om sekere spesiale bepalings met betrekking tot ontbondelingstransaksies te wysig en te verleng; om voorsiening te maak vir 'n eenmalige vrystelling van seëlregte ten opsigte van die uitreiking van aandele deur onderskeidelik Rooibostee Natuurlike Produkte Beperk, Chicory SA Beperk en SA Mohair Brokers Beperk; om voorsiening te maak vir 'n vrystelling van seëlregte en hereregte ten opsigte van sekere verkrygings van handelseffekte of eiendom as gevolg van die rasionalisasie van 'n groep maatskappye en vir die aanslag van maatskappye in 'n bedoelde groep vir inkomstbelastingdoeleindes in sekere omstandighede; om voorsiening te maak vir die herroeping van sekere wette van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei, en die uitbreiding van sekere wette in die gebiede van vermelde

**GENERAL EXPLANATORY NOTE:**

【】 Words in bold type in square brackets indicate omissions from existing enactments.

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

**ACT**

To amend the Marketable Securities Tax Act, 1948, so as to delete an obsolete section; to amend the Transfer Duty Act, 1949, so as to provide for a reduction of the transfer duty payable under certain circumstances; to amend the Estate Duty Act, 1955, so as to provide for certain deductions; to amend the Stamp Duties Act, 1968, so as to provide for the insertion of a definition of "instalment credit agreement"; to increase the validating penalty; to provide for a credit in respect of stamp duty paid in terms of certain laws to be repealed; to provide for the deletion of a reference to a definition in the Value-Added Tax Act, 1991; and to provide for an exemption in the case of the original issue of shares in a share block company; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to exclude certain activities from "financial services"; to deem certain supplies of goods or services to be made or not made; to make further or other provision in respect of the value of supplies of certain goods or services, the supply of an enterprise as a going concern, the supply of services to non-residents, the supply of services in respect of intellectual property rights, the supply of goods or services necessary for the supply of financial services, the deductions allowable in respect of input tax, the calculation of output tax, the deduction allowable in respect of the redemption of tokens, vouchers or stamps, the input tax denied to a medical scheme, the adjustment in respect of change in use or consumption of goods or services, an adjustment in respect of the reduction in the price of second-hand goods, the adjustment to be made in respect of an enterprise acquired as a going concern but wholly or partially otherwise than for the purposes of making taxable supplies, the cancellation of a vendor's registration, the payment of interest in respect of appeals conceded by the Commissioner for Inland Revenue, additional tax and delayed refunds, tax relief allowable to diplomats, arrangements and directions which may be made or given by the Commissioner for Inland Revenue to overcome difficulties, anomalies or incongruities, amendments to the Act when Parliament is or is not in session; to provide for the conclusion of international tax agreements; to provide for exemptions in respect of certain importations of goods; and to effect certain textual alterations; to amend and extend certain special provisions with regard to unbundling transactions; to provide for a once-off exemption from stamp duty in respect of the issue of shares by Rooibos Tea Natural Products Limited, Chicory SA Limited and SA Mohair Brokers Limited, respectively; to provide for an exemption from stamp duty and transfer duty in respect of certain acquisitions of marketable securities or property consequent upon the rationalisation of a group of companies and for the assessment of companies in any such group for income tax purposes in certain circumstances; to provide for the repeal of certain laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, and for the

voormalige Republieke; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die President geteken.)  
(Goedgekeur op 16 November 1994.)*

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

**Herroeping van artikel 11 van Wet 32 van 1948**

1. Artikel 11 van die Handelseffektebelastingswet, 1948, word hierby herroep.

**Wysiging van artikel 5 van Wet 40 van 1949, soos gewysig deur artikel 2 van Wet 31 van 1953, artikel 6 van Wet 103 van 1969, artikel 2 van Wet 86 van 1987 en artikel 3 van Wet 136 van 1992**

2. Artikel 5 van die Wet op Hereregte, 1949, word hierby gewysig deur die volgende subartikel by te voeg:

"(11) Waar 'n persoon enige eiendom verkry het en enige vergoeding ingevolge artikel 6(1)(c) by die vergoeding deur bedoelde persoon betaal ten opsigte van bedoelde eiendom gevoeg is, word die waarde van daardie eiendom verminder met 'n bedrag gelyk aan die waarde wat vergoeding uitmaak van enige lewering van daardie eiendom aan die persoon wat daardie eiendom verkry, indien ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991)—

- (a) belasting op toegevoegde waarde ten opsigte van bedoelde lewering betaal is of in berekening gebring sal word; of
- (b) bedoelde lewering aan belasting op toegevoegde waarde teen die koers van nul persent onderhewig is."

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

3. (1) Artikel 4 van die Boedelbelastingwet, 1955, word hierby gewysig—

(a) deur die woord "of" aan die einde van subparagraaf (iv) van paragraaf

(h) by te voeg; en

(b) deur die volgende subparagraaf by paragraaf (h) te voeg:

"(v) 'n fonds wat deur die Kommissaris ingevolge artikel 10(1)(cL) van genoemde Wet goedgekeur is;".

(2) Subartikel (1) word geag op 20 Julie 1993 in werking te getree het en is van toepassing ten opsigte van die boedel van 'n persoon wat op of na daardie datum te sterwe gekom het of te sterwe kom.

**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 en artikel 5 van Wet 136 van 1991**

4. Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig deur die volgende omskrywing na die omskrywing van "openbare amptenaar" in te voeg:

**extension of the application of certain laws in the territories of the said former Republics; and to provide for matters connected therewith.**

*(Afrikaans text signed by the President.)  
(Assented to 16 November 1994.)*

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

**Repeal of section 11 of Act 32 of 1948**

1. Section 11 of the Marketable Securities Tax Act, 1948, is hereby repealed.
  
- 5 Amendment of section 5 of Act 40 of 1949, as amended by section 2 of Act 31 of 1953, section 6 of Act 103 of 1969, section 2 of Act 86 of 1987 and section 3 of Act 136 of 1992
  2. Section 5 of the Transfer Duty Act, 1949, is hereby amended by the addition of the following subsection:
 

10       “(11) Where any person has acquired any property and any consideration has in terms of section 6(1)(c) been added to the consideration payable by such person in respect of such property, the value of that property shall be reduced by an amount equal to the value which constitutes consideration of any supply of such property made to the person acquiring that property, if in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991)—
 
    - 15       (a) value-added tax in respect of such supply has been paid or will be accounted for; or
    - 16       (b) such supply is subject to value-added tax at the rate of zero per cent.”.
  
- 20 Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987, section 10 of Act 87 of 1988 and section 8 of Act 97 of 1993
  - 3.1(1) Section 4 of the Estate Duty Act, 1955, is hereby amended—
    - 3.1(1)(a) by the addition of the word “or” at the end of subparagraph (iv) of paragraph (h); and
    - 3.1(1)(b) by the addition to paragraph (h) of the following subparagraph:
 

30       “(v) any fund which has been approved by the Commissioner in terms of section 10(1)(cL) of the said Act;”.
  - 3.2(2) Subsection (1) shall be deemed to have come into operation on 20 July 1993 and shall apply in respect of the estate of any person who died or dies on or after that date.
  
- 35 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 and section 5 of Act 136 of 1991
  4. Section 1 of the Stamp Duties Act, 1968, is hereby amended by the insertion 40 before the definition of “instrument” of the following definition:

**“ ‘paaiemerkredietooreenkoms’ ’n ooreenkoms aangegaan waarvolgens goed bestaande uit liggaamlike roerende goed of uit masjinerie of installasie, hetsy roerend of onroerend—**

- (a) gelewer word ingevolge ’n verkoop waaronder—
- (i) die goed verkoop word deur die verkoper aan die koper teen betaling deur die koper aan die verkoper van ’n bepaalde of bepaalbare som geld op ’n bepaalde of bepaalbare toekomstige datum of in geheel of gedeeltelik in paaiemente oor ’n toekomstige tydperk; en
  - (ii) bedoelde som geld finansieringskoste wat in die verkoopooreenkoms gestipuleer word, insluit; en
  - (iii) die totaal van die bedrae betaalbaar deur die koper aan die verkoper ingevolge bedoelde ooreenkoms die kontantwaarde van die lewering te bowe gaan; en
  - (iv) (aa) die koper nie die eienaar van daardie goed word nie slegs uit hoofde van die aflewering daarvan aan hom of van die gebruik, besit of genot daarvan deur hom; of  
 (bb) die verkoper geregtig is op die herinbesitneming van daardie goed indien die koper versuim om aan enige bepaling van daardie ooreenkoms te voldoen; of
- (b) gelewer word ingevolge ’n verhuringsooreenkoms waaronder—
- (i) die huurgeld uit ’n bepaalde of bepaalbare som geld bestaan wat op ’n bepaalde of bepaalbare toekomstige datum of periodiek in geheel of gedeeltelik in paaiemente oor ’n toekomstige tydperk betaalbaar is; en
  - (ii) bedoelde som geld finansieringskoste wat in die ooreenkoms gestipuleer word, insluit; en
  - (iii) die totaal van die bedrae betaalbaar ingevolge bedoelde verhuringsooreenkoms deur die huurder aan die verhuurder vir die termyn van daardie verhuringsooreenkoms (sonder inagneming van die reg van ’n party daarby om die verhuringsooreenkoms voor verstryking van daardie termyn te beëindig) en enige residuele waarde van die verhuurde goed by beëindiging van die verhuringsooreenkoms, soos in die verhuringsooreenkoms gestipuleer, die kontantwaarde van die lewering te bowe gaan; en
  - (iv) die huurder geregtig is op die besit, gebruik of genot van daardie verhuurde goed vir ’n tydperk van minstens 12 maande; en
  - (v) die huurder die volle risiko van vernietiging of verlies van, of ander benadeling van, bedoelde goed en alle verpligte van welke aard ook al met betrekking tot die versekering, instandhouding en herstel van daardie goed terwyl die ooreenkoms van krag bly, op hom neem;”.

**Wysiging van artikel 9 van Wet 77 van 1968, soos gewysig deur artikel 21 van Wet 45  
87 van 1988**

5. Artikel 9 van die Wet op Seëlregte, 1968, word hierby gewysig deur in die voorbehoudbepaling by paragraaf (a) van subartikel (1) die uitdrukking “R2 000” deur die uitdrukking “R4 000” te vervang.

**Wysiging van artikel 22 van Wet 77 van 1968, soos gewysig deur artikel 19 van Wet 50  
103 van 1969, artikel 11 van Wet 114 van 1977, artikel 6 van Wet 95 van 1978,  
artikel 6 van Wet 102 van 1979, artikel 24 van Wet 87 van 1988 en artikel 7 van Wet  
69 van 1989**

6. (1) Artikel 22 van die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

“(a) ’n Stuk waarvolgens ’n huurooreenkoms (met inbegrip van ’n huur of huurooreenkoms wat ingevolge ’n vorige Parlements-wet of ingevolge enige wet wat in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda of Ciskei van krag was onmiddellik voor die datum

**“‘instalment credit agreement’ means any agreement entered into whereby any goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable—**

(a) are supplied under a sale under which—

(i) the goods are sold by the seller to the purchaser against payment by the purchaser to the seller of a stated or determinable sum of money at a stated or determinable future date or in whole or in part in instalments over a period in the future; and

(ii) such sum of money includes finance charges stipulated in the agreement of sale; and

(iii) the aggregate of the amounts payable by the purchaser to the seller under such agreement exceeds the cash value of the supply; and

(iv) (aa) the purchaser does not become the owner of those goods merely by virtue of the delivery to or the use, possession or enjoyment by him thereof; or

(bb) the seller is entitled to the return of those goods if the purchaser fails to comply with any term of that agreement; or

(b) are supplied under a lease under which—

(i) the rent consists of a stated or determinable sum of money payable at a stated or determinable future date or periodically in whole or in part in instalments over a period in the future; and

(ii) such sum of money includes finance charges stipulated in the lease; and

(iii) the aggregate of the amounts payable under such lease by the lessee to the lessor for the period of such lease (disregarding the right of any party thereto to terminate the lease before the end of such period) and any residual value of the leased goods on termination of the lease, as stipulated in the lease, exceeds the cash value of the supply; and

(iv) the lessee is entitled to the possession, use or enjoyment of those goods for a period of at least 12 months; and

(v) the lessee accepts the full risk of destruction or loss of, or other disadvantage to, those goods and assumes all obligations of whatever nature arising in connection with the insurance, maintenance and repair of those goods while the agreement remains in force;”.

**Amendment of section 9 of Act 77 of 1968, as amended by section 21 of Act 87 of 1988**

5. Section 9 of the Stamp Duties Act, 1968, is hereby amended by the substitution in the proviso to paragraph (a) of subsection (1) for the expression “R2 000” of the expression “R4 000”.

**Amendment of section 22 of Act 77 of 1968, as amended by section 19 of Act 103 of 1969, section 11 of Act 114 of 1977, section 6 of Act 95 of 1978, section 6 of Act 102 of 1979, section 24 of Act 87 of 1988 and section 7 of Act 69 of 1989**

45 6. (1) Section 22 of the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

(a) Any instrument whereby a lease (including any lease or agreement of lease chargeable with stamp duty under any previous Act of Parliament or under any law which was in force in the territories of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei immediately prior to the date of the repeal thereof under the Taxation Laws Amendment Act, 1994) is continued, renewed or extended beyond the period for which

van herroeping daarvan ingevolge die Wysigingswet op Belastingwette, 1994, aan seëlreg onderhewig was) voortgesit, hernieu of verleng word ná die tydperk waarvoor dié huurooreenkoms (of enige vorige voortsetting, hernuwing of verlenging daarvan) geseël moes word, is onderhewig aan die seëlreg wat betaalbaar is ten opsigte van 'n huurooreenkoms vir 'n tydperk gelyk aan die hele tydperk van bedoelde huurooreenkoms (met inbegrip van enige tydperke waarvoor dit voortgesit, hernieu of verleng is), min die som van die bedrae aan seëlreg voorheen betaalbaar ten opsigte van die huurooreenkoms en enige vroeër voortsettings, hernuwing of verlengings daarvan, hetsy ingevolge hierdie Wet of 'n vorige Parlements-wet of enige wet wat in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda of Ciskei van krag was onmiddellik voor die datum van herroeping daarvan ingevolge die Wysigingswet op Belastingwette, 1994."

(2) Subartikel (1) tree in werking op die datum van die herroeping van die betrokke wette van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei soos beoog in artikel 41(1) van hierdie Wet.

#### Wysiging van Item 13A van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 8 van Wet 136 van 1991

7. Item 13A van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur die woorde wat volg op die skale deur die volgende woorde te vervang:

"Ondanks andersluidende bepalings van hierdie Wet, word 'n stuk wat deur 'n persoon onderteken is in verband met die verkoop, van die hand sit of verhuur aan hom van goedere, koopware of handelsware (behalwe lewende hawe of landbouprodukte) en wat, indien deur die ander party by die transaksie onderteken, 'n paalementkredietooreenkoms ten opsigte van sodanige goedere, koopware of handelsware sou wees, by die toepassing van hierdie Item beskou as 'n paalementkredietooreenkoms wat verly is op die datum waarop dit deur sodanige persoon onderteken is.

[By die toepassing van hierdie item beteken— 'paalementkredietooreenkoms' 'n paalementkredietooreenkoms soos in artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), omskryf.]".

Wysiging van Item 15 van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 13 van Wet 89 van 1972 en gewysig deur artikel 16 van Wet 66 van 1973, artikel 21 van Wet 88 van 1974, artikel 3 van Wet 104 van 1976, artikel 20 van Wet 114 van 1977, artikel 8 van Wet 95 van 1978, artikel 8 van Wet 102 van 1979, artikel 21 van Wet 106 van 1980, artikel 9 van Wet 99 van 1981, artikel 7 van Wet 87 van 1982, artikel 14 van Wet 92 van 1983, artikel 11 van Wet 118 van 1984, artikel 11 van Wet 81 van 1985, artikel 5 van Wet 71 van 1986, artikel 13 van Wet 108 van 1986, artikel 11 van Wet 86 van 1987, artikel 33 van Wet 87 van 1988, artikel 14 van Wet 69 van 1989, artikel 9 van Wet 136 van 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993 en artikel 17 van Wet 140 van 1993

8. Item 15 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur onder die opskrif "Vrystellings van die seëlreg ingevolge paragraaf (1) of (2):" na subparagraaf (d) die volgende subparagraaf in te voeg:

"(e) Die oorspronklike uitreiking van 'n aandeel in 'n aandeleblokmaatskappy soos in artikel 1 van die Wet op die Beheer van Aandeleblokke, 1980 (Wet No. 59 van 1980), omskryf, wat 'n reg op of 'n belang in die gebruik van vaste eiendom verleen, waar bedoelde uitreiking van bedoelde aandeel 'n lewering ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), uitmaak en belasting op toegevoegde waarde ingevolge daardie Wet betaal is of betaal sal word deur bedoelde maatskappy ten opsigte van bedoelde lewering, of bedoelde lewering ingevolge daardie Wet aan belasting op toegevoegde waarde teen die koers van nul persent onderhewig is."

such lease (or any previous continuance, renewal or extension thereof) was required to be stamped, shall be chargeable with the duty payable in respect of a lease for a period equal to the entire period of the aforesaid lease (including any periods for which it has been continued, renewed or extended), less the sum of the amounts of stamp duty previously payable in respect of such lease and any earlier continuations, renewals or extensions thereof, whether under this Act or any previous Act of Parliament or any law which was in force in the territories of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei immediately prior to the date of the repeal thereof under the Taxation Laws Amendment Act, 1994.”.

(2) Subsection (1) shall come into operation on the date of the repeal of the relevant laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei as contemplated in section 41(1) of this Act.

**Amendment of Item 13A of Schedule 1 to Act 77 of 1968, as substituted by section 8 of Act 136 of 1991**

7. Item 13A of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for the words following upon the tariffs of the following words:

“Notwithstanding anything to the contrary in this Act contained, an instrument which is signed by a person in connection with the sale, disposal or lease to him of any goods, wares or merchandise (other than livestock or agricultural produce) and which, if signed by the other party to the transaction, would be an instalment credit agreement in respect of such goods, wares or merchandise, shall for the purposes of this Item be regarded as an instalment credit agreement executed on the date on which it was signed by such person.

**[For the purposes of this item—**  
‘instalment credit agreement’ means any instalment credit agreement as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).”.

**Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993 and section 17 of Act 140 of 1993**

40 8. Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the insertion under the heading “*Exemptions from the duty under paragraph (1) or (2):*” after subparagraph (d) of the following subparagraph:

45 “(e) The original issue of any share in a share block company as defined in section 1 of the Share Blocks Control Act, 1980 (Act No. 59 of 1980), which confers a right to or an interest in the use of immovable property, where such issue of such share constitutes a supply in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and in terms of that Act value-added tax has been or will be paid by such company in respect of such supply, or such supply is in terms of that Act subject to value-added tax at the rate of zero per cent.”.

**Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992 en artikel 22 van Wet 97 van 1993**

- 9.(1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (hieronder die Hoofwet genoem), word hierby gewysig—
- deur die omskrywing van “aandeleblokmaatskappy” deur die volgende omskrywing te vervang:  
“aandeleblokmaatskappy” ’n aandeleblokmaatskappy soos omskryf in artikel 1 van die Wet op die Beheer van Aandeleblokke [1980 (Wet No. 59 van 1980)];”;
  - deur die omskrywing van “bepaalde land” te skrap;
  - deur in die omskrywing van “insetbelasting” paragraaf (b) deur die volgende paragraaf te vervang:  
“(b) ’n bedrag gelyk aan die belastingbreukdeel (synde die belastingbreukdeel van toepassing op die tydstip van betaling) van [enige bedrag betaal, welke betaling ’n verpligting (hetsy ’n bestaande verpligting of ’n verpligting wat in die toekoms sal ontstaan) ten opsigte van die koopprys verminder of nakom, ten opsigte] die minste van enige vergoeding in geld gegee deur die ondernemer vir of die ope markwaarde van die lewering (behalwe ’n belasbare lewering) aan hom by wyse van ’n verkoop op of na die aanvangsdatum deur ’n inwoner van die Republiek [of ’n bepaalde land] van tweedehandse goed in die Republiek [of ’n bepaalde land] geleë: Met dien verstande dat waar [met betrekking tot daardie lewering, die partye verbonde persone is, bedoelde vergoeding in geld geag word die bedrag te wees wat vir die goed betaal word vir sover dit nie die ope markwaarde van bedoelde goed te bowe gaan nie] daardie tweedehandse goed bestaan uit—
  - (i) vasgoed ten opsigte van die verkryging waarvan hereregte ingevolge die Wet op Hereregte betaalbaar is of betaalbaar sou gewees het indien ’n vrystelling van hereregte (hetsy ingevolge die Wet op Hereregte of ’n ander Wet van die Parlement) nie van toepassing was nie; of
  - (ii) ’n aandeel in ’n aandeleblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is of betaalbaar sou gewees het indien ’n vrystelling van seëlreg (hetsy ingevolge die Wet op Seëlregte of ’n ander Wet van die Parlement) nie van toepassing was nie,  
bedoelde bedrag nie die bedrag hereregte of seëlreg, na gelang van die geval, wat ten opsigte van daardie verkryging, oorspronklike uitreiking of registrasie van oordrag, na gelang van die geval, betaalbaar is of sou gewees het, te bowe gaan nie; en”;
  - deur die omskrywing van “lugvaartuig op vreemde vaart” deur die volgende omskrywing te vervang:  
“lugvaartuig op vreemde vaart” ’n lugvaartuig wat besig is met die vervoer teen vergoeding van passasiers of goed geheel en al of hoofsaaklik op vlugte tussen lughawens in die Republiek [of ’n bepaalde land] en lughawens in uitvoerlande of tussen lughawens in uitvoerlande;”;
  - deur na die omskrywing van “maatskappy” die volgende omskrywing in te voeg:  
“metropolitaanse oorgangsraad” ’n metropolitaanse oorgangsraad soos omskryf in artikel 1 van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993);”;
  - deur in die omskrywing van “onderneming” in subparagraph (iv) van paragraaf (c) die woorde wat op item (cc) volg deur die volgende woorde te vervang:  
“en, in die geval van ’n streeksdiensteraad, [of] ’n gesamentlike diensteraad of ’n metropolitaanse oorgangsraad, enige ander bedrywigheid van so ’n raad [wat] vir sover dit gefinansier word deur heffings in artikel 8(6)(b) vermeld;”;

**Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992 and section 22 of Act 97 of 1993**

- 9.(1) Section 1 of the Value-Added Tax Act, 1991 (hereinafter referred to as 5 the principal Act), is hereby amended—
- (a) by the substitution in the definition of “enterprise” in subparagraph (iv) of paragraph (c) for the words following upon item (cc) of the following words:
- “and, in the case of a regional services council, **[or]** a joint services board **or** a transitional metropolitan council, any other activities of that council or board **[which]** to the extent that they are financed by levies referred to in section 8(6)(b);”;
- (b) by the substitution in the definition of “enterprise” for paragraph (ii) of the proviso of the following paragraph:
- “(ii) the supply outside the Republic of goods or services by any concern from any branch or main business thereof where
- [(aa)]** such branch or main business is permanently located at premises outside the Republic, if—
  - [(A)](aa)** the branch or main business can be separately identified; and
  - [(B)](bb)** an independent system of accounting is maintained by the concern in respect of the branch or main business **[or]**
- (bb)** the person carrying on such concern from such branch or main business is registered as a vendor under a law imposing a value-added tax or similar tax in a specified country,
- shall be deemed not to be effected in the course or furtherance of any enterprise or activity carried on by such concern;”;
- (c) by the addition in the definition of “enterprise” of the following paragraph to the proviso:
- “(vii) the activities of the Multilateral Motor Vehicle Accidents Fund contemplated in the Multilateral Motor Vehicle Accidents Fund Act, 1989 (Act No. 93 of 1989), shall be deemed not to be the carrying on of an enterprise;”;
- (d) by the substitution for the definition of “export country” of the following definition:
- “‘export country’ means any country other than the Republic **[and any specified country]** and includes any place which is not situated in the Republic **[or in any specified country]**: Provided that the President may by notice in the Gazette determine that a specific country or territory shall from a date and to the extent indicated in the notice, be deemed not to be an export country;”;
- (e) by the substitution in the definition of “exported” for paragraph (d) of the following paragraph:
- “(d) removed from the Republic by the recipient for conveyance to an export country **[if—]**
- (i) the recipient is ordinarily resident or carries on business in such country except where such goods are removed as contemplated in subparagraph (ii) of this paragraph;
  - (ii) the removal of such goods from the Republic is effected in a manner prescribed in terms of an export incentive scheme approved by the Minister;
  - (iii) the vendor has been authorized by the Commissioner to participate in such scheme;
  - (iv) the goods are of a kind to which such scheme applies; and
  - (v) any conditions prescribed under such scheme have been complied with] in accordance with the provisions of an export incentive scheme approved by the Minister;”;

- (g) deur in die omskrywing van "onderneming" paragraaf (ii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
- "(ii) die lewering buite die Republiek van goed of dienste deur 'n instansie uit 'n tak of hoofbesigheid daarvan waar
  - [(aa)]** daardie tak of hoofbesigheid permanent op 'n perseel buite die Republiek geleë is, indien—
  - [(A)] (aa)** die tak of hoofbesigheid afsonderlik geïdentifiseer kan word; en
  - [(B)] (bb)** 'n onafhanklike rekeningkundige stelsel deur die instansie ten opsigte van die tak of hoofbesigheid gehandhaaf word **[of**
  - (bb) die persoon wat bedoelde instansie uit bedoelde tak of hoofbesigheid bedryf as 'n ondernemer geregistreer is ingevolge 'n wet wat 'n belasting op toegevoegde waarde of soortgelyke belasting in 'n bepaalde land ople],  
geag word nie in die loop of ter bevordering van enige onderneming of bedrywigheid wat deur daardie instansie bedryf word, bewerkstellig te wees nie;"
- (h) deur in die omskrywing van "onderneming" die volgende paragraaf by die voorbehoudsbepaling te voeg:
- "(vii) die bedrywighede van die Multilaterale Motorvoertuigongelukkiefonds beoog in die Multilaterale Motorvoertuigongelukkiefondswet, 1989 (Wet No. 93 van 1989), geag word nie die bedryf van 'n onderneming te wees nie;"
- (i) deur die omskrywing van "skip op vreemde vaart" deur die volgende omskrywing te vervang:  
"skip op vreemde vaart"—
- (a) 'n skip of ander vaartuig wat besig is met die vervoer teen vergoeding van passasiers of goed geheel en al of hoofsaaklik op seevaart tussen hawens in die Republiek **[of 'n bepaalde land]** en hawens in uitvoerlande of tussen hawens in uitvoerlande; of
  - (b) 'n skip of ander vaartuig wat in 'n uitvoerland geregistreer is, waar daardie skip of vaartuig gebruik word vir die doeleindes van 'n kommersiële, vissery- of ander saak wat buite die Republiek **[en 'n bepaalde land]** bedryf word deur 'n persoon wat nie 'n ondernemer is nie en nie 'n inwoner van die Republiek **[of 'n bepaalde land]** is nie;"
- (j) deur die omskrywing van "tweedehandse goed" deur die volgende omskrywing te vervang:  
"tweedehandse goed"—
- (a) goed wat voorheen besit en gebruik is; of
  - (b) ten opsigte van die transporter van 'n eenheid in die omstandighede waarna in Item 8 van Bylae 1 by die Wet op die Beheer van Aandeleblokke verwys word, daardie eenheid,  
maar met uitsluiting van **[behalwe]**—
  - (i) **[lewende hawe] diere;** en
  - (ii) goudmuntstukke beoog in artikel 11(1)(k);";
- (k) deur in die omskrywing van "uitgevoer" paragraaf (d) deur die volgende paragraaf te vervang:  
"(d) uit die Republiek deur die ontvanger weggenem vir vervoer na 'n uitvoerland **[indien]**—
- (i) die ontvanger gewoonlik in bedoelde land woonagtig is of aldaar besigheid dryf behalwe waar daardie goed weggenem word soos beoog in subparagraph (ii) van hierdie paragraaf; en
  - (ii) bedoelde goed uit die Republiek weggenem word op 'n wyse voorgeskryf ingevolge 'n uitvoeraansporingskema goedgekeur deur die Minister;
  - (iii) die ondernemer deur die Kommissaris gemagtig is om aan bedoelde skema deel te neem;
  - (iv) die goed van 'n soort is waarop bedoelde skema van toepassing is; en
  - (v) enige voorwaardes ingevolge bedoelde skema voorgeskryf, nagekom **[is]** ooreenkomsdig die bepalings van 'n uitvoeraansporingskema deur die Minister goedgekeur;"

- 5 (f) by the substitution for the definition of "foreign-going aircraft" of the following definition:  
 " 'foreign-going aircraft' means any aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between airports in the Republic [or a specified country] and airports in export countries or between airports in export countries;";
- 10 (g) by the substitution for the definition of "foreign-going ship" of the following definition:  
 " 'foreign-going ship' means—  
 (a) any ship or other vessel engaged in the transportation for reward of passengers or goods wholly or mainly on voyages between ports in the Republic [or a specified country] and ports in export countries or between ports in export countries; or  
 (b) any ship or other vessel registered in an export country where such ship or vessel is utilized for the purposes of a commercial, fishing or other concern conducted outside the Republic [and any specified country] by a person who is not a vendor and is not a resident of the Republic [or any specified country];";
- 15 (h) by the substitution in the definition of "input tax" for paragraph (b) of the following paragraph:  
 "(b) an amount equal to the tax fraction (being the tax fraction applicable at the time of payment) of [any amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of the purchase price, in respect] the lesser of any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic [or a specified country] of any second-hand goods situated in the Republic [or a specified country]: Provided that where [in relation to such supply, the parties are connected persons, such consideration in money shall be deemed to be the amount paid for the goods to the extent that it does not exceed the open market value of such goods] such second-hand goods consist of—
- 20 (i) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable or would have been payable had an exemption from transfer duty (whether in terms of the Transfer Duty Act or any other Act of Parliament) not been applicable; or  
 (ii) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable or would have been payable had an exemption from stamp duty (whether in terms of the Stamp Duties Act or any other Act of Parliament) not been applicable, such amount shall not exceed the amount of transfer duty or stamp duty, as the case may be, which is or would have been payable in respect of such acquisition, original issue or registration of transfer, as the case may be; and";
- 25 (i) by the substitution in the definition of "prescribed rate" for paragraph (a) of the following paragraph:  
 "(a) in the case of interest payable in terms of the provisions of section 39(1)(a)(ii), (2)(b), (3)(b), (4)(b), (5)(b), [and] (6)(b) and (6A), a rate of 1,2 per cent for each month or part of a month contemplated in the said provisions; or";
- 30 (j) by the substitution for the definition of "second-hand goods" of the following definition:  
 " 'second-hand goods' means—  
 (a) goods which were previously owned and used; or  
 (b) in respect of the transfer of a unit in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act, such unit, but does not include [excluding]  
 (i) [livestock] animals; and  
 (ii) gold coins contemplated in section 11(1)(k);";
- 35
- 40
- 45
- 50
- 55
- 60

- (l) deur die omskrywing van "uitvoerland" deur die volgende omskrywing te vervang:  
 "uitvoerland" 'n land behalwe die Republiek [en 'n bepaalde land] en ook 'n plek wat nie in die Republiek [of in 'n bepaalde land] geleë is nie;  
Met dién verstande dat die President by kennisgewing in die Staatskoerant kan bepaal dat 'n spesifieke land of gebied vanaf 'n datum en in die mate vermeld in die kennisgewing, geag word nie 'n uitvoerland te wees nie;"  
 5
- (m) deur in die omskrywing van "voorgeskrewe koers" paragraaf (a) deur die volgende paragraaf te vervang:  
 "(a) in die geval van rente wat ingevolge die bepalings van artikel 39(1)(a)(ii), (2)(b), (3)(b), (4)(b), (5)(b), [en] (6)(b) en (6A) betaalbaar is, 'n koers van 1,2 persent vir elke maand of gedeelte van 'n maand in bedoelde bepalings beoog; of"; en  
 10
- (n) deur na die omskrywing van "werknehmersorganisasie" die volgende omskrywings in te voeg:  
 "Wet op die Beheer van Aandeleblokke" die Wet op die Beheer van Aandeleblokke, 1980 (Wet No. 59 van 1980);  
 'Wet op Hereregt' die Wet op Hereregt, 1949 (Wet No. 40 van 1949);  
 'Wet op Seëlregte' die Wet op Seëlregte, 1968 (Wet No. 77 van 1968);".  
 20
- (2) Subartikel (1)(h) word geag op 30 September 1991 in werking te getree het.  
 15

**Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991 en artikel 13 van Wet 136 van 1992**

10. (1) Artikel 2 van die Hoofwet word hierby gewysig—  
 25  
 (a) deur in subartikel (1) paragraaf (m) te skrap;  
 (b) deur in subartikel (1) paragraaf (n) deur die volgende paragraaf te vervang:  
 "(n) die onderneming om enige van die bedrywighede vermeld in paragrawe (a) tot [(m)] (l) uit te voer [of te reëll]: Met dién verstande dat die diens om advies te voorsien regstreeks in verband met enige van die bedrywighede vermeld in paragrawe (a) tot [(m)] (l), waarvoor 'n afsonderlike vordering gemaak word, nie geag word 'n finansiële diens te wees nie.";  
 30  
 (c) deur in subartikel (2) die omskrywing van "aftreeskema" deur die volgende omskrywing te vervang:  
 "aftreeskema" 'n skema waarby voorsiening gemaak word vir die betaling of verlening van voordele deur 'n bystands fonds, pensioenfonds, uittredingannuiteitsfonds of voorsorgsfonds soos in artikel 1 van die Inkomstebelastingwet omskryf;";  
 35  
 (d) deur in subartikel (2) die omskrywing van "tjek" deur die volgende omskrywing te vervang:  
 "tjek" 'n tjek soos in artikel 1 van die Wet op Seëlregte [1968 (Wet No. 77 van 1968)] omskryf, 'n posorder, 'n poswissel, 'n reisigerstjek of 'n opdrag of magtiging (hetso op skrif, deur 'n elektroniese middel of op 'n ander wyse) aan 'n finansiële instelling om 'n rekening te krediteer of debiteer;"; en  
 40  
 (e) deur in subartikel (4) paragraaf (c) deur die volgende paragraaf te vervang:  
 "(c) die oordrag van 'n belang in of 'n aanspraak op geld wat deur 'n aandeleblokmaatskappy verskuldig is of verskuldig staan te word kragtens sy leningsverpligting, soos omskryf in artikel 1 van die Wet op die Beheer van Aandeleblokke, [1980 (Wet No. 59 van 1980)] aan enigiemand wat 'n aandeelhouer van dié aandeleblokmaatskappy is of sal wees.".  
 45  
 (2) Subartikel (1)(a) en (b) tree op 1 April 1995 in werking.  
 50  
 55

**Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 15 van Wet 136 van 1992 en artikel 24 van Wet 97 van 1993**

11. Artikel 8 van die Hoofwet word hierby gewysig—

- (k) by the substitution for the definition of "share block company" of the following definition:  
 "share block company" means a share block company as defined in section 1 of the Share Blocks Control Act [1980 (Act No. 59 of 1980)];";
- 5 5 (l) by the insertion after the definition of "share block company" of the following definition:  
 "Share Blocks Control Act" means the Share Blocks Control Act, 1980 (Act No. 59 of 1980);";
- 10 (m) by the deletion of the definition of "specified country";
- (n) by the insertion before the definition of "supplier" of the following definition:  
 "Stamp Duties Act" means the Stamp Duties Act, 1968 (Act No. 77 of 1968);";
- 15 (o) by the insertion after the definition of "this Act" of the following definition:  
 "Transfer Duty Act" means the Transfer Duty Act, 1949 (Act No. 40 of 1949);"; and
- 20 (p) by the insertion after the definition of "transfer payment" of the following definition:  
 "transitional metropolitan council" means a transitional metropolitan council as defined in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993);".
- (2) Subsection (1)(c) shall be deemed to have come into operation on 30 September 1991.
- 25 **Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 13 of Act 136 of 1992**
10. (1) Section 2 of the principal Act is hereby amended—  
 (a) by the deletion in subsection (1) of paragraph (m);  
 30 (b) by the substitution in subsection (1) for paragraph (n) of the following paragraph:  
 "(n) agreeing to do [or arranging] any of the activities specified in paragraphs (a) to [(m)] (l): Provided that the service of providing advice directly in connection with any of the activities specified in paragraphs (a) to [(m)] (l), for which a separate fee is charged, shall not be deemed to be a financial service.";
- 35 (c) by the substitution in subsection (2) for the definition of "cheque" of the following definition:  
 "cheque" means a cheque as defined in section 1 of the Stamp Duties Act, [1968 (Act No. 77 of 1968)] a postal order, a money order, a traveller's cheque, or any order or authorization (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;";
- 40 (d) by the substitution in subsection (2) for the definition of "superannuation scheme" of the following definition:  
 "superannuation scheme" means a scheme whereby provision is made for the payment or granting of benefits by a benefit fund, pension fund, provident fund or retirement annuity fund as defined in section 1 of the Income Tax Act.;" and
- 45 (e) by the substitution in subsection (4) for paragraph (c) of the following paragraph:  
 "(c) the transfer of any interest in or right to be paid money that is, or is to be, owing by a share block company under its loan obligation, as defined in section 1 of the Share Blocks Control Act, [1980 (Act No. 59 of 1980)] to any person who is or will be a shareholder of such share block company.".
- 50 (2) Subsection (1)(a) and (b) shall come into operation on 1 April 1995.

**Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992 and section 24 of Act 97 of 1993**

- 60 11. Section 8 of the principal Act is hereby amended—

(a) deur in subartikel (6) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) word ’n streeksdiensteraad, **[of]** gesamentlike diensteraad of metropolitaanse oorgangsraad geag dienste aan ’n persoon te lever ten opsigte van die ander bedrywighede van daardie raad bedoel in paragraaf (c) van genoemde omskrywing waar ’n bedrag aan ’n heffing deur daardie persoon aan daardie raad ingevolge die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985), of die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990 (Wet No. 84 van 1990), na gelang van die geval, betaalbaar is, of waar ’n bedrag van bedoelde heffing ingevolge die Oorgangswet op Plaaslike Regering, 1993, deur ’n metropolitaanse oorgangsraad gehef en gevorder mag word.”;

(b) deur die volgende verdere voorbehoudsbepaling by subartikel (8) te voeg:

“Met dien verstande voorts dat hierdie subartikel nie van toepassing is nie ten opsigte van ’n betaling van skadeloosstelling deur ’n ondernemer kragtens ’n versekeringskontrak ontvang vir sover daardie betaling betrekking het op die algehele herinbesitstelling van goed, wat gesteel is of buite ekonomiese herstel beskadig is, ten opsigte van die verkryging waarvan deur die ondernemer ’n aftrekking van insetbelasting kragtens artikel 16(3) ontsê is ingevolge artikel 17(2) of ontsê sou gewees het indien daardie artikels voor die aanvangsdatum van toepassing was.”;

(c) deur in subartikel (17) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) By die toepassing van hierdie Wet, waar, tesame met die lewering van ’n aandeel waarna in die omskrywing van ‘vasgoed’ in artikel 1 verwys word, enige bedrag van die leningsverpligting, soos omskryf in artikel 1 van die Wet op die Beheer van Aandeleblokke, **[1980 (Wet No. 59 van 1980)]** van die aandeleblokmaatskappy toegedeel word soos beoog in artikel 14 van daardie Wet, of enige bedrag van die leningsverpligting aldus toegedeel gedelegeer word, of enige belang in of aanspraak op geld wat deur die aandeleblokmaatskappy verskuldig is of verskuldig staan te word kragtens sy leningsverpligting, aan ’n persoon wat ’n aandeelhouer van bedoelde aandeleblokmaatskappy is of sal wees, oorgedra word, word bedoelde toedeling, delegering of oordrag, na gelang van die geval, geag deel uit te maak van die lewering van daardie aandeel.”;

(d) deur in subartikel (18) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“By die toepassing van die omskrywing van ‘insetbelasting’ in artikel 1 en artikel 18(4) en (5), soos van toepassing op ’n aandeleblokmaatskappy, word enige belasbare lewering van ’n aandeel in subartikel (17) vermeld wat op of na ’n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal deur ’n aandeleblokontwikkelaar gedoen word waar bedoelde aandeel ’n aandeel in ’n aandeleblokskema is ten opsigte waarvan daardie ontwikkelaar ’n aandeleblokontwikkelaar soos beoog in artikel 1 van die Wet op die Beheer van Aandeleblokke **[1980]** is, geag deur die aandeleblokmaatskappy ten aansien waarvan daardie ontwikkelaar ’n aandeleblokontwikkelaar is, gedoen te gewees het, vir sover—”; en

(e) deur die volgende subartikel by te voeg:

“(19) By die toepassing van hierdie Wet, waar ’n lewering van—

- (a) goed bestaande uit ’n eenheid deur ’n aandeleblokmaatskappy gedoen word; of
- (b) dienste bestaande uit die afstanddoening van regte teenoor ’n aandeleblokmaatskappy aan daardie aandeleblokmaatskappy gedoen word,

in die omstandighede waarna in Item 8 van Bylae 1 by die Wet op die Beheer van Aandeleblokke verwys word, word daardie lewering geag anders as in die loop of ter bevordering van ’n onderneming gedoen te gewees het.”.

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- 5 (a) by the substitution in subsection (6) for paragraph (b) of the following paragraph:

“(b) a regional services council, [or] joint services board or transitional metropolitan council shall be deemed to supply services to a person in respect of the other activities of that council or board referred to in paragraph (c) of the said definition where any amount of any levy is payable by that person to such council or board in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), as the case may be, or where any amount of such levy may in terms of the Local Government Transition Act, 1993, be levied and claimed by a transitional metropolitan council.”;

- 10 (b) by the addition to subsection (8) of the following further proviso:

15 “Provided further that this subsection shall not apply in respect of any indemnity payment received by a vendor under a contract of insurance to the extent that such payment relates to the total reinstatement of goods, stolen or damaged beyond economic repair, in respect of the acquisition of which by the vendor a deduction of input tax under section 16(3) was denied in terms of section 17(2) or would have been denied if these sections had been applicable prior to the commencement date.”;

- 20 (c) by the substitution in subsection (17) for paragraph (a) of the following paragraph:

25 “(a) For the purposes of this Act, where, together with the supply of a share referred to in the definition of ‘fixed property’ in section 1, any amount of the loan obligation, as defined in section 1 of the Share Blocks Control Act, [1980 (Act No. 59 of 1980)] of the share block company is allocated as contemplated in section 14 of that Act, or any amount of the loan obligation thus allocated is delegated, or any interest in or right to be paid money that is, or is to be, owing by the share block company under its loan obligation is transferred to any person who is or will be a shareholder of such share block company, such allocation, delegation or transfer, as the case may be, shall be deemed to form part of the supply of such share.”;

- 30 (d) by the substitution in subsection (18) for the words preceding paragraph (a) of the following words:

35 “For the purposes of the definition of ‘input tax’ in section 1 and section 18(4) and (5), as applicable to any share block company, any taxable supply of a share referred to in subsection (17) made on or after a date fixed by the Minister by notice in the *Gazette* by a share block developer where such share is a share in a share block scheme in respect of which that developer is a share block developer as contemplated in section 1 of the Share Blocks Control Act, [1980] shall be deemed to have been made by the share block company in relation to which that developer is a share block developer, to the extent that—”; and

- 40 (e) by the addition of the following subsection:

45 “(19) For the purposes of this Act, where any supply of—

50 (a) goods consisting of a unit is made by a share block company; or

55 (b) services comprising the waiving of rights against a share block company is made to that share block company, in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act, such supply shall be deemed to have been made otherwise than in the course or furtherance of an enterprise.”,

**Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992 en artikel 26 van Wet 97 van 1993**

**12. Artikel 10 van die Hoofwet word hierby gewysig—**

(a) deur subartikel (20) deur die volgende subartikel te vervang:

“(20) Waar ’n teken, bewys of seël deur ’n ondernemer teen geen vergoeding uitgereik word en die besitter daarvan geregtig is by afgee daarvan aan ’n ander persoon, wat die leweraar van goed of dienste is, op ’n afslag op die prys van goed of dienste aan die besitter gelewer, word die **[waarde van]** vergoeding in geld vir die levering van daardie goed of dienste geag die geldwaarde wat op bedoelde teken, bewys of seël vermeld word, **[uit]** in te sluit: Met dien verstande dat daardie geldwaarde geag word belasting in te sluit.”; en

(b) deur subartikel (21A) deur die volgende subartikel te vervang:

“(21A) Waar enige levering van mediese of tandheelkundige dienste of ander goed of dienste gedoen word soos beoog in artikel 17(2)(d), deur ’n **[fonds]** skema waarna in daardie artikel verwys word, word die waarde van daardie levering geag nul te wees.”.

**Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992 en artikel 27 van Wet 97 van 1993**

**13. Artikel 11 van die Hoofwet word hierby gewysig—**

(a) deur in subartikel (1) paragraaf (e) deur die volgende paragraaf te vervang:

“(e) die levering is aan ’n geregistreerde ondernemer van ’n onderneming of van ’n gedeelte van ’n onderneming wat afsonderlik bedryf kan word, waar die leweraar en die ontvanger skriftelik ooreengekom het dat daardie onderneming of gedeelte, na gelang van die geval, as ’n lopende saak van die hand gesit word: Met dien verstande dat—

(i) daardie onderneming of gedeelte, na gelang van die geval, nie as ’n lopende saak van die hand gesit word nie tensy—

(aa) daardie leweraar en daardie ontvanger, tydens die aangaan van die ooreenkoms vir die vandiehandsetting van die onderneming of gedeelte, na gelang van die geval, skriftelik ooreengekom het dat daardie onderneming of gedeelte, na gelang van die geval, ’n inkomsteverdienende bedrywigheid sal wees op die datum van oordrag daarvan; en

(bb) die bates wat nodig is om daardie onderneming of gedeelte, na gelang van die geval, te bedryf, van die hand gesit word deur daardie leweraar aan daardie ontvanger;

(ii) waar die onderneming of gedeelte, na gelang van die geval, wat as ’n lopende saak van die hand gesit word bedryf is in, op of met betrekking tot goed of dienste wat hoofsaaklik vir doeleindes van daardie onderneming of gedeelte, na gelang van die geval, en gedeeltelik vir ander doeleindes aangewend is, word daardie goed of dienste, waar aan daardie ontvanger van die hand gesit, by die toepassing van hierdie paragraaf en artikel 18A geag deel uit te maak van daardie onderneming of gedeelte, na gelang van die geval, ondanks die bepalings van paragraaf (v) van die voorbehoudsbepaling by die omskrywing van ‘onderneming’ in artikel 1; of”;

(b) deur in subartikel (1) paragraaf (f) deur die volgende paragraaf te vervang:

“(f) die levering is aan die Suid-Afrikaanse Reserwebank, die Suid-Afrikaanse Muntnaatskappy (Eiendoms) Beperk of ’n **[depositonemende instelling]** bank ingevolge die **[Wet op Depositonemende Instellings]** Bankwet, 1990 (Wet No. 94 van 1990), geregistreer, van

**Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992 and section 26 of Act 97 of 1993**

**12. Section 10 of the principal Act is hereby amended—**

- 5      (a) by the substitution for subsection (20) of the following subsection:  
 “(20) Where any token, voucher or stamp is issued by any vendor for no consideration and the holder thereof is entitled on surrender thereof to [a] another person, being the supplier of goods or services, to a discount on the price of goods or services supplied to the holder, the [value of] consideration in money for the supply of such goods or services shall be deemed to [exclude] include the monetary value stated on such token, voucher or stamp: Provided that such monetary value shall be deemed to include tax.”; and
- 10     (b) by the substitution for subsection (21A) of the following subsection:  
 “(21A) Where any supply of medical or dental services or other goods or services is made as contemplated in section 17(2)(d) by a [fund] scheme referred to in that section, the value of such supply shall be deemed to be nil.”.
- 15

**20 Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992 and section 27 of Act 97 of 1993**

**13. Section 11 of the principal Act is hereby amended—**

- 25     (a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:  
 “(e) the supply is to a registered vendor of an enterprise or of a part of an enterprise which is capable of separate operation, where the supplier and the recipient have agreed in writing that such enterprise or part, as the case may be, is disposed of as a going concern: Provided that—  
 (i) such enterprise or part, as the case may be, shall not be disposed of as a going concern unless—  
     (aa) such supplier and such recipient have, at the time of the conclusion of the agreement for the disposal of the enterprise or part, as the case may be, agreed in writing that such enterprise or part, as the case may be, will be an income-earning activity on the date of transfer thereof; and  
     (bb) the assets which are necessary for carrying on such enterprise or part, as the case may be, are disposed of by such supplier to such recipient;  
 (ii) where the enterprise or part, as the case may be, disposed of as a going concern has been carried on in, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph and section 18A be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of ‘enterprise’ in section 1; or”;  
 (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:  
 “(f) the supply is to the South African Reserve Bank, the South African Mint Company (Proprietary) Limited or any [deposit-taking institution] bank registered under the [Deposit-taking Institutions] Banks Act, 1990 (Act No. 94 of 1990), of gold in the
- 30
- 35
- 40
- 45
- 50
- 55

- goud in die vorm van stawe, blancko munte, gietblokke, knope, draad, plaat of korreltjies of in oplossing, wat nie 'n vervaardigingsproses ondergaan het nie behalwe die raffinering daarvan of die vervaardiging of produksie van bedoelde stawe, blancko munte, gietblokke, knope, draad, plaat, korreltjies of oplossing; of"; 5
- (c) deur in subartikel (2) subparagraphe (i), (ii) en (iii) van paragraaf (a) deur onderskeidelik die volgende subparagraphe te vervang:
- "(i) van 'n plek buite die Republiek **[en bepaalde lande]** na 'n ander plek buite die Republiek **[en daardie lande]**; of
  - (ii) van 'n plek in die Republiek **[of 'n bepaalde land]** na 'n plek in 'n uitvoerland; of
  - (iii) van 'n plek in 'n uitvoerland na 'n plek in die Republiek **[of 'n bepaalde land]**; of"; 10
- (d) deur in subartikel (2) paragraaf (b) deur die volgende paragraaf te vervang:
- "(b) die dienste bestaan uit die vervoer van passasiers van 'n plek in die Republiek **[of 'n bepaalde land]** na 'n ander plek in die Republiek **[of 'n bepaalde land]**, vir sover daardie vervoer per lugvaartuig is en 'internasionale vervoer' uitmaak soos omskryf in Artikel 1 van die Konvensie uiteengesit in die Bylae by die Wet op Lugvervoer, 1946 (Wet No. 17 van 1946); of"; 20
- (e) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:
- "(c) die dienste (met inbegrip van enige aanvullende vervoerdienste) bestaan uit die vervoer van goed van 'n plek in die Republiek **[of 'n bepaalde land]** na 'n ander plek in die Republiek **[of 'n bepaalde land]**, vir sover daardie dienste deur dieselfde leweraar gelewer word as deel van die levering van dienste waarop paragraaf (a) van toepassing is; of"; 25
- (f) deur in subartikel (2) paragraaf (e) deur die volgende paragraaf te vervang:
- "(e) die dienste bestaan uit die vervoer van goed of enige aanvullende vervoerdienste wat gelewer word regstreeks in verband met die uitvoer uit of die invoer in die Republiek **[of 'n bepaalde land]** van goed of die beweging van goed deur die Republiek **[of 'n bepaalde land]** van 'n uitvoerland na 'n ander uitvoerland, waar daardie dienste gelewer word regstreeks aan 'n persoon wat nie 'n inwoner van die Republiek is nie **[nie in 'n bepaalde land woonagtig is nie en nie aldaar besigheid dryf nie]** en nie 'n ondernemer is nie, behalwe deur 'n agent of 'n ander persoon; of"; 30
- (g) deur in subartikel (2) subparagraphe (i) van paragraaf (h) deur die volgende subparagraphe te vervang:
- "(i) die bediening, loodsing, berging of slepery van enige skip op vreemde vaart of lugvaartuig op vreemde vaart geleë in die Republiek **[of 'n bepaalde land]**; of"; 35
- (h) deur in subartikel (2) die woorde in paragraaf (h) wat op subparagraphe (iii) volg deur die volgende woorde te vervang:
- "waar die dienste gelewer word regstreeks aan 'n persoon wat nie 'n inwoner van die Republiek is nie **[nie in 'n bepaalde land woonagtig is nie en nie aldaar besigheid dryf nie]** en nie 'n ondernemer is nie, behalwe deur 'n agent of 'n ander persoon; of"; 40
- (i) deur in subartikel (2) subparagraphe (iii) van paragraaf (i) en die woorde wat op daardie subparagraphe volg deur onderskeidelik die volgende subparagraphe en woorde te vervang:
- "(iii) die vervoer van goed (met inbegrip van aanvullende vervoerdienste) binne die Republiek **[en die bepaalde lande]**, vir 'n persoon wat nie 'n inwoner van die Republiek is nie **[nie in 'n bepaalde land woonagtig is nie en nie aldaar besigheid dryf nie]** en nie 'n ondernemer is nie; of"; 50
- (j) deur in subartikel (2) paragraaf (j) deur die volgende paragraaf te vervang:

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- 5 form of bars, blank coins, ingots, buttons, wire, plate or granules or in solution, which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of such bars, blank coins, ingots, buttons, wire, plate, granules or solution; or";
- 10 (c) by the substitution in subsection (2) for subparagraphs (i), (ii) and (iii) of paragraph (a) of the following paragraphs, respectively:
- "(i) from a place outside the Republic [and specified countries] to another place outside the Republic [and such countries]; or
  - (ii) from a place in the Republic [or a specified country] to a place in an export country; or
  - (iii) from a place in an export country to a place in the Republic [or a specified country]; or";
- 15 (d) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
- "(b) the services comprise the transport of passengers from a place in the Republic [or a specified country] to another place in the Republic [or a specified country] to the extent that that transport is by aircraft and constitutes 'international carriage' as defined in Article 1 of the Convention set out in the Schedule to the Carriage by Air Act, 1946 (Act No. 17 of 1946); or";
- 20 (e) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
- "(c) the services (including any ancillary transport services) comprise the transport of goods from a place in the Republic [or a specified country] to another place in the Republic [or a specified country] to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or";
- 25 (f) by the substitution in subsection (2) for paragraph (e) of the following paragraph:
- "(e) the services comprise the transport of goods or any ancillary transport services supplied directly in connection with the exportation from or the importation into the Republic [or a specified country] of goods or the movement of goods through the Republic [or any specified country] from one export country to another export country, where such services are supplied directly to a person who is not a resident of the Republic [is not resident nor carrying on business in a specified country] and is not a vendor, otherwise than through an agent or other person; or";
- 30 (g) by the substitution in subsection (2) for subparagraph (i) of paragraph (h) of the following subparagraph:
- "(i) the handling, pilotage, salvage or towage of any foreign-going ship or foreign-going aircraft while situated in the Republic [or a specified country]; or";
- 35 (h) by the substitution in subsection (2) for the words in paragraph (h) following upon subparagraph (iii) of the following words:
- "where the services are supplied directly to a person who is not a resident of the Republic [is not resident nor carrying on business in a specified country] and is not a vendor, otherwise than through an agent or other person; or";
- 40 (i) by the substitution in subsection (2) for subparagraph (iii) of paragraph (i) and the words following upon that subparagraph of the following subparagraph and words, respectively:
- "(iii) the transport of goods (including ancillary transport services) within the Republic [and the specified countries], for a person who is not a resident of the Republic [is not resident nor carrying on business in a specified country] and is not a vendor; or";
- 45 (j) by the substitution in subsection (2) for paragraph (j) of the following paragraph:

- "(j) die dienste bestaan uit die herstel, instandhouding, skoonmaak of vernuwing van 'n spoorwegtrein wat in bedryf gestel word deur 'n persoon wat nie 'n inwoner van die Republiek is nie [**[nie in 'n bepaalde land woonagtig is nie en nie aldaar besigheid dryf nie]**] en nie 'n ondernemer is nie; of";
- (k) deur in subartikel (2) paragraaf (k) deur die volgende paragraaf te vervang:
- "(k) die dienste fisies elders as in die Republiek [**of 'n bepaalde land]** gelewer word; of";
- (l) deur in subartikel (2) paragraaf (l) deur die volgende paragraaf te vervang:
- "(l) die dienste gelewer word vir en aan 'n persoon wat nie 'n inwoner van die Republiek [**of 'n bepaalde land]** is nie en wat buite die Republiek [**en die bepaalde lande**] is op die tydstip waarop die dienste gelewer word, behalwe dienste gelewer regstreeks in verband met—
- (i) grond of verbeterings daarop geleë in die Republiek [**of 'n bepaalde land]**; of
- (ii) roerende eiendom wat in die Republiek [**of 'n bepaalde land]** geleë is op die tydstip waarop die dienste gelewer word, behalwe roerende eiendom wat—
- (aa) ná die lewering van daardie dienste na daardie persoon uitgevoer word; of
- (bb) deel uitmaak van 'n lewering deur daardie persoon aan 'n geregistreerde ondernemer en daardie dienste aan daardie persoon gelewer word vir doeleindes van daardie lewering aan die geregistreerde ondernemer,
- en wat nie dienste is nie wat bestaan uit die aanvaarding van 'n verpligting deur iemand om hom te weerhou van die bedryf van 'n onderneming, vir sover die bedryf van daardie onderneming binne die Republiek [**of 'n bepaalde land]** sou plaasgevind het; of";
- (m) deur in subartikel (2) subparagraph (i) van paragraaf (m) deur die volgende subparagraph te vervang:
- "(i) die indiening, voortsetting, verlening, instandhouding, oordrag, assignasie, lisensiëring of afdwinging, met inbegrip van die samehangende lewering deur die leweraar van daardie dienste van enige ander dienste wat noodsaaklik is vir die lewering van daardie dienste, van intellektuele eiendomsregte, met inbegrip van patente, modelle, handelsmerke, uteursregte, bedrewenheid, vertroulike inligting, handelsgeheime of dergelyke regte; of"; en
- (n) deur in subartikel (2) die woorde in paragraaf (m) wat op subparagraph (ii) volg deur die volgende woorde te vervang:
- "waar en vir sover dié regte vir gebruik buite die Republiek [**en 'n bepaalde land]** is; of".

**Wysiging van artikel 12 van Wet 89 van 1991, soos gewysig deur artikel 28 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 18 van Wet 136 van 1992 en artikel 28 van Wet 97 van 1993**

50

**14. Artikel 12 van die Hoofwet word hierby gewysig—**

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

"(a) Die lewering van enige finansiële dienste, met inbegrip van die samehangende lewering van enige ander goed of dienste gelewer deur die leweraar van daardie finansiële dienste waar die lewering van bedoelde ander goed of dienste noodsaaklik is vir die lewering van daardie finansiële dienste, maar uitgesonderd die lewering van finansiële dienste of bedoelde samehangende lewering van ander goed of dienste wat, by ontstentenis van hierdie paragraaf, aan belasting teen die koers van nul persent kragtens artikel [**11(2)**] 11 onderworpe sou wees;"; en

55

60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- “(j) the services comprise the repair, maintenance, cleaning or reconditioning of a railway train operated by a person who is not a resident of the Republic [is not resident nor carrying on business in a specified country] and is not a vendor; or”;
5. (k) by the substitution in subsection (2) for paragraph (k) of the following paragraph:
- “(k) the services are physically rendered elsewhere than in the Republic [or a specified country]; or”;
- 10 (l) by the substitution in subsection (2) for paragraph (l) of the following paragraph:
- “(l) the services are supplied for and to a person who is not a resident of the Republic [or a specified country] and who is outside the Republic [and the specified countries] at the time the services are rendered, not being services which are supplied directly in connection with—
- (i) land or any improvement thereto situated inside the Republic [or a specified country]; or
- (ii) movable property situated inside the Republic [or a specified country] at the time the services are rendered, except movable property which—
- (aa) is exported to the said person subsequent to the supply of such services; or
- (bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor,
- 25 and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic [or a specified country]; or”;
- (m) by the substitution in subsection (2) for subparagraph (i) of paragraph (m) of the following subparagraph:
- 30 “(i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement, including the incidental supply by the supplier of such services of any other services which are necessary for the supply of such services, of intellectual property rights, including patents, designs, trade marks, copyrights, know-how, confidential information, trade secrets or similar rights; or”;
- 35 (n) by the substitution in subsection (2) for the words in paragraph (m) following upon subparagraph (ii) of the following words:
- 40 “where and to the extent that those rights are for use outside the Republic [and a specified country]; or”.

45 Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 18 of Act 136 of 1992 and section 28 of Act 97 of 1993

14. Section 12 of the principal Act is hereby amended—

- 50 (a) by the substitution for paragraph (a) of the following paragraph:
- “(a) The supply of any financial services, including the incidental supply of any other goods or services supplied by the supplier of those financial services where the supply of such other goods or services is necessary for the supply of those financial services but excluding a supply of financial services or such incidental supply of other goods or services which, but for this paragraph, would be charged with tax at the rate of zero per cent under section [11(2)] 11;; and

Wet No. 20, 1994

## WYSIGINGSWET OP BELASTINGWETTE, 1994

- (b) deur in paragraaf (h) item (bb) van subparagraaf (i) deur die volgende item te vervang:  
 “(bb) in ’n teknikon wat kragtens [die Wet op Gevorderde Tegniese Onderwys, 1967 (Wet No. 40 van 1967), of] ’n [ander] Wet van die Parlement ingestel is of geag word daarkragtens ingestel te gewees het of as sodanig verklaar is; of”.

**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 en artikel 29 van Wet 97 van 1993**

**15. Artikel 13 van die Hoofwet word hierby gewysig—**

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

“Met dien verstande voorts dat goed wat van Botswana, Lesotho, Swaziland en Namibië ingevoer word, by binnekoms in die Republiek ooreenkomsig die procedures en op die plek wat [genoemde] die Kommissaris van Doeane en Aksyns by reël 15 voorskryf, verklaar word en belasting aan ’n beampte aangewys deur [die] genoemde Kommissaris [van Doeane en Aksyns] betaal word.”; en

- (b) deur in subartikel (3) paragraaf (ii) van die voorbehoudsbepaling te skrap.

20

**Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur artikel 30 van Wet 136 van 1991, artikel 21 van Wet 136 van 1992 en artikel 30 van Wet 97 van 1993**

**16. Artikel 16 van die Hoofwet word hierby gewysig—**

- (a) deur in subartikel (3) subparagraaf (ii) van paragraaf (a) deur die volgende subparagraaf te vervang:

“(ii) ten opsigte van lewerings van tweedehandse goed waarop die bepalings van paragraaf (b) van die omskrywing van ‘insetbelasting’ in artikel 1 van toepassing is, vir sover betaling van vergoeding, wat ’n verpligting (hetsy ’n bestaande verpligting of ’n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, hetsy regstreeks of onregstreeks, die koopprys [verminder of nakom] ten opsigte van daardie lewerings verminder of nakom, gedurende daardie belastingtydperk gedaan is: Met dien verstande dat waar daardie tweedehandse goed bestaan uit—

(aa) vasgoed ten opsigte van die verkryging waarvan hereregte ingevolge die Wet op Hereregte betaalbaar is; of

(bb) ’n aandeel in ’n aandeleblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is,

daardie insetbelasting afgetrek word slegs nadat daardie hereregte of seëlreg, na gelang van die geval, betaal is;”;

- (b) deur in subartikel (3) subparagraaf (i) van paragraaf (b) deur die volgende subparagraaf te vervang:

“(i) ten opsigte van lewerings van goed en dienste aan die ondernemer gedaan ten opsigte waarvan die bepalings van artikel 9(1), 9(3)(a), 9(3)(b), 9(3)(d) of 9(4) van toepassing is, vir sover betalings van vergoeding wat ’n verpligting (hetsy ’n bestaande verpligting of ’n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, hetsy regstreeks of onregstreeks, die koopprys [verminder of nakom] ten opsigte van daardie lewerings verminder of nakom, gedurende die belastingtydperk gedaan is: Met dien verstande dat die bedrag

waarna in paragraaf (b) van die omskrywing van ‘insetbelasting’ in artikel 1 verwys word ten opsigte van ’n lewering van tweedehandse goed wat bestaan uit—

(aa) vasgoed ten opsigte van die verkryging waarvan hereregte ingevolge die Wet op Hereregte betaalbaar is; of

35

25

30

40

45

50

55

- 5 (b) by the substitution in paragraph (h) for item (bb) of subparagraph (i) of the following item:  
 “(bb) in any technikon established or deemed to have been established or declared to be such under [the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), or] any [other] Act of Parliament; or”.

**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 and section 29 of Act 97 of 1993**

- 10 15. Section 13 of the principal Act is hereby amended—  
 (a) by the substitution in subsection (1) of the Afrikaans text for the third proviso of the following proviso:  
 “Met dien verstande voorts dat goed wat van Botswana, Lesotho, Swaziland en Namibië ingevoer word, by binnekoms in die Republiek ooreenkomsdig die procedures en op die plek wat [genoemde] die Kommissaris van Doeane en Aksyns by reël voorskryf, verklaar word en belasting aan 'n beampete aangewys deur [die] genoemde Kommissaris [van Doeane en Aksyns] betaal word.”; and  
 (b) by the deletion in subsection (3) of paragraph (ii) of the proviso.
- 20 25 30 35 40 45 50 55
- 20 Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992 and section 30 of Act 97 of 1993
16. Section 16 of the principal Act is hereby amended—  
 (a) by the substitution in subsection (3) for subparagraph (ii) of paragraph (a) of the following subparagraph:  
 “(ii) in respect of supplies of second-hand goods to which paragraph (b) of the definition of ‘input tax’ in section 1 applies, to the extent that payment of consideration, which reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the purchase price in respect of those supplies, has been made during that tax period: Provided that where such second-hand goods consist of—  
 (aa) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or  
 (bb) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable, such input tax shall be deducted only after such transfer duty or stamp duty, as the case may be, has been paid;”;  
 (b) by the substitution in subsection (3) for subparagraph (i) of paragraph (b) of the following subparagraph:  
 “(i) in respect of supplies of goods and services made to the vendor in respect of which the provisions of section 9(1), 9(3)(a), 9(3)(b), 9(3)(d) or 9(4) apply, to the extent that payments of consideration, which reduce or discharge any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the purchase price in respect of such supplies, have been made during the tax period: Provided that the amount referred to in paragraph (b) of the definition of ‘input tax’ in section 1 in respect of a supply of second-hand goods which consist of—  
 (aa) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or

- (bb) 'n aandeel in 'n aandeleblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is, agetrek word slegs nadat daardie hereregte of seëlreg, na gelang van die geval, betaal is;'; 5
- (c) deur in subartikel (3) subparagraph (iv) van paragraaf (c) deur die volgende subparagraph te vervang:
- (iv) nie van toepassing is nie waar daardie betaling 'n resultaat is van die lewering van goed of dienste aan daardie ander persoon waar daardie goed buite die Republiek is of daardie dienste fisies elders as in die Republiek **[of 'n bepaalde land]** verrig word ten tyde van daardie lewering;'; 10
- (d) deur in subartikel (3) aan die einde van paragraaf (g) die woord "en" te skrap; 15
- (e) deur in subartikel (3) die woorde in paragraaf (h) wat die formule voorafgaan deur die volgende woorde te vervang:
- "in die geval van 'n ondernemer wat goed of dienste gelewer het **[of wat ingevolge artikel 18(1) geag word]** gedurende daardie belastingtydperk **[goed of dienste te gelewer het]**, behalwe ingevolge artikel 18(2), 'n bedrag vasgestel ooreenkomsdig die formule"; 20
- (f) deur in subartikel (3) aan die einde van paragraaf (h) die woord "en" by te voeg; 25
- (g) deur in subartikel (3) die volgende paragraaf na paragraaf (h) in te voeg:
- "(i) 'n bedrag gelyk aan die belastingbreukdeel van enige betaling gedoen deur die ondernemer gedurende die belastingtydperk ten opsigte van die aflossing by hom, of sy agent, van die geldwaarde van 'n teken, bewys of seël beoog in artikel 10(20), aan 'n leweraar van goed of dienste wat 'n afslag toegestaan het by die afgee aan hom van daardie teken, bewys of seël deur 'n ontvanger van 'n lewering van goed of dienste'"; en 30
- (h) deur in subartikel (4) subparagraph (i) van paragraaf (b) deur die volgende subparagraph te vervang:
- "(i) vir sover betaling van vergoeding, wat 'n verpligting (het sy 'n bestaande verpligting of 'n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, het sy regstreeks of onregstreeks, die koopprys verminder of nakom, deur die ondernemer gedurende die belastingtydperk ontvang is ten opsigte van die lewering van goed of dienste ten opsigte waarvan die bepalings van artikel 9(1), 9(3)(a), 9(3)(b), 9(3)(d), 9(4), 21(2)(a) of 21(6) van toepassing is;"; 35
- 40 -

**Wysiging van artikel 17 van Wet 89 van 1991, soos gewysig deur artikel 31 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 22 van Wet 136 van 1992 en artikel 31 van Wet 97 van 1993**

17. Artikel 17 van die Hoofwet word hierby gewysig deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:
- "(d) ten opsigte van enige goed of dienste verkry deur 'n **[fonds]** afreeskema waarna in **[paragraaf (c) van die omskrywing van 'bystandsfonds' in artikel 1 van die Inkomstebelastingwet]** artikel 2 verwys word, vir die doeleindes van die lewering deur bedoelde **[fonds]** skema van enige mediese of tandheelkundige dienste of dienste regstreeks gekoppel aan daardie mediese of tandheelkundige dienste of van enige goed wat nodig is vir of ondergeskik is aan of samehangend is met die lewering van enige bedoelde dienste.".
- 45
- 50

**Wysiging van artikel 18 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 23 van Wet 136 van 1992 en artikel 32 van Wet 97 van 1993** 55

18. Artikel 18 van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (4) subparagrafe (i), (ii) en (iii) van paragraaf (b) deur onderskeidelik die volgende subparagrafe te vervang:

- 5
- (bb) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable, shall be deducted only after such transfer duty or stamp duty, as the case may be, has been paid;”;
- 10 (c) by the substitution in subsection (3) for subparagraph (iv) of paragraph (c) of the following subparagraph:
- “(iv) shall not apply where that payment results from a supply of goods or services to that other person where those goods are situated outside the Republic or those services are physically performed elsewhere than in the Republic [or a specified country] at the time of that supply;”;
- 15 (d) by the deletion in subsection (3) at the end of paragraph (g) of the word “and”;
- (e) by the substitution in subsection (3) for the words in paragraph (h) preceding the formula of the following words:
- “in the case of a vendor who has supplied goods or services [or who is deemed to have supplied goods or services] during that tax period [in terms of section 18(1)], otherwise than in terms of section 18(2), an amount determined in accordance with the formula”;
- 20 (f) by the addition in subsection (3) at the end of paragraph (h) of the word “and”;
- 25 (g) by the insertion in subsection (3) after paragraph (h) of the following paragraph:
- “(i) an amount equal to the tax fraction of any payment made by the vendor during the tax period in respect of the redemption with him, or his agent, of the monetary value of any token, voucher or stamp contemplated in section 10(20), to a supplier of goods or services who has granted a discount on the surrender to him of such token, voucher or stamp by a recipient of a supply of goods or services;”; and
- 30 (h) by the substitution in subsection (4) for subparagraph (i) of paragraph (b) of the following subparagraph:
- 35 (i) to the extent that payment of consideration, which reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the purchase price, has been received by the vendor during the tax period in respect of a supply of goods or services in respect of which the provisions of section 9(1), 9(3)(a), 9(3)(b), 9(3)(d), 9(4), 21(2)(a) or 21(6) apply.”;
- 40

**45 Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992 and section 31 of Act 97 of 1993**

50 **17.** Section 17 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (d) of the following paragraph:

- “(d) in respect of any goods or services acquired by a [fund] superannuation scheme referred to in [paragraph (c) of the definition of ‘benefit fund’ in section 1 of the Income Tax Act] section 2, for the purposes of the supply by such [fund] scheme of any medical or dental services or services directly connected with such medical or dental services or of any goods necessary for or subordinate or incidental to the supply of any such services.”.

**55 Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 23 of Act 136 of 1992 and section 32 of Act 97 of 1993**

**18.** Section 18 of the principal Act is hereby amended—

- 60 (a) by the substitution in subsection (4) for subparagraphs (i), (ii) and (iii) of paragraph (b) of the following subparagraphs, respectively:

- (i) goed of dienste gelewer is aan of ingevoer is deur 'n persoon op of na die aanvangsdatum en belasting ten opsigte van daardie lewering of invoer gehef is; of
- (ii) goed deur hom vervaardig, gemonteer, opgerig of geproduseer is op of na die aanvangsdatum en belasting gehef is ten opsigte van die lewering van goed of dienste deur hom verkry vir doeleindes van daardie vervaardiging, montering, oprigting of produksie; of
- (iii) goed of dienste ingevolge subartikel (1) of artikel 8(2) geag word [aan] deur hom gelewer te gewees het;";
- (b) deur in subartikel (4) aan die einde van paragraaf (b) die woord "en" deur die woord "of" te vervang;
- (c) deur in subartikel (4) die volgende paragraaf na paragraaf (b) in te voeg:  
" (c) tweedehandse goed wat in die Republiek geleë is, gelewer is (behalwe kragtens 'n belasbare lewering) aan 'n persoon kragtens 'n verkoop op of na die aanvangsdatum deur 'n inwoner van die Republiek en geen aftrekking ingevolge artikel 16(3) ten opsigte van daardie tweedehandse goed gedoen is nie; en";
- (d) deur in subartikel (4) die formule " $A \times B \times C$ " deur die formule " $A \times B \times C \times D$ " te vervang;
- (e) deur in subartikel (4) aan die einde van subparagraph (ii) van die paragraaf wat die betekenis van die simbool "B" omskryf die woord "en" te skrap;
- (f) deur in subartikel (4) aan die einde van die paragraaf wat die betekenis van die simbool "C" omskryf die woord "en" by te voeg;
- (g) deur in subartikel (4) die volgende woorde by te voeg:  
" D, waar paragraaf (c) van toepassing is, die verhouding voorstel waarin die bedrag betaal, welke betaling 'n verpligting (het sy 'n bestaande verpligting of 'n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, het sy regstreeks of onregstreeks, die vergoeding in geld vir die lewering van tweedehandse goed verminder of nakom, tot die totale vergoeding in geld staan, uitgedruk as 'n persentasie:
- Met dien verstande dat—
- (i) paragraaf (b) van hierdie subartikel nie van toepassing is nie waar 'n ondernemer, slegs as gevolg daarvan dat hy nie die bepalings van artikel 16(2) nagekom het nie, nie ingevolge artikel 16(3) geregtig was om 'n aftrekking van insetbelasting te doen nie;
- (ii) waar die tweedehandse goed waarna in paragraaf (c) van hierdie subartikel verwys word, bestaan uit—  
(aa) vasgoed ten opsigte van die verkryging waarvan heregtele ingevolge die Wet op Hereregte betaalbaar is of betaalbaar sou gewees het indien 'n vrystelling van hereregte (het sy ingevolge die Wet op Hereregte of 'n ander Wet van die Parlement) nie van toepassing was nie; of  
(bb) 'n aandeel in 'n aandeleblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg, ingevolge die Wet op Seëlregte, betaalbaar is of betaalbaar sou gewees het indien 'n vrystelling van seëlreg (het sy ingevolge die Wet op Seëlregte of 'n ander Wet van die Parlement) nie van toepassing was nie, die bedrag vasgestel ingevolge hierdie subartikel nie die bedrag hereregte of seëlreg, na gelang van die geval, wat ten opsigte van daardie verkryging, oorspronklike uitreiking of registrasie van oordrag, na gelang van die geval, betaalbaar is of sou gewees het, te bowe gaan nie;
- (iii) waar die tweedehandse goed waarna in paragraaf (c) van hierdie subartikel verwys word, bestaan uit—  
(aa) vasgoed ten opsigte van die verkryging waarvan heregtele ingevolge die Wet op Hereregte betaalbaar is; of

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- 5
- (i) goods or services have been supplied to or imported by a person on or after the commencement date and tax has been charged in respect of such supply or importation; or
  - (ii) goods have been manufactured, assembled, constructed or produced by him on or after the commencement date and tax has been charged in respect of the supply of goods or services acquired by him for the purpose of such manufacturing, assembling, construction or production; or
  - (iii) goods or services are deemed by subsection (1) or section 8(2) to have been supplied [to] by him; ;
- 10
- (b) by the substitution in subsection (4) at the end of paragraph (b) for the word "and" of the word "or";
  - (c) by the insertion in subsection (4) after paragraph (b) of the following paragraph:
- 15
- "(c) second-hand goods situated in the Republic have been supplied (otherwise than under a taxable supply) to a person under a sale on or after the commencement date by a resident of the Republic and no deduction has been made in terms of section 16(3) in respect of such second-hand goods; and";
- 20
- (d) by the substitution in subsection (4) for the formula " $A \times B \times C$ " of the formula " $A \times B \times C \times D$ ";
  - (e) by the deletion in subsection (4) at the end of subparagraph (ii) of the paragraph defining the meaning of the symbol "B" of the word "and";

25

  - (f) by the addition in subsection (4) at the end of the paragraph defining the meaning of the symbol "C" of the word "and";
  - (g) by the addition to subsection (4) of the following words:  

$$\text{“D”, where paragraph (c) applies, represents the ratio that the amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the consideration in money for the supply of second-hand goods, bears to the total consideration in money, expressed as a percentage:}$$
- 30
- Provided that—
- 35
- (i) paragraph (b) of this subsection shall not apply where a vendor has, only as a result of not complying with the provisions of section 16(2), not been entitled to make a deduction of input tax in terms of section 16(3);
  - (ii) where the second-hand goods referred to in paragraph (c) of this subsection consist of—
- 40
- (aa) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable or would have been payable had an exemption from transfer duty (whether in terms of the Transfer Duty Act or any other Act of Parliament) not been applicable; or
  - (bb) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable or would have been payable had an exemption from stamp duty (whether in terms of the Stamp Duties Act or any other Act of Parliament) not been applicable, the amount determined in terms of this subsection shall not exceed the amount of transfer duty or stamp duty, as the case may be, which is or would have been payable in respect of such acquisition, original issue or registration of transfer, as the case may be;
- 45
- (iii) where the second-hand goods referred to in paragraph (c) of this subsection consist of—
- 50
- (aa) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or
- 55
- 60

- (bb) 'n aandeel in 'n aandeleblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is,  
die aftrekking ingevolge artikel 16(3) gedoen word slegs nadat daardie hereregte of seëlreg, na gelang van die geval, betaal is.''; en
- (h) deur die volgende subartikel by te voeg:
- "(8) Waar 'n aftrekking van 'n bedrag beoog in paragraaf (b) van die omskrywing van 'insetbelasting' in artikel 1 deur 'n ondernemer gedoen is ten opsigte van die verkoop aan hom van tweedehandse goed en—
- (a) die verkoop daarna gekanselleer word; of
  - (b) die aard van daardie verkoop daarna fundamenteel gevarieer of verander word; of
  - (c) die voorheen ooreengekome vergoeding vir daardie verkoop daarna verminder word; of
  - (d) die tweedehandse goed of deel van die tweedehandse goed wat verkoop is daarna aan die leweraar teruggegee word,  
en, as gevolg van die plaasvind van een of meer van bogenoemde gebeurtenisse, die insetbelasting wat in werklikheid met betrekking tot daardie verkoop afgetrek is die insetbelasting wat behoorlik deur die ondernemer aftrekbaar is te bowe gaan, word óf die bedrag van die oorskot geag belasting te wees wat gehef word met betrekking tot 'n belasbare lewering deur daardie ondernemer gedoen in die belastingtydperk waarin daardie gebeurtenis plaasgevind het, teen die koers van belasting wat van toepassing was toe daardie aftrekking gedoen is, óf die bedrag insetbelasting wat ingevolge artikel 16(3) in daardie belastingtydperk afgetrek word, met die bedrag van daardie oorskot verminder."

#### Wysiging van artikel 18A van Wet 89 van 1991, soos ingevoeg deur artikel 24 van Wet 136 van 1992

19. Artikel 18A van die Hoofwet word hierby gewysig deur die volgende voorbehoudbepaling by subartikel (1) te voeg:

"Met dien verstande dat waar die voorgenome gebruik in die loop van die doen van belasbare lewerings van daardie onderneming, gedeelte, goed of dienste, na gelang van die geval, gelyk is aan minstens 90 persent van die totale voorgenome gebruik van daardie onderneming, gedeelte, goed of dienste, na gelang van die geval, die betrokke onderneming, gedeelte, goed of dienste by die toepassing van hierdie Wet beskou kan word, verkry te gewees het uitsluitlik vir die doel van verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings."

#### Wysiging van artikel 23 van Wet 89 van 1991

20. Artikel 23 van die Hoofwet word hierby gewysig deur in subartikel (7) paragraaf (c) deur die volgende paragraaf te vervang:

"(c) nie 'n bankrekening by 'n [depositonemende instelling] bank, onderlinge [bouvereniging] bank of soortgelyke instelling vir die doeleindes van 'n onderneming deur hom bedryf, geopen het nie; of".

#### Wysiging van artikel 24 van Wet 89 van 1991

21. Artikel 24 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Waar ['n persoon kragtens artikel 23(3)(b) om registrasie aansoek gedoen het en die Kommissaris daardie persoon ingevolge artikel 23(4) geregistreer het, kan die Kommissaris daardie persoon se registrasie kanselleer indien daardie persoon op of voor die datum in daardie persoon se aansoek aangedui nie 'n onderneming bedryf nie] die Kommissaris oortuig is dat 'n ondernemer nie 'n onderneming bedryf nie kan die Kommissaris

5 (bb) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable, the deduction in terms of section 16(3) shall be made only after such transfer duty or stamp duty, as the case may be, has been paid.”; and

10 (h) by the addition of the following subsection:

“(8) Where a deduction of an amount contemplated in paragraph (b) of the definition of ‘input tax’ in section 1 has been made by any vendor in respect of the sale to him of any second-hand goods and subsequently—

- 15 (a) that sale is cancelled; or  
 (b) the nature of that sale is fundamentally varied or altered; or  
 (c) the previously agreed consideration for that sale is reduced; or  
 (d) the second-hand goods or part of the second-hand goods sold are returned to the supplier,

20 and, as a result of the occurrence of one or more of the abovementioned events, the input tax actually deducted in relation to such sale exceeds the input tax properly deductible by the vendor, either the amount of that excess shall be deemed to be tax charged in relation to a taxable supply made by that vendor in the tax period during which the said event has occurred, at the rate of tax which applied when the said deduction was made, or the amount of input tax deducted in terms of section 16(3) in the said tax period shall be reduced by the amount of the said excess.”.

#### **Amendment of section 18A of Act 89 of 1991, as inserted by section 24 of Act 136 of 1992**

30 19. Section 18A of the principal Act is hereby amended by the addition to subsection (1) of the following proviso:

35 “Provided that where the intended use of such enterprise, part, goods or services, as the case may be, in the course of making taxable supplies is equal to not less than 90 per cent of the total intended use of such enterprise, part, goods or services, as the case may be, the enterprise, part, goods or services concerned may for the purposes of this Act be regarded as having been acquired wholly for the purpose of consumption, use or supply in the course of making taxable supplies.”.

#### **Amendment of section 23 of Act 89 of 1991**

40 20. Section 23 of the principal Act is hereby amended by the substitution in subsection (7) for paragraph (c) of the following paragraph:

“(c) has not opened a banking account with any [deposit-taking institution] bank, mutual [building society] bank or other similar institution for the purposes of any enterprise carried on by him; or”.

#### **45 Amendment of section 24 of Act 89 of 1991**

21. Section 24 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

50 “(5) Where [any person has applied for registration under section 23(3)(b) and the Commissioner has registered that person in terms of section 23(4), the Commissioner may cancel that person’s registration if that person does not carry on any enterprise on or before the date specified in that person’s application] the Commissioner is satisfied that a vendor is not carrying on any enterprise the Commissioner may cancel such vendor’s registration with

daardie ondernemer se registrasie kanselleer met ingang van die laaste dag van die belastingtydperk waarin die Kommissaris aldus oortuig is of vanaf daardie ander datum wat deur die Kommissaris bepaal word.”.

**Wysiging van artikel 36 van Wet 89 van 1991, soos vervang deur artikel 2 van Wet 61 van 1993 en gewysig deur artikel 18 van Wet 140 van 1993**

5

**22. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:**

“(1) Die verpligting om ’n belasting hefbaar ingevolge hierdie Wet te betaal, en die reg om dit te ontvang en te verhaal, word nie, tensy die Kommissaris aldus beveel, deur ’n appèl of hangende die beslissing van ’n geregshof opgeskort nie, maar indien ’n aanslag op appèl of ooreenkomsdig so ’n beslissing of ’n beslissing van die Kommissaris om die appèl na die spesiale raad of die spesiale hof of bedoelde geregshof toe te gee, verander word, vind ’n behoorlike aansuiwing plaas waarby bedrae wat te veel betaal is, terugbetaal word met rente teen die voorgeskrewe koers (maar behoudens die bepalings van artikel 45A) bereken vanaf die datum wat, na ten genoeë van die Kommissaris bewys word, die datum is waarop die bedrae wat te veel betaal is, ontvang is, en bedrae wat te min betaal is met boete en rente, bereken volgens voorskrif van artikel 39(1), verhaal kan word.”.

10

15

**Wysiging van artikel 39 van Wet 89 van 1991, soos gewysig deur artikel 37 van Wet 136 van 1991, Goewermentskennisgiving 2695 van 8 November 1991, artikel 30 van Wet 136 van 1992 en artikel 3 van Wet 61 van 1993**

20

**23. Artikel 39 van die Hoofwet word hierby gewysig—**

**(a) deur na subartikel (6) die volgende subartikel in te voeg:**

“(6A) Indien ’n persoon wat ooreenkomsdig die bepalings van artikel 60 vir die betaling van addisionele belasting aanspreeklik is, versuim om enige bedrag van daardie belasting te betaal voor of op die laaste besigheidsdag van die maand waarin die laaste dag van die tydperk vir die betaling van daardie belasting ingevolge daardie artikel toegelaat, val, moet hy, benewens bedoelde bedrag belasting, rente betaal op bedoelde bedrag belasting, bereken teen die voorgeskrewe koers (maar behoudens die bepalings van artikel 45A) vir elke maand of gedeelte van ’n maand waarin bedoelde belasting nie betaal is nie.”; en

25

30

**(b) deur subartikel (7) deur die volgende subartikel te vervang:**

“(7) Waar die Kommissaris oortuig is dat die versuim [van] aan die kant van iemand om betaling van die belasting binne die tydperk vir betaling beoog in subartikel (1)(a), (2), (3), [of] (6) of (6A) of op die datum in subartikel (4) of (5) bedoel, na gelang van die geval, te doen, nie te wyte was aan ’n bedoeling om aanspreeklikheid vir die betaling van die belasting te vermy of uit te stel nie, of die Kommissaris gedeeltelik aldus oortuig is, kan hy enige boete of rente wat ingevolge hierdie artikel betaalbaar is geheel of gedeeltelik kwytsekeld.”.

35

40

**Wysiging van artikel 45 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1992 en artikel 4 van Wet 61 van 1993**

45

**24. Artikel 45 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:**

“(1) Waar die Kommissaris nie binne die tydperk van 21 besigheidsdae na die datum waarop ’n ondernemer se opgawe ten opsigte van ’n belastingtydperk deur ’n Ontvanger van Inkomste wat onder die beheer, leiding of toesig van die Kommissaris is, ontvang word, ’n terugbetaling maak nie van ’n bedrag wat ingevolge artikel 44(1) terugbetaalbaar is, word rente teen die voorgeskrewe koers (maar behoudens die bepalings van artikel 45A) op dié bedrag betaal ten opsigte van die tydperk wat begin onmiddellik na eersbedoelde tydperk tot die datum van betaling van die aldus terugbetaalbare bedrag. Met dien verstande dat—

50

55

effect from the last day of the tax period during which the Commissioner is so satisfied, or from such other date as may be determined by the Commissioner.”.

**Amendment of section 36 of Act 89 of 1991, as substituted by section 2 of Act 61 of 1993 and amended by section 18 of Act 140 of 1993**

**22. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:**

“(1) The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law, but if any assessment is altered on appeal or in conformity with any such decision or a decision by the Commissioner to concede the appeal to the special board or the special court or such court of law, a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate (but subject to the provisions of section 45A) and calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with penalty and interest calculated as provided in section 39(1).”.

**Amendment of section 39 of Act 89 of 1991, as amended by section 37 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 30 of Act 136 of 1992 and section 3 of Act 61 of 1993**

**23. Section 39 of the principal Act is hereby amended—**

**(a) by the insertion after subsection (6) of the following subsection:**

“(6A) If any person who is liable for the payment of additional tax in accordance with the provisions of section 60 fails to pay any amount of such tax on or before the last business day of the month in which the last day of the period allowed for the payment of such tax in terms of that section falls, he shall, in addition to such amount of tax, pay interest on the said amount of tax, calculated at the prescribed rate (but subject to the provisions of section 45A) for each month or part of a month during which the said tax is not paid.”; and

**(b) by the substitution for subsection (7) of the following subsection:**

“(7) Where the Commissioner is satisfied that the failure on the part of any person to make payment of the tax within the period for payment contemplated in subsection (1)(a), (2), (3), [or] (6) or (6A) or on the date referred to in subsection (4) or (5), as the case may be, was not due to an intent to avoid or postpone liability for the payment of the tax, or the Commissioner is partly so satisfied, he may remit in whole or in part any penalty or interest payable in terms of this section.”.

**Amendment of section 45 of Act 89 of 1991, as amended by section 33 of Act 136 of 1992 and section 4 of Act 61 of 1993**

**24. Section 45 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:**

“(1) Where the Commissioner does not within the period of 21 business days after the date on which the vendor's return in respect of a tax period is received by a Receiver of Revenue who is under the control, direction or supervision of the Commissioner refund any amount refundable in terms of section 44(1), interest shall be paid on such amount at the prescribed rate (but subject to the provisions of section 45A) and calculated for the period commencing at the end of the first-mentioned period to the date of payment of the amount so refundable: Provided that—

- (i) hierdie subartikel nie van toepassing is nie waar—  
[(i)(aa)] genoemde opgawe wat deur die ondernemer verstrek is, in enige wesentlike oopsig onvolledig of gebrekkig is; of  
[(ii)(bb)] die ondernemer in gebreke is ten oopsigte van enige van sy verpligtinge ingevolge hierdie Wet om 'n opgawe vir 'n belastingtydperk wat bedoelde belastingtydperk voorafgaan volgens die voorskrifte van hierdie Wet te verstrek;
- (ii) waar die Kommissaris verhinder word om homself te oortuig van die bedrag terugbetaalbaar ingevolge artikel 44(1) omrede hy nie in staat is om toegang te verkry tot die boeke en aantekeninge van die betrokke ondernemer nadat hy, binne 'n redelike tyd, die ondernemer by wyse van geregistreerde pos versoek het om toegang tot daardie boeke en aantekeninge gedurende die tydperk van 21 besigheidsdae beoog in hierdie subartikel, word die bedoelde tydperk van 21 besigheidsdae opgeskort vanaf die datum van versending van daardie versoek by wyse van geregistreerde pos tot die datum waarop daardie toegang verleen word.”.

**Wysiging van artikel 54 van Wet 89 van 1991, soos gewysig deur artikel 40 van Wet 136 van 1991 en artikel 34 van Wet 136 van 1992**

25. Artikel 54 van die Hoofwet word hierby gewysig deur in subartikel (6) 20 subparagrawe (i) en (ii) van paragraaf (b) deur onderskeidelik die volgende subparagrawe te vervang:

- (i) die lewering regstreeks verbonde is aan óf die uitvoer, of die reëling van die uitvoer, van goed uit die Republiek na 'n land of plek buite die Republiek **[(behalwe 'n bepaalde land of 'n plek daarin)]**, óf die invoer, of die reëling van die invoer, van goed in die Republiek uit 'n land of plek buite die Republiek, met inbegrip in beide gevalle van die vervoer van daardie goed binne die Republiek as deel van bedoelde uitvoer of invoer, na gelang van die geval; of  
(ii) dit 'n lewering is van dienste wat bestaan uit die bediening, loodsing, berging, of slepery van enige skip op vreemde vaart of lugvaartuig op vreemde vaart, terwyl dit in die Republiek **[of 'n bepaalde land]** aanwesig is, of van dienste voorsien in verband met die bedryf of bestuur van enige skip op vreemde vaart of lugvaartuig op vreemde vaart.”.

**Wysiging van artikel 68 van Wet 89 van 1991, soos gewysig deur artikel 39 van Wet 35 136 van 1992**

26. Artikel 68 van die Hoofwet word hierby gewysig deur in subartikel (1) 30 paragrawe (a) en (b) deur onderskeidelik die volgende paragrawe te vervang:

- (a) deur 'n persoon wat volle of beperkte immuniteit, regte of voorregte geniet ingevolge artikel 3 van die Wet op Diplomatieke Immunitet en Voorregte, 1989 (Wet No. 74 van 1989), of ingevolge 'n ooreenkoms of andersins soos bedoel in artikel 4 van daardie Wet of ingevolge erkende beginsels van die volkereg **[mits soortgelyke of gelykwaardige verligting in die land in wie se diens daardie persoon is, verleen word aan 'n verteenwoordiger of werknemer van die Regering van die Republiek wat in bedoelde land gestasioneer is en volle of beperkte immuniteit, regte of voorregte in daardie land geniet];** of  
(b) deur 'n diplomatieke of konsulêre sending van 'n vreemde land wat in die Republiek gevestig is aangaande transaksies gesluit vir die amptelike doeleinades van bedoelde sending **[mits soortgelyke of gelykwaardige verligting verleen word aan 'n diplomatieke of konsulêre sending van die Republiek wat in die betrokke vreemde land gevestig is].”.**

**Herroeping van artikel 69 van Wet 89 van 1991**

27. Artikel 69 van die Hoofwet word hierby herroep.

- 5
- (i) this subsection shall not apply where—  
**[(i)] (aa)** such return made by the vendor is incomplete or defective in any material respect; or  
**[(ii)] (bb)** the vendor is in default in respect of any of his obligations under this Act to furnish a return for any tax period preceding the said tax period as required by this Act;
- 10
- (ii) where the Commissioner is prevented from satisfying himself as to the amount refundable in terms of section 44(1) by reason of not being able to gain access to the books and records of the vendor concerned after having, within a reasonable time, made a request by registered post to the vendor for access to such books and records during the period of 21 business days contemplated in this subsection, the said period of 21 business days shall be suspended from the date of despatch of such request by registered post until the date on which such access is granted.”.
- 15

**Amendment of section 54 of Act 89 of 1991, as amended by section 40 of Act 136 of 1991 and section 34 of Act 136 of 1992**

25. Section 54 of the principal Act is hereby amended by the substitution in subsection (6) for subparagraphs (i) and (ii) of paragraph (b) of the following subparagraphs, respectively:

- 25
- (i) the supply is directly in connection with either the exportation, or the arranging of the exportation, of goods from the Republic to any country or place outside the Republic **[(other than a specified country or a place therein)]**, or the importation, or the arranging of the importation, of goods to the Republic from any country or place outside the Republic, including, in either case, the transportation of those goods within the Republic as part of such exportation or importation, as the case may be; or
- 30
- (ii) the supply is of services which comprise the handling, pilotage, salvage or towage of any foreign-going ship or foreign-going aircraft while present in the Republic **[or a specified country]** or is of services provided in connection with the operation or management of any foreign-going ship or foreign-going aircraft.”,

35 **Amendment of section 68 of Act 89 of 1991, as amended by section 39 of Act 136 of 1992**

40. Section 68 of the principal Act is hereby amended by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

- 45
- (a) by any person enjoying full or limited immunity, rights or privileges under section 3 of the Diplomatic Immunities and Privileges Act, 1989 (Act No. 74 of 1989), or under an agreement or otherwise as contemplated in section 4 of that Act or under the recognized principles of international law **[provided similar or equivalent relief is granted in the country by which such person is employed to any representative or employee of the Government of the Republic stationed in such country who enjoys full or limited immunity, rights or privileges in that country]; or**
- 50
- (b) by any diplomatic or consular mission of a foreign country established in the Republic, relating to transactions concluded for the official purposes of such mission **[provided similar or equivalent relief is granted to any diplomatic or consular mission of the Republic established in the foreign country concerned].”.**

**Repeal of section 69 of Act 89 of 1991**

55. 27. Section 69 of the principal Act is hereby repealed.

**Vervanging van artikel 72 van Wet 89 van 1991**

**28.** Artikel 72 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Reëlings en opdragte om probleme, anomalieë of ongerymdhede te bowe te kom**

**72.** Indien die Kommissaris in enige geval oortuig is dat as gevolg van die wyse waarop 'n ondernemer of klas ondernemers sy of hulle besigheid, bedryf of beroep beoefen, probleme, anomalieë of ongerymdhede ontstaan het of mag ontstaan met betrekking tot die toepassing van enige van die bepalings van hierdie Wet, kan die Kommissaris 'n reëling tref of opdrag gee oor—

- (a) die wyse waarop bedoelde bepaling [in die geval van bedoelde ondernemer of klas ondernemers] toegepas moet word; [en kan die Kommissaris met die betrokke ondernemer of klas ondernemers die reëlings tref in verband met] of
- (b) die berekening of betaling van belasting of die toepassing van 'n koers van nul persent of 'n vrystelling van belasting waarvoor in hierdie Wet voorsiening gemaak word,  
in die geval van bedoelde ondernemer of klas ondernemers of 'n persoon wat met daardie ondernemer of klas ondernemers sake doen wat na verwagting bedoelde probleme, anomalieë of ongerymdhede sal oorkom; Met dien verstande dat bedoelde opdrag of reëlings nie die uitwerking mag hê dat die uiteindelike aanspreeklikheid vir belasting gehef ingevolge hierdie Wet wesentlik verminder of verhoog word nie.”.

**Vervanging van artikel 75 van Wet 89 van 1991**

25

**29.** Artikel 75 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Belastingooreenkoms**

**75.(1)** Die President kan 'n ooreenkoms met die regering van 'n ander land of gebied aangaan waarvolgens reëlings met daardie regering getref word wat ten doel het om—

- (a) die heffing, ingevolge die wette van die Republiek en daardie ander land of gebied, van belasting op toegevoegde waarde of 'n soortgelyke belasting waar die lewering van goed of dienste aan daardie belasting onderworpe is of in die Republiek of in daardie ander land of gebied en daardie lewering of die invoer van daardie goed of dienste ook onderworpe is aan sodanige belasting in die ander land of gebied wat 'n party by die ooreenkoms is, te voorkom, te verminder of op te hef;
- (b) belasting op toegevoegde waarde of 'n soortgelyke belasting, of 'n gedeelte van daardie belasting op toegevoegde waarde of soortgelyke belasting, gehef ingevolge die wette van die Republiek en daardie ander land of gebied, ten opsigte van die lewering van goed of dienste in die Republiek of daardie ander land of gebied, na gelang van die geval, terug te betaal waar daardie goed of dienste in daardie ander land of gebied of die Republiek, na gelang van die geval, ingevoer word;
- (c) enige aangeleenthed met betrekking tot die heffing en invordering ingevolge die wette van die Republiek en daardie ander land of gebied, van belasting op toegevoegde waarde of enige soortgelyke belasting te reël of te koördineer; of
- (d) wederkerige hulp te verleen by die administrasie van en die invordering van belasting op toegevoegde waarde of 'n soortgelyke belasting ingevolge die wette van die Republiek en daardie ander land of gebied, of ten opsigte van die uitvoering van die reëlings waarvoor in 'n ooreenkoms wat ingevolge hierdie artikel aangegaan is, voorsiening gemaak is.

**Substitution of section 72 of Act 89 of 1991**

28. The following section is hereby substituted for section 72 of the principal Act:

**5 "Arrangements and directions to overcome difficulties, anomalies or incongruities**

10 **72.** If in any case the Commissioner is satisfied that in consequence of the manner in which any vendor or class of vendors conducts his or their business, trade or occupation, difficulties, **[or]** anomalies or **incongruities** have arisen or may arise in regard to the application of any of the provisions of this Act, the Commissioner may make an arrangement or give a direction as to—

15 (a) the manner in which such provisions shall be applied; **[in the case of such vendor or class of vendors and the Commissioner may make such arrangements with such vendor or class of vendors as to]** or

20 (b) the calculation or payment of tax or the application of any rate of zero per cent or any exemption from tax provided in this Act, **in the case of such vendor or class of vendors or any person transacting with such vendor or class of vendors as [appear] appears to overcome such difficulties, [or] anomalies or incongruities:** Provided that such direction or arrangement shall not have the effect of substantially reducing or increasing the ultimate liability for tax levied under this Act.”.

**Substitution of section 75 of Act 89 of 1991**

25 29. The following section is hereby substituted for section 75 of the principal Act:

**"Tax agreements**

30 **75. (1)** The President may enter into an agreement with the government of any other country or territory whereby arrangements are made with that government with a view to—

35 (a) the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and such other country or territory, of value-added tax or any similar tax where the supply of goods or services is subject to such tax in either the Republic or such other country or territory and such supply or the importation of such goods or services is also subject to such tax in the other country or territory which is a party to the agreement;

40 (b) the refunding of value-added tax or any similar tax, or any portion of such value-added tax or similar tax, levied under the laws of the Republic and such other country or territory, in respect of the supply of goods or services in the Republic or such other country or territory, as the case may be, where such goods or services are imported into such other country or territory or the Republic, as the case may be;

45 (c) regulating or co-ordinating any matter with regard to the levying and collection, under the laws of the Republic and such other country or territory, of value-added tax or any similar tax; or

50 (d) the rendering of reciprocal assistance in the administration of and the collection of value-added tax or any similar tax under the laws of the Republic and such other country or territory, or in respect of the execution of the arrangements provided for in any agreement entered into in terms of this section.

(2) Die reëlings deur so 'n ooreenkoms getref, word so spoedig doenlik na die sluiting van die ooreenkoms deur die President by kennisgewing in die *Staatskoerant* aangekondig, en daarna is die daarby aangekondigde reëlings, totdat die kennisgewing deur die President ingetrek word, met betrekking tot belasting op toegevoegde waarde in die Republiek van krag asof dit by hierdie Wet verorden was.

(3) Die President kan te eniger tyd so 'n kennisgewing by kennisgewing in die *Staatskoerant* intrek, en die reëlings by eersbedoelde kennisgewing aangekondig tree op 'n deur die latere kennisgewing bepaalde datum buite werking, maar die intrekking van 'n kennisgewing doen geen afbreuk aan die geldigheid van iets wat tevore daarkragtens gedoen is nie.

(4) So spoedig doenlik na die bekendmaking in die *Staatskoerant* van 'n kennisgewing ingevolge hierdie artikel word afskrifte daarvan in die Parlement ter Tafel gelê.

(5) Die plig opgelê deur hierdie Wet om geheimhouding te bewaar met betrekking tot belasting, belet nie die bekendmaking aan 'n gemagtigde beampete van die land of gebied vermeld in 'n ooreenkomstig subartikel (2) uitgevaardigde kennisgewing van inligting wat nodig is vir die behoorlike uitvoering van die ooreenkoms in daardie kennisgewing aangekondig nie.”.

#### **Herroeping van artikel 76 van Wet 89 van 1991**

**30.** Artikel 76 van die Hoofwet word hierby herroep.

#### **Vervanging van artikel 77 van Wet 89 van 1991**

**31.** Artikel 77 van die Hoofwet word hierby deur die volgende artikel vervang:

##### **“Kennisgewing van verandering van belastingkoers**

**77.(1)** Die Minister kan **[gedurende 'n sessie van die Parlement]** by kennisgewing in die *Staatskoerant* vir algemene inligting bekend maak—

(a) dat ingevolge 'n belastingvoorstel wat **[gedurende daardie sessie]** deur hom in die Parlement ter Tafel gelê is, die belastingkoers vermeld in artikel 7 verhoog staan te word tot 'n koers in daardie voorstel en in daardie kennisgewing uiteengesit; of

(b) dat daar voorgestel word om **[gedurende daardie sessie]** die aldus vermelde belastingkoers te verminder tot 'n koers in daardie kennisgewing uiteengesit,

en die verhoogde of verminderde belastingkoers aldus uiteengesit, is, totdat 'n Wet van die Parlement **[gedurende daardie sessie aangeneem]** binne ses kalendermaande na die publikasie van die kennisgewing in die *Staatskoerant* aangekondig word waarby aan die voorstel gevold gegee of ander voorsiening gemaak word, van toepassing vir die doeleindes van die vasstelling van bedrae belasting ten opsigte van lewerings van goed en dienste gemaak deur **[of aan]** ondernekmers op 'n datum wat val op of na die datum deur die Minister in genoemde kennisgewing vermeld vir die inwerkingtreding van bedoelde verhoogde of verminderde belastingkoers, na gelang van die geval, of ten opsigte van invoere van goed op bedoelde datum.

(2) Wanneer by 'n regsgeding die vraag ontstaan of die Minister 'n in subartikel (1) bedoelde belastingvoorstel ter Tafel gelê het, of aangaande die besonderhede in daardie voorstel vervat, word 'n afskrif van 'n dokument wat heet op las van die Speaker van die Parlement gedruk te wees en bedoelde voorstel te bevatten, aangeneem as genoegsame bewys dat daardie voorstel ter Tafel gelê is en van die besonderhede daarin vervat.”.

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

5

(2) As soon as may be possible after the conclusion of any such agreement the arrangements thereby made shall be notified by the President by notice in the *Gazette*, whereupon until such notice is withdrawn by the President, the arrangements notified therein shall, in relation to value-added tax in the Republic, have effect as if enacted by this Act.

10

(3) The President may at any time withdraw any such notice by notice in the *Gazette*, and the arrangements notified in such earlier notice shall cease to have effect upon a date fixed in such latter notice, but the withdrawal of any notice shall not affect the validity of anything previously done thereunder.

15

(4) As soon as may be possible after the publication in the *Gazette* of any notice under this section, copies thereof shall be tabled in Parliament.

(5) The duty imposed by this Act to preserve secrecy with regard to tax shall not prevent the disclosure to any authorized officer of the country or territory mentioned in any notice issued in terms of subsection (2) of any information necessary for the proper execution of the agreement notified in such notice.”

## 20 Repeal of section 76 of Act 89 of 1991

30. Section 76 of the principal Act is hereby repealed.

## Substitution of section 77 of Act 89 of 1991

31. The following section is hereby substituted for section 77 of the principal Act:

25

**“Notice of variation of rate of tax**

77. (1) The Minister may [during any session of Parliament] by notice in the *Gazette* make known for general information—

30

(a) that in terms of a taxation proposal tabled by him in Parliament [during such session], the rate of tax specified in section 7 is to be increased to a rate set forth in that proposal and in that notice; or

35

(b) that it is proposed [during that session] to decrease the rate of tax so mentioned to a rate set forth in that notice, and the increased or decreased rate of tax so set forth shall, until an Act of Parliament [passed during that session] is promulgated within six calendar months after the publication of the notice in the *Gazette*, by which effect is given to the proposal or other provision is made, apply for the purpose of determining amounts of tax in respect of supplies of goods and services made by [or to] vendors on any date falling on or after the date which the Minister has specified in the said notice for the coming into operation of such increased or decreased rate of tax, as the case may be, or in respect of importations of goods made on such date.

40

(2) When in any legal proceedings the question arises whether the Minister has tabled a taxation proposal referred to in subsection (1), or as to the particulars contained in that proposal, a copy of a document purporting to be printed by order of the Speaker of Parliament and to contain such proposal, shall be accepted as sufficient evidence that such proposal was tabled and of the particulars contained therein.”

45

50

**Wysiging van Bylae 1 by Wet 89 van 1991, soos gewysig deur artikel 48 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 43 van Wet 136 van 1992 en artikel 44 van Wet 97 van 1993**

32. Bylae 1 by die Hoofwet word hierby gewysig—

(a) deur in paragraaf 1 van DEEL A die woorde wat die uitdrukking “405.04” voorafgaan deur die volgende woorde te vervang: 5

“1. Goed ingevoer in die Republiek wat ressorteer onder enige item of pos **[en beskrywing]** (soos beoog in die Doeane- en Aksynswet) hieronder vermeld, in die mate aangedui, ongeag of doeanereg betaalbaar is of ’n korting van doeanereg ingevolge die Doeane- en Aksynswet toegestaan is of nie:

Item No. **[Pos en] Beskrywing**”;

(b) deur in paragraaf 1 van DEEL A Item No. 405.04/63.09 te skrap; 15

(c) deur in paragraaf 1 van DEEL A Item No. 407.01 deur die volgende Item te vervang:

“407.01 Persoonlike artikels en sport- en ontspanningstoerusting, nuut of gebruik:

**[(1)] 00.00/01.01** ingevoer óf as vergeselde óf as onvergeselde passasiersbagasie deur nie-inwoners van die Republiek vir hul eie gebruik tydens hul verblyf in die Republiek; 20

**[(2)] 00.00/01.02** uitgevoer deur inwoners van die Republiek vir hul eie gebruik terwyl in die buitenland en daarna heringevoer óf as vergeselde óf as onvergeselde passasiersbagasie deur sodanige inwoners.”; 25

(d) deur in paragraaf 1 van DEEL A Item No. 407.02/00.00/02.00 deur die volgende Item te vervang:

“407.02/00.00/02.00 Addisionele goed, nuut of gebruik, met ’n totale waarde van hoogstens **[R1 000]** R10 000 per persoon (uitgesonderd goed van ’n klas of soort vermeld in Item Nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 en 407.02/33.03).”; 35

(e) deur in paragraaf 1 van DEEL A Item No. 407.06 deur die volgende Item te vervang:

“407.06 Huisraad, ander huishoudelike goed en ander verplaasbare artikels, met inbegrip van toerusting nodig vir die uitoefening van die roeping, ambag of beroep van die persoon, maar nie industriële, kommersiële of landbouertoerusting nie en uitgesonderd motorvoertuie, alkoholiese dranke en tabakware, die bona fide-eiendom van ’n natuurlike persoon (met inbegrip van ’n terugkerende inwoner van die Republiek na ’n afwesigheid van minstens ses maande) en lede van sy familie, ingevoer vir eie gebruik by verandering van sy woonplek na die Republiek.”; 40

(f) deur in paragraaf 1 van DEEL A Item Nos. 409.01 en 409.02 deur onderskeidelik die volgende Items te vervang: 50

“409.01 Ingevoerde goed (met inbegrip van verpakkingshouers) wat uitgevoer word en daarna na die uitvoerder of enige ander party teruggestuur of deur hom teruggebring word, sonder dat dit enige proses van vervaardiging of bewerking ondergaan het **[en sonder dat daar ’n permanente verandering in eiendomsreg plaasgevind het]**. 55

409.02 Goed (met inbegrip van verpakkingshouers) wat in die Republiek geproduseer of vervaardig is, wat daarvandaan uitgevoer word en daarna na die uitvoerder of enige ander party teruggestuur of deur hom teruggebring word, sonder dat dit enige proses van vervaardiging of bewerking 60

**Amendment of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 43 of Act 136 of 1992 and section 44 of Act 97 of 1993**

32. Schedule 1 to the principal Act is hereby amended—
- 5     (a) by the substitution in paragraph 1 of PART A for the words preceding the expression “405.04” of the following words:
- 10     “1. Goods imported into the Republic which fall under any item or heading [and description] (as contemplated in the Customs and Excise Act) mentioned below, to the extent indicated, regardless of whether or not customs duty is payable or a rebate of customs duty is granted in terms of the Customs and Excise Act:
- 15     Item No.    [Heading and] Description”;
- 20     (b) by the deletion in paragraph 1 of PART A of Item No. 405.04/63.09;
- 25     (c) by the substitution in paragraph 1 of PART A for Item No. 407.01 of the following Item:
- 30     “407.01 Personal effects and sporting and recreational equipment, new or used:
- 35     (1) 00.00/01.01 imported either as accompanied or unaccompanied passengers’ baggage by non-residents of the Republic for their own use during their stay in the Republic;
- 40     (2) 00.00/01.02 exported by residents of the Republic for their own use while abroad and subsequently reimported either as accompanied or unaccompanied passengers’ baggage by such residents.”;
- 45     (d) by the substitution in paragraph 1 of PART A for Item No. 407.02/00.00/02.00 of the following Item:
- 50     “407.02/00.00/02.00 Additional goods, new or used, of a total value not exceeding [R1 000] R10 000 per person (excluding goods of a class or kind specified in Item Nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03).”;
- 55     (e) by the substitution in paragraph 1 of PART A for Item No. 407.06 of the following Item:
- 60     “407.06 Household furniture, other household effects and other removable articles, including equipment necessary for the exercise of the calling, trade or profession of the person, other than industrial, commercial or agricultural plant and excluding motor vehicles, alcoholic beverages and tobacco goods, the *bona fide* property of a natural person (including a returning resident of the Republic after an absence of six months or more) and members of his family, imported for own use on change of his residence to the Republic.”;
- 65     (f) by the substitution in paragraph 1 of PART A for Item Nos. 409.01 and 409.02 of the following Items, respectively:
- 70     “409.01 Imported goods (including packing containers) [exported] re-exported and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or manipulation [and without a permanent change of ownership].
- 75     409.02 Goods (including packing containers) produced or manufactured in the Republic, exported therefrom and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process

- ondergaan het [en sonder dat daar 'n permanente verandering in eiendomsreg plaasgevind het] (uitgesonderd synbare goed wat uit 'n doeane- en aksynspakhuis uitgevoer is).";
- (g) deur in paragraaf 1 van DEEL A Item No. 409.03 te skrap; 5
- (h) deur in paragraaf 1 van DEEL A van die Engelse teks Item No. 409.06 deur die volgende Item te vervang:
- "409.06 Excisable goods exported ex a customs and excise warehouse and thereafter returned to or brought back by the exporter, without having been subjected to any process of manufacture or manipulation and without a permanent change in ownership having taken place.>"; 10
- (i) deur in paragraaf 1 van DEEL A Item No. 409.07 deur die volgende Item te vervang:
- "409.07 Kompenserende produkte wat in die buiteland bekom is van goed wat tydelik uitgevoer is vir buitewaartse prosesering, ingevolge 'n bepaalde permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid op aanbeveling van die Raad van Handel en Nywerheid, mits—
- (i) die bepaalde permit verkry word voor die tydelike uitvoer van die goed; [en] 20
- (ii) indien die eienaarskap van die kompenserende produkte oorgedra word voordat klaring vir doeandeelindes gemaak word, sodanige goedere in die naam van die persoon wat die goedere uitgevoer het, geklaar word; en 25
- [(ii)][iii] enige bykomende voorwaardes wat in die genoemde permit gestel is, nagekom word.";
- (j) deur in paragraaf 1 van DEEL A Item No. 412.10 deur die volgende Item te vervang:
- "412.10 *Bona fide*-ongevraagde geskenke van nie meer as twee pakkies per persoon per kalenderjaar nie en waarvan die waarde per pakkie nie [R100] R400 oorskry nie (uitgesonderd goed in passasiersbagasie ingesluit, wyn, spiritus en bewerkte tabak (met inbegrip van sigarette en sigare)) 35 versend deur natuurlike persone in die buiteland aan natuurlike persone in die Republiek.>";
- (k) deur in paragraaf 1 van DEEL A die volgende voorbehoudsbepaling by Item No. 412.11 te voeg:
- "Met dien verstande dat—
- (i) die invoer van enige goedere onder hierdie item onderworpe is aan 'n sertifikaat uitgereik deur die Direkteur-generaal: Handel en Nywerheid en aan sodanige ander voorwaardes waaromtrent deur die Regerings van die Republiek, Botswana, Lesotho, Namibië en Swaziland ooreengekom mag word; en 40
- (ii) goedere wat onder hierdie item ingevoer is nie verkoop of van die hand gesit mag word aan enige party wat nie op die voorregte kragtens die item geregtig is nie, of na die gebied van Botswana, Lesotho, Namibië of Swaziland verwyder mag word sonder die toestemming van die Direkteur-generaal: Handel en Nywerheid nie.";
- (l) deur in paragraaf 1 van DEEL A Item No. 412.12 deur die volgende Item te vervang:
- "412.12 Goed ingevoer vir enige doel soos ooreengekom deur die Regerings van die Republiek, Botswana, Lesotho, Namibië en Swaziland: Met dien verstande dat—
- (i) die bepalings van hierdie item nie van toepassing is op enige besending of hoeveelheid of soort goedere nie, tensy die voorafgaande goedkeuring van die Regerings van Botswana, Lesotho, Namibië en Swaziland vir die toepassing van sodanige bepalings 55 45 50 60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- of manufacture or manipulation [and without a permanent change in ownership having taken place] (excluding excisable goods exported ex a customs and excise warehouse).”;
- 5 (g) by the deletion in paragraph 1 of PART A of Item No. 409.03;
- (h) by the substitution in paragraph 1 of PART A for Item No. 409.06 of the following Item:
- “409.06 Excisable goods exported ex a customs and excise warehouse and thereafter returned to or brought back by the exporter, without having been subjected to any process of manufacture or manipulation and without a permanent change in ownership having taken place.”;
- 10 (i) by the substitution in paragraph 1 of PART A for Item No. 409.07 of the following Item:
- “409.07 Compensating products obtained abroad from goods temporarily exported for outward processing, in terms of a specific permit issued by the Director-General: Trade and Industry on the recommendation of the Board of Trade and Industry, provided [that] -
- 15 (i) the specific permit is obtained before the temporary exportation of the goods; [and]
- (ii) if the ownership of the compensating products is transferred prior to entry for customs purposes, such goods are entered in the name of the person who exported the goods; and
- 20 [(ii)] (iii) any additional conditions which may be stipulated in the said permit, are complied with.”;
- (j) by the substitution in paragraph 1 of PART A for Item No. 412.10 of the following Item:
- “412.10 *Bona fide* unsolicited gifts of not more than two parcels per person per calendar year and of which the value per parcel does not exceed [R100] R400 (excluding goods contained in passengers' baggage, wine, spirits and manufactured tobacco (including cigarettes and cigars)) consigned by natural persons abroad to natural persons in the Republic.”;
- 25 (k) by the addition in paragraph 1 of PART A of the following proviso to Item No. 412.11:
- “Provided that—
- 30 (i) the importation of any goods under this item shall be subject to a certificate issued by the Director-General: Trade and Industry and to such other conditions as may be agreed upon by the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland; and
- 35 (ii) goods imported under this item shall not be sold or disposed of to any party who is not entitled to any privileges under the item, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the Director-General: Trade and Industry.”;
- 40 (l) by the substitution in paragraph 1 of PART A for Item No. 412.12 of the following Item:
- “412.12 Goods imported for any purpose agreed upon between the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland: Provided that—
- 45 (i) the provisions of this item shall not apply in respect of any consignment or quantity or class of goods unless the prior approval of the Governments of Botswana, Lesotho, Namibia and Swaziland has been obtained for the application of such provisions

## Wet No. 20, 1994

## WYSIGINGSWET OP BELASTINGWETTE, 1994

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- 45
- 50
- 55
- 60
- ten opsigte van elke sodanige besending of hoeveelheid of soort goedere verkry is;
- (ii) die invoer van enige goedere onder hierdie item onderworpe is aan 'n sertifikaat uitgereik deur die Direkteur-generaal: Handel en Nywerheid en aan sodanige ander voorwaardes waaromtrent deur die Regerings van die Republiek, Botswana, Lesotho, Namibië en Swaziland ooreengekom mag word; en goedere onder hierdie item ingevoer nie verkoop of van die hand gesit mag word aan enige party wat nie op die voorregte kragtens die item geregtig is nie, of na die gebied van Botswana, Lesotho, Namibië of Swaziland verwyder mag word sonder die toestemming van die Kommissaris van Doeane en Aksyns nie.”;
- (m) deur in paragraaf 1 van DEEL A na Item No. 412.12 die volgende Item in te voeg:
- “460.11/63.09/01.04 Verslete klerasie, geklaar ingevolge 'n bepaalde permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid, op aanbeveling van die Raad op Tariewe en Handel, wat aangekoop is deur of ongevraagd en gratis versend word aan enige kerk of enige welsynsorganisasie wat kragtens die Nasionale Welsynswet, 1978 (Wet No. 100 van 1978), geregistreer is, vir gratis verspreiding aan behoeftige mense deur sodanige kerk of organisasie.”;
- (n) deur in paragraaf 1 van DEEL A Item Nos. 470.01, 470.02 en 470.03 deur die volgende Item te vervang:
- “470.00 Goedere tydelik toegelaat vir verwerking, herstel, skoonmaak, opknapping of vir die vervaardiging van goedere uitsluitlik vir uitvoer.
- 470.01/00.00/01.00 Goed [tydelik toegelaat] vir verwerking, mits bedoelde goed nie die eindom van die invoerder word nie.
- 470.02/00.00/01.00 Goed [tydelik toegelaat] vir herstel, skoonmaak of opknapping.
- 02.00 Onderdele vir goedere tydelik ingevoer vir herstel, skoonmaak of opknapping.
- 470.03/00.00/01.00 Goedere geklaar ingevolge 'n permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid, op aanbeveling van die Raad [op Tariewe en Handel] van Handel en Nywerheid, vir gebruik by die vervaardiging, verwerking, afwerking, uitrusting of verpakking van goedere uitsluitlik vir uitvoer.”;
- (o) deur in paragraaf 1 van DEEL A na die uitdrukking "Pos No." die volgende opsikrif in te voeg:  
“Beskrywing”;
- (p) deur in paragraaf 1 van DEEL A, na Pos No. 38.11.11.20, die volgende Pos in te voeg:  
“49.07/4907.00.30 Reisigerstjeks gedenomineer in 'n buitelandse geldeenheid.”;
- (q) deur in DEEL A paragraaf 3 deur die volgende paragraaf te vervang:  
“3. Goed, wat gedrukte boeke, koerante, joernale en tydskrifte is, wat per pos in die Republiek ingevoer word, met 'n waarde vir belastingdoeleindes ingevolge die Doeane- en Aksynswet van hoogstens **[R40]** **R100** per pakket.”;
- (r) deur die volgende paragraaf by DEEL A te voeg:

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- 45
- 50
- 55
- 60
- in respect of every such consignment or quantity or class of goods;
- (ii) the importation of any goods under this item shall be subject to a certificate issued by the Director-General: Trade and Industry and to such other conditions as may be agreed upon by the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland; and
- (iii) goods imported under this item shall not be sold or disposed of to any party who is not entitled to any privileges under the item, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the Commissioner for Customs and Excise.”;
- (m) by the insertion in paragraph 1 of PART A after Item No. 412.12 of the following Item:
- “460.11/63.09/01.04 Worn clothing, entered in terms of a specific permit issued by the Director-General: Trade and Industry, on the recommendation of the Board of Tariffs and Trade, purchased by or forwarded unsolicited and free to any church or any welfare organisation registered in terms of the National Welfare Act, 1978 (Act No. 100 of 1978), for free distribution to indigent persons by such church or organisation.”;
- (n) by the substitution in paragraph 1 of PART A for Item Nos. 470.01, 470.02 and 470.03 of the following Item:
- “470.00 Goods temporarily admitted for processing, repair, cleaning, reconditioning or for the manufacture of goods exclusively for export.
- 470.01/00.00/01.00 Goods **[temporarily admitted]** for processing, provided such goods do not become the property of the importer.
- 470.02/00.00/01.00 Goods **[temporarily admitted]** for repair, cleaning or reconditioning.
- 02.00 Parts for goods temporarily imported for repair, cleaning or reconditioning.
- 470.03/00.00/01.00 Goods cleared in terms of a permit issued by the Director-General: Trade and Industry, on the recommendation of the Board **[on Tariffs and Trade]** of Trade and Industry, for use in the manufacturing, processing, finishing, equipping or packing of goods exclusively for export.”;
- (o) by the insertion in paragraph 1 of PART A after the expression “Heading No.” of the following heading:
- “Description”;
- (p) by the insertion in paragraph 1 of PART A, after Heading No. 38.11.11.20, of the following Heading:
- “49.07/4907.00.30 Travellers' cheques denominated in a foreign currency.”;
- (q) by the substitution in PART A for paragraph 3 of the following paragraph:
- “3. Goods, being printed books, newspapers, journals and periodicals, imported into the Republic by post of a value for duty purposes under the Customs and Excise Act not exceeding **[R40] R100 per parcel.”;**
- (r) by the addition to PART A of the following paragraph:

**"5. Goed wat ongevraagd en gratis versend word aan—**

- (a) 'n openbare bestuur; of 5  
 (b) 'n vereniging sonder winsoogmerk wat die Kommissaris oortuig het dat sodanige goed deur daardie vereniging gebruik gaan word uitsluitlik—  
     (i) vir opvoedkundige, godsdienstige of welsynsdoeleindes; of  
     (ii) by die uitvoering van daardie vereniging se doelstellings gerig op die lewering van opvoedkundige, mediese of welsynsdienste of mediese of wetenskaplike navorsing; of  
     (iii) vir gratis uitreiking aan of behandeling van behoeftiges.";
- (s) deur DEEL B te skrap; 15  
 (t) deur DEEL C deur die volgende DEEL te vervang:

**"DEEL C**

*Ingevoerde goed wat nie ingevolge die bepalings van die Doeane- en Aksynswet geklaar word of geklaar moet word nie [behalwe goed ingevoer van 'n bepaalde land]*

**1. Goed in die Republiek ingevoer naamlik—**

- (a) Goed bedoel in paragraaf 1 van Deel A van hierdie Bylae ingevolge Items Nos. 405.04, 406.00, 407.01, 407.02, 407.06, 409.01, **[409.03]** 409.04, 409.06, 409.07, 412.02, 412.03, 412.04, 412.10, 412.11, 412.12, **460.11/63.09/01.04, [470.01, 470.02, 470.03]** 470.00, 480.00, 490.00 en Pos Nos. 07.01, 07.02, 07.03, 07.04, 07.05, 07.06, 07.07, 07.08, 07.09, 07.13, 08.06/0806.10, 08.07, 08.08, 08.09, 08.10, 10.05, 10.06, 16.04/1604.13.15, 16.04/1604.13.20, 27.09.00, 27.10/2710.00.12, 27.10/2710.00.16, 38.11.11.20, **49.07/4907.00.30** en 49.11/4911.10.20 in die mate aangedui. 20  
 (b) Goed of items bedoel in paragrawe 2, 3 **[en]**, 4 **en** 5 van Deel A van hierdie Bylae, in die mate aangedui.  
 (c) 'n Motorvoertuig wat 'n bate uitmaak van 'n onderneiming of van 'n ander *bona fide*-handels-, finansiële, nywerheids-, mynbou-, steengroef-, boerdery-, bosbou- of vissery-onderneming of van 'n *bona fide*-professionele praktyk wat aktief in Botswana, Lesotho, Namibië of Swaziland bedryf word en wat vanaf so 'n land die Republiek tydelik binnegebring word vir gebruik tydens die loop van sy diens deur 'n werknemer van bedoelde onderneming, saak of praktyk waar so 'n werknemer gewoonlik in die Republiek woonagtig is en nie 'n regstreekse of onregstreekse finansiële belang of aandeel in bedoelde onderneming, saak of praktyk het nie. 30  
 2. Goed verskeep of vervoer na die Republiek vir herverskeping of vervoer na 'n uitvoerland.  
 3. Goed wat in die Republiek ingevoer of geproduseer of vervaardig is, wat daarvandaan na Botswana, Lesotho, Namibië of Swaziland uitgevoer word en daarna direk na die uitvoerder of enige ander party teruggestuur of deur hom teruggebring word, sonder dat dit 'n vervaardigingsproses, bewerking of verandering ondergaan het **[en sonder 'n verandering van eiendomsreg]**, indien daardie goed voor die aanvangsdatum in die Republiek verkry is of, waar die goed op of na daardie datum aldus verkry is, belasting ingevolge hierdie Wet ten opsigte van die verkryging daarvan betaal is en nie terugbetaal is nie.".

5

10

20

25

35

40

45

50

55

## 5 "5. Goods forwarded unsolicited and free of charge to—

- (a) a public authority; or
  - (b) any association not for gain which satisfies the Commissioner that such goods will be used by that association exclusively—
    - (i) for educational, religious or welfare purposes; or
    - (ii) in the furtherance of that association's objectives directed to the provision of educational, medical or welfare services or medical or scientific research; or
    - (iii) for issue to or treatment of indigent persons, free of charge.”;
- 10 (s) by the deletion of PART B;
- (t) by the substitution for PART C of the following PART:

## 15 "PART C

15 *Imported goods which are not and will not be required to be entered under the provisions of the Customs and Excise Act [excluding goods imported from any specified country]*

## 20 1. Goods imported into the Republic, namely—

- (a) Goods referred to in paragraph 1 of Part A of this Schedule under Items Nos. 405.04, 406.00, 407.01, 407.02, 407.06, 409.01, **[409.03]** 409.04, 409.06, 409.07, 412.02, 412.03, 412.04, 412.10, 412.11, 412.12, **460.11/63.09/01.04 [470.01, 470.02, 470.03]** 470.00, 480.00, 490.00 and Headings Nos. 07.01, 07.02, 07.03, 07.04, 07.05, 07.06, 07.07, 07.08, 07.09, 07.13, 08.06/0806.10, 08.07, 08.08, 08.09, 08.10, 10.05, 10.06, 16.04/1604.13.15, 16.04/1604.13.20, 27.09.00, 27.10/2710.00.12, 27.10/2710.00.16, 38.11.11.20, **49.07/4907.00.30** and 49.11/4911.10.20 to the extent indicated.

- 25 (b) Goods or items referred to in paragraphs 2, 3, **[and] 4 and 5** of Part A of this Schedule, to the extent indicated.

- 30 (c) Any motor vehicle constituting an asset of any enterprise or of any other *bona fide* commercial, financial, industrial, mining, quarrying, farming, forestry or fishing concern or of any *bona fide* professional practice actively carried on in Botswana, Lesotho, Namibia or Swaziland, and which is brought temporarily into the Republic from such country for the use during the course of his employment by any employee of such enterprise, concern or practice where such an employee is ordinarily resident in the Republic and does not have any direct or indirect financial interest or share in such enterprise, concern or practice.

- 35 2. Goods which are shipped or conveyed to the Republic for trans-shipment or conveyance to any export country.

- 40 45 3. Goods imported into or produced or manufactured in the Republic, exported therefrom to Botswana, Lesotho, Namibia or Swaziland and thereafter directly returned to or brought back by the exporter **or any other party** without having been subjected to any manufacturing process, manipulation or modification **[and without a change in ownership]** if such goods were acquired in the Republic before the commencement date or, where such goods were so acquired on or after that date, tax under this Act was paid in respect of the acquisition thereof and has not been refunded.”.

**Wysiging van Bylae 2 by Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 44 van Wet 136 van 1992 en artikel 45 van Wet 97 van 1993**

**33. Bylae 2 by die Hoofwet word hierby gewysig deur in DEEL A subparagraphaaf (a) van paragraaf 2 deur die volgende subparagraphaaf te vervang:**

“(a) die Kommissaris ten opsigte van 'n ondernemer ingevolge hierdie Wet geregistreer [**of 'n Kommissaris van Binnelandse Inkomste van 'n bepaalde land ten opsigte van 'n ondernemer in daardie land geregistreer**], oortuig is dat daardie ondernemer, synde die ontvanger van enige bedoelde goed, landbou-, veeboerdery- of ander boerderybedrywighede beoefen en aan hom 'n kennisgewing van registrasie uitgereik het waarin magtiging verleen word waarkragtens die betrokke goed teen die koers van nul persent aan hom gelewer kan word: Met dien verstande dat waar 'n ondernemer aan wie bedoelde kennisgewing van registrasie uitgereik is, in gebreke is ten opsigte van sy verpligteing ingevolge hierdie Wet om 'n opgawe in te dien of om belasting te betaal of hy opgehou het om bedoelde bedrywighede te beoefen of hy daardie kennisgewing van registrasie gebruik het vir ander doeleindes as die beoefening van bedoelde bedrywighede, die [**betrokke**] Kommissaris, by skriftelike kennisgewing aan die ondernemer, bedoelde magtiging met onmiddellike ingang of met ingang vanaf 'n datum deur [**daardie**] die Kommissaris vasgestel, kan rooier en van die ondernemer vereis dat hy bedoelde kennisgewing van registrasie oorgee sodat 'n gewysigde kennisgewing van registrasie, sonder bedoelde magtiging, indien nodig aan die ondernemer uitgereik kan word;”.

**Wysiging van artikel 60 van Wet 113 van 1993, soos gewysig deur artikel 20 van Wet 140 van 1993 en artikel 4 van Wet 168 van 1993**

**34. Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig—**

(a) deur die woorde wat die omskrywing van “genoteerde maatskappy” in subartikel (1) voorafgaan deur die volgende woorde te vervang:

“In hierdie artikel dra 'n woord of uitdrukking waaraan 'n betekenis in die [**Hoofwet**] Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), of die Wet op Seëlregte, 1968 (Wet No. 77 van 1968), toegeskryf word (met inagneming van die samehang waarin bedoelde woord of uitdrukking gebruik word) die betekenis aldus daarvan toegeskryf, en beteken—”;

(b) deur die volgende omskrywing onmiddellik voor die omskrywing van “genoteerde maatskappy” in subartikel (1) in te voeg:

“aandeel, met betrekking tot 'n maatskappy, 'n aandeel in die **ekwiteitsaandelekapitaal van bedoelde maatskappy**;”;

(c) deur paragrawe (a) en (b) van die omskrywing van “tussenmaatskappy” in subartikel (1) deur die volgende paragrawe te vervang:

“(a) waarvan [**ten minste**] meer as 50 persent van die ekwiteits-aandelekapitaal deur 'n ontbondelingsmaatskappy gehou word; of

(b) waarvan [**ten minste**] meer as 50 persent van die ekwiteits-aandelekapitaal deur—

(i) 'n maatskappy wat 'n tussenmaatskappy ingevolge paragraaf (a) van hierdie omskrywing is; of

(ii) 'n ontbondelingsmaatskappy en een of meer maatskappye bedoel in subparagraphaaf (i) van hierdie omskrywing, gehou word;”;

(d) deur paragraaf (a) van die omskrywing van “uitkeerbare aandele” in subartikel (1) deur die volgende paragraaf te vervang:

“(a) enige aandele in een of meer genoteerde maatskappye op [**21 Junie 1993**] 4 November 1994 deur 'n ontbondelingsmaatskappy [**of 'n tussenmaatskappy**] (hieronder die houer genoem) vir sy eie voordeel gehou, hetso regstreeks of onregstreeks deur een of meer tussenmaatskappye, indien—

5

10

15

20

25

50

55

60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

**Amendment of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 44 of Act 136 of 1992 and section 45 of Act 97 of 1993**

33. Schedule 2 to the principal Act is hereby amended by the substitution in  
 5 PART A for subparagraph (a) of paragraph 2 of the following subparagraph:  
 “(a) the Commissioner, in respect of a vendor registered under this Act, [or  
 a Commissioner for Inland Revenue of a specified country, in respect of  
 10 a vendor registered in that country] is satisfied that that vendor, being  
 other farming operations and has issued to him a notice of registration  
 in which authorization is granted whereby the goods concerned may be  
 supplied to him at the rate of zero per cent: Provided that where a  
 15 vendor to whom such notice of registration has been issued is in default  
 in respect of his obligation under this Act to furnish any return or to  
 pay tax or he has ceased to carry on the said operations or he has  
 utilized such notice of registration for purposes other than the carrying  
 20 on of such operations, the Commissioner [concerned] may, by notice in  
 writing to the vendor, cancel such authorization with immediate effect  
 or with effect from a date determined by [that] the Commissioner and  
 require the vendor to surrender such notice of registration in order that  
 an amended notice of registration, excluding the said authorization,  
 may if necessary be issued to the vendor;”.

**Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993 and section 4 of Act 168 of 1993**

- 25 34. Section 60 of the Income Tax Act, 1993, is hereby amended—  
 (a) by the substitution for the words preceding the definition of “distributable shares” in subsection (1) of the following words:  
 “In this section, any word or expression to which a meaning has  
 30 been assigned in the [principal Act] Income Tax Act, 1962 (Act  
 No. 58 of 1962), or the Stamp Duties Act, 1968 (Act No. 77 of  
 1968), bears (having regard to the context within which such word  
 or expression is used) the meaning so assigned, and—”;  
 (b) by the substitution for paragraph (a) of the definition of “distributable shares” in subsection (1) of the following paragraph:  
 35 “(a) any shares in one or more listed companies held on [21 June  
 1993] 4 November 1994 by an unbundling company [or an  
 intermediate company] (hereinafter referred to as the holder)  
 for its own benefit, whether directly or indirectly through one  
 40 or more intermediate companies, if—  
 (i) that holder’s interest, on such date and at the time of the  
 approval of the proposed transaction in terms of subsection (2), in at least one of such listed companies constitutes  
 at least 10 per cent of the equity share capital of  
 such listed company; or  
 45 (ii) such shares so held on such date and time represent at  
 least 70 per cent of the market value of the assets of such  
 holder; and”;  
 (c) by the substitution for the words preceding subparagraph (i) of  
 50 paragraph (b) of the definition of “distributable shares” in subsection (1) of the following words:  
 “any further shares (if any) in listed companies acquired [by way  
 of purchase or exchange] by such holder for its own benefit after  
 that date in addition to the shares referred to in paragraph (a),  
 if—”;  
 55 (d) by the substitution for paragraph (c) of the definition of “distributable shares” in subsection (1) of the following paragraph:  
 “(c) any shares in an unlisted company held on [22 November  
 1993] 4 November 1994 by [such holder] an unbundling  
 company for its own benefit if—”;

- (i) daardie houer se belang, op bedoelde datum en ten tyde van die goedkeuring van die beoogde transaksie ingevolge subartikel (2), in ten minste een van bedoelde genoteerde maatskappy uit ten minste 10 persent van die ekwiteitsaandelekapitaal van so 'n genoteerde maatskappy bestaan; of 5
- (ii) bedoelde aandele aldus gehou op bedoelde datum en tydstip ten minste 70 persent van die markwaarde van die bates van daardie houer verteenwoordig; en";
- (e) deur die woorde wat subparagraph (i) van paragraaf (b) van die omskrywing van "uitkeerbare aandele" in subartikel (1) voorafgaan deur die volgende woorde te vervang: 10  
 "enige verdere aandele (as daar is) in genoteerde maatskappy deur bedoelde houer vir sy eie voordeel na daardie datum bykomend by die aandele bedoel in paragraaf (a) **[by wyse van aankoop of verruiling]** verkry, indien—"; 15
- (f) deur paragraaf (c) van die omskrywing van "uitkeerbare aandele" in subartikel (1) deur die volgende paragraaf te vervang:  
 "(c) enige aandele in 'n ongenoteerde maatskappy op **[22 November 1993]** **[4 November 1994]** deur **[daardie houer]** 'n ontbondelingsmaatskappy vir sy eie voordeel gehou indien— 20  
 (i) daardie **[houer]** ontbondelingsmaatskappy se belang in bedoelde ongenoteerde maatskappy, op die datum en tyd in paragraaf (a) bedoel, uit ten minste 30 persent van die ekwiteitsaandelekapitaal van bedoelde ongenoteerde maatskappy bestaan; of 25  
 (ii) bedoelde aandele aldus gehou, op die datum en tyd in paragraaf (a) bedoel, ten minste 70 persent van die markwaarde van die bates van daardie **[houer]** ontbondelingsmaatskappy verteenwoordig, 30  
 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 35 1985), genoteer staan te word"; 35
- (g) deur die omskrywing van "uitkering *in specie*" in subartikel (1) deur die volgende omskrywing te vervang:  
 "'uitkering *in specie*', met betrekking tot 'n ontbondelingstransaksie, 'n uitkering deur 'n ontbondelingsmaatskappy of 'n tussenmaatskappy van uitkeerbare aandele ooreenkomsdig 'n ontbondelingstransaksie hetsy bedoelde uitkering plaasvind by wyse van 'n dividend (met inbegrip van 'n likwidasie-dividend), 'n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandelepremie) of 'n aflossing van aflosbare voorkeuraandele.>"; 40
- (h) deur subartikel (2) deur die volgende subartikel te vervang:  
 "(2) Die Kommissaris kan, behoudens die voorwaardes wat hy nodig ag, 'n beoogde transaksie as 'n ontbondelingstransaksie goedkeur by die toepassing van hierdie artikel, indien 'n skriftelike aansoek wat die besonderhede van die transaksie bevat wat die Kommissaris mag vereis, voor die implementering van bedoelde transaksie **[en voor 30 Junie 1994]** deur 'n ontbondelingsmaatskappy aan hom verstrek word.>"; en 45
- (i) deur paragraaf (a) van subartikel (7) deur die volgende paragraaf te vervang:  
 "(a) die goedkeuring van 'n ontbondelingstransaksie deur hom toegestaan ingevolge subartikel (2) of 'n sertifikaat deur hom uitgereik kragtens subartikel (4) deur bedrog of as gevolg van wanvoorstelling of verswyging van enige tersaaklike feit deur die ontbondelingsmaatskappy of enige ander betrokke persoon verkry is; of". 50
- 55
- 60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

5

- (i) such **[holder's]** unbundling company's interest in such unlisted company, on the date and time referred to in paragraph (a), constitutes at least 30 per cent of the equity share capital of such unlisted company; or
- (ii) such shares so held, on the date and time referred to in paragraph (a), represent at least 70 per cent of the market value of the assets of such **[holder]** unbundling company,

10

and such shares are, in pursuance of a distribution *in specie* thereof in the course of an unbundling transaction, to be 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;";

15

- (e) by the substitution for the definition of "distribution *in specie*" in subsection (1) of the following definition:

20

"distribution *in specie*", in relation to an unbundling transaction, means a distribution by an unbundling company or intermediate company of distributable shares in the course of an unbundling transaction whether such distribution occurs by means of a dividend (including a liquidation dividend), a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares;";

25

- (f) by the substitution for paragraphs (a) and (b) of the definition of "intermediate company" in subsection (1) of the following paragraphs:

30

- (a) **[at least]** more than 50 per cent of the equity share capital of which is held by an unbundling company; or
- (b) **[at least]** more than 50 per cent of the equity share capital of which is held by —
  - (i) a company which is an intermediate company in terms of paragraph (a) of this definition; or
  - (ii) an unbundling company and one or more companies referred to in subparagraph (i) of this definition;"

35

- (g) by the insertion after the definition of "qualifying shareholder" in subsection (1) of the following definition:

40

"share", in relation to a company, means a share in the equity share capital of such company;";

- (h) by the substitution for subsection (2) of the following subsection:

45

"(2) The Commissioner may, subject to such conditions as he may deem necessary, approve any proposed transaction as an unbundling transaction for the purposes of this section, if a written application containing such details of the transaction as the Commissioner may require is submitted to him by an unbundling company before the commencement of the implementation of such transaction **[and before 30 June 1994]**"; and

50

- (i) by the substitution for paragraph (a) of subsection (7) of the following paragraph:

"(a) the approval of an unbundling transaction granted by him under subsection (2) or a certificate issued by him under subsection (4) was obtained by fraud or in consequence of any misrepresentation or failure to disclose any material fact by the unbundling company or any other person concerned; or".

**Herroeping van artikel 27 van Wet 88 van 1974**

**35.(1)** Artikel 27 van die Wysigingswet op Inkomstewette, 1974, word hierby herroep.

(2) Subartikel (1) word geag op 1 September 1994 in werking te getree het.

**Spesiale vrystelling ten opsigte van aandele uitgereik deur Rooibostee Natuurlike Produkte Beperk** 5

**36.(1)** Geen seëlregte is betaalbaar nie ten opsigte van die uitreiking van 1 068 538 gewone Klas A-aandele met geen pariwaarde nie deur Rooibostee Natuurlike Produkte Beperk aan die produsente soos bedoel in paragraaf 3 van die notule van vergadering van die raad van direkteure van bedoelde maatskappy gehou op 1 Maart 1994. 10

(2) Subartikel (1) word geag op 1 Maart 1994 in werking te getree het.

**Spesiale vrystelling ten opsigte van aandele uitgereik deur Chicory SA Beperk**

**37.(1)** Geen seëlregte is betaalbaar nie ten opsigte van die uitreiking van 19 500 000 gewone aandele met 'n pariwaarde van 10 sent elk teen 'n premie van 90 sent elk deur Chicory SA Beperk aan die produsente soos bedoel in paragraaf 5.1 van die notule van vergadering van die raad van direkteure van bedoelde maatskappy gehou op 21 September 1993. 15

(2) Subartikel (1) word geag op 1 Oktober 1993 in werking te getree het.

**Spesiale vrystelling ten opsigte van aandele uitgereik deur SA Mohair Brokers Beperk** 20

**38.(1)** Geen seëlregte is betaalbaar nie ten opsigte van die uitreiking van 15 000 000 gewone aandele met 'n pariwaarde van een sent elk teen 'n premie van 99 sent elk deur SA Mohair Brokers Beperk aan die produsente soos bedoel in die notule van vergadering van die raad van direkteure van bedoelde maatskappy gehou op 24 Augustus 1993. 25

(2) Subartikel (1) word geag op 31 Mei 1994 in werking te getree het.

**Vrystelling van seëlreg of hereregte met betrekking tot oordragte van handelsefekte of eiendom of van regte of verpligteinge ingevolge verbande ingevolge skema vir rasionalisasie van groep maatskappy en aanslag van maatskappy in bedoelde groep vir inkomstebelastingdoleindes in sekere omstandighede** 30

**39.(1)** By die toepassing van hierdie artikel dra 'n woord of uitdrukking waaraan 'n betekenis in die Wet op Hereregte, die Wet op Seëlregte of die Inkomstebelastingwet toegeskryf word (met inagneming van die samehang waarin bedoelde woord of uitdrukking gebruik word) die betekenis aldus daaraan toegeskryf, en beteken— 35

“beheerde maatskappy” 'n maatskappy met betrekking waartoe 'n ander maatskappy op die datum en tyd bedoel in die omskrywing van “beherende maatskappy” die beherende maatskappy is;

“beherende maatskappy”, met betrekking tot 'n ander maatskappy, 'n genoteerde maatskappy wat— 40

(a) op 4 November 1994, of, waar bedoelde ander maatskappy ingelyf is na bedoelde datum en die Kommissaris tevrede is dat bedoelde ander maatskappy ingelyf is om gevolg te gee aan 'n rasionalisasieskema, die datum van inlywing van bedoelde ander maatskappy; en

(b) ten tyde van 'n ooreenkoms bedoel in die omskrywing van “rasionalisasieskema” waartoe bedoelde ander maatskappy 'n party is,

vir sy eie voordeel, hetsy regstreeks of onregstreeks deur een of meer maatskappy in die groep maatskappy waarvan al die betrokke maatskappy lede is, aandele in bedoelde ander maatskappy besit wat, tesame met aandele in daardie ander maatskappy besit deur 'n trustee ingevolge 'n skema bedoel in artikel 38(2)(b) van die Maatskappywet, 1973 (Wet No. 61 van 1973), nie minder nie as 75 persent van die ekwiteitsaandelekapitaal van bedoelde ander maatskappy uitmaak; 50

**Repeal of section 27 of Act 88 of 1974**

35. (1) Section 27 of the Revenue Laws Amendment Act, 1974, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 5 September 1994.

**Special exemption in respect of shares issued by Rooibos Tea Natural Products Limited**

36. (1) No stamp duty shall be payable in respect of the issue of 1 068 538 ordinary Class A shares with no par value by Rooibos Tea Natural Products Limited to the producers as referred to in paragraph 3 of the minutes of a meeting held by the board of directors of the said company on 1 March 1994.

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1994.

**Special exemption in respect of shares issued by Chicory SA Limited**

15 37. (1) No stamp duty shall be payable in respect of the issue of 19 500 000 ordinary shares with a par value of 10 cents each at a premium of 90 cents each by Chicory SA Limited to the producers as referred to in paragraph 5.1 of the minutes of a meeting held by the board of directors of the said company on 21 September 1993.

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

**Special exemption in respect of shares issued by SA Mohair Brokers Limited**

25 38. (1) No stamp duty shall be payable in respect of the issue of 15 000 000 ordinary shares with a par value of one cent each at a premium of 99 cents each by SA Mohair Brokers Limited to the producers as referred to in the minutes of a meeting held by the board of directors of the said company on 24 August 1993.

(2) Subsection (1) shall be deemed to have come into operation on 31 May 1994.

**Exemption from stamp duty or transfer duty relating to transfer of marketable securities or property or of rights or obligations under bonds under scheme for rationalisation of group of companies and assessment of companies in such group for income tax purposes in certain circumstances**

35 39. (1) For the purposes of this section any word or expression to which a meaning has been assigned in the Transfer Duty Act, the Stamp Duties Act or the Income Tax Act, bears (having regard to the context within which such word or expression is used) the meaning so assigned, and—

40 “controlled company” means a company in relation to which another company is at the date and time referred to in the definition of “controlling company” the controlling company;

“controlling company”, in relation to any other company, means a listed company which—

45 (a) on 4 November 1994, or, where such other company is incorporated after such date and the Commissioner is satisfied that such other company was incorporated to give effect to a rationalisation scheme, the date of incorporation of such other company; and

50 (b) at the time of any agreement referred to in the definition of “rationalisation scheme” to which such other company is a party, holds for its own benefit, whether directly or indirectly through one or more companies in the group of companies of which all the companies in question are members, shares in such other company which, together with shares in that other company held by a trustee under a scheme referred to in section 38(2)(b) of the Companies Act, 1973 (Act No. 61 of 1973), constitutes not less than 75 per cent of the equity share capital of the said other company;

“genoteerde maatskappy” ’n maatskappy waarvan die ekwiteitsaandelekapitaal op ’n gelisensieerde effektebeurs soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985), genoteer is; “groep maatskappye” ’n beherende maatskappy en een of meer ander maatskappye wat beheerde maatskappye is met betrekking tot die beherende maatskappy op die datum en tyd bedoel in die omskrywing van “beherende maatskappy”;

“handelseffek” ’n handelseffek waarvan die registrasie van oordrag aan seëlreg onderhewig sou wees indien dit nie ingevolge die bepalings van hierdie artikel vrygestel was nie;

“hereregte” die reg wat ingevolge die Wet op Hereregte hefbaar is;

“Inkomstebelastingwet” die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962);

“rasionalisasieskema” ’n skema uitgevoer ingevolge ’n geskrewe ooreenkoms aangegaan op of na 4 November 1994 vir die rasionalisasie van die aktiwiteitie van ’n groep maatskappye waar—

(a) bedoelde skema uitsluitlik of hoofsaaklik ontwerp is—

- (i) ten einde binne bedoelde groep wesentlike en voortdurende besparings van bedryfsuitgawes of wesentlike en voortdurende bedryfs- of administratiewe voordele te bewerkstellig; of
- (ii) ter bevordering van en vir die doeleindes van die bevoordeling van sommige of al die bedryfsaktiwiteitie van bedoelde groep wat voor die oordrag daarvan bedryf was deur een of meer maatskappye van bedoelde groep en na die oordrag daarvan bedryf staan te word deur een of meer ander maatskappye van bedoelde groep; of

(b) die Kommissaris, met inagneming van die omstandighede van die geval en behoudens sodanige vereistes wat hy oplê, tevrede is dat bedoelde skema uitsluitlik of hoofsaaklik ontwerp is om ’n ontbondelingstransaksie soos bedoel in artikel 60 van die Inkomstebelastingwet, 1993 (Wet No. 113 van 1993), uit te voer;

“seëlreg” die seëlreg wat ingevolge Item 15(3) van Bylae 1 by die Wet op Seëlregte hefbaar is ten opsigte van die registrasie van oordrag van ’n handelseffek of die seëlreg wat ingevolge Item 7(3), (4) of (5) van genoemde Bylae hefbaar is ten opsigte van die sessie van ’n verband of die vervanging van ’n skuldenaar ten opsigte van so ’n verband;

“Wet op Hereregte” die Wet op Hereregte, 1949 (Wet No. 40 van 1949);

“Wet op Seëlregte” die Wet op Seëlregte, 1968 (Wet No. 77 van 1968).

(2) Waar, ingevolge ’n rasionalisasieskema, ’n maatskappy (hieronder die oordraggewende maatskappy genoem), ’n handelseffek of eiendom vervreem of onderneem om te vervreem (hetsy by wyse van verkoop, skenking, sessie, dividend of in enige ander vorm) aan ’n ander maatskappy (hieronder die oordragnemende maatskappy genoem) of ’n verband wat eiendom verhipotekeer aan die oordragnemende maatskappy sedeer of onderneem om dit te doen of die oordragnemende maatskappy die oordraggewende maatskappy as skuldenaar ingevolge so ’n verband vervang of staan te vervang, en ten tyde van daardie ooreenkoms en die uitvoering daarvan albei maatskappye lede van een en dieselfde groep maatskappye is—

- (a) word, waar bedoelde vervreemding, oordrag, sessie of vervanging van ’n handelseffek, eiendom of verband, na gelang van die geval, aanleiding gee tot die uitkering van ’n dividend, bedoelde dividend geag nie ’n dividend by die toepassing van Dele III en VII van Hoofstuk II van die Inkomstebelastingwet te wees nie;
- (b) kan die beherende maatskappy betrokke by bedoelde skema en die Kommissaris ooreenkomm dat, behoudens sodanige regstellings wat nodig mag wees, die oordraggewende maatskappy en die oordragnemende maatskappy geag word een en dieselfde maatskappy te wees; en
- (c) word die gevolglike registrasie van oordrag van bedoelde handelseffek aan bedoelde oordragnemende maatskappy of die sessie van bedoelde verband of die vervanging van die skuldenaar ingevolge die ooreenkoms, ingevolge bedoelde skema van seëlreg vrygestel en word die verkryging van bedoelde eiendom deur die oordragnemende maatskappy ingevolge bedoelde skema van hereregte vrygestel, na gelang van die geval.

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

“group of companies” means a controlling company and one or more other companies which are controlled companies in relation to the controlling company at the date and time referred to in the definition of “controlling company”;

5 “Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962); “listed company” means a company the equity share capital of which is listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);

10 “marketable security” means a marketable security the registration of transfer of which would, but for the exemption under this section, be subject to stamp duty;

15 “rationalisation scheme” means any scheme effected in terms of a written agreement concluded on or after 4 November 1994 for the rationalisation of the activities of a group of companies where—

15 (a) such scheme was devised solely or mainly—  
 (i) in order to achieve substantial and enduring savings in operational expenditure or substantial and enduring operational or administrative advantages within the said group; or

20 (ii) in the furtherance of and for the purpose of benefiting some or all of the trading activities of the said group which before the transfer thereof were carried on by one or more companies of the said group and after the transfer thereof will be carried on by one or more other companies of the said group; or

25 (b) the Commissioner is, having regard to the circumstances of the case and subject to such conditions he may impose, satisfied that such scheme was devised solely or mainly to effect an unbundling transaction as contemplated in section 60 of the Income Tax Act, 1993 (Act No. 113 of 1993);

30 “Stamp Duties Act” means the Stamp Duties Act, 1968 (Act No. 77 of 1968);

35 “stamp duty” means the stamp duty leviable under Item 15(3) of Schedule 1 to the Stamp Duties Act in respect of the registration of transfer of any marketable security or the stamp duty leviable under Item 7(3), (4) or (5) of the said Schedule in respect of the cession of a mortgage bond or the substitution of a debtor in respect of such bond;

“transfer duty” means the duty leviable under the Transfer Duty Act;

“Transfer Duty Act” means the Transfer Duty Act, 1949 (Act No. 40 of 1949).

40 (2) Where, under any rationalisation scheme, any company (hereinafter referred to as the transferor company), disposes of (whether by way of sale, donation, cession, dividend or in any other form) or undertakes to dispose of any marketable security or property to any other company (hereinafter referred to as the transferee company), or cedes or undertakes to cede any mortgage bond hypothecating property to the transferee company or the transferee company is 45 or is to be substituted for the transferor company as the debtor under such a bond and both companies are at the time of such agreement and the implementation thereof members of one and the same group of companies—

50 (a) such disposal, transfer, cession or substitution of any marketable security, property or bond, as the case may be, where it gave rise to the distribution of a dividend, such dividend shall be deemed not to be a dividend for the purposes of Parts III and VII of Chapter II of the Income Tax Act;

55 (b) the controlling company involved in such scheme and the Commissioner may agree that, subject to such adjustments as may be necessary, the transferor company and the transferee company shall be deemed to be one and the same company; and

60 (c) there shall be exempt from stamp duty the consequent registration of transfer to such transferee company of such marketable security or the cession of such bond or the substitution of the debtor in terms of the agreement, in terms of such scheme and there shall be exempt from transfer duty the acquisition by the transferee company of the property in terms of such scheme, as the case may be.

- (3) Die bepalings van subartikels (2) en (6) is slegs van toepassing indien—  
 (a) die ooreenkoms bedoel in die omskrywing van "rasionalisasieskema" en 'n skriftelike verklaring waarin besonderhede van die rasionalisasieskema en enige daaropvolgende verandering daarvan deur of namens die beherende maatskappy van die tersaaklike groep maatskappye aan die Kommissaris voorgelê is tesame met 'n volmag van elke beheerde maatskappy in bedoelde groep wat 'n party by die ooreenkoms is om namens hom vir die doeleindeste van hierdie artikel op te tree, gestaaf deur 'n besluit van die direkteure of aandeelhouers van bedoelde beheerde maatskappy; en 5  
 (b) die Kommissaris 'n sertifikaat uitgereik het ten effekte dat die registrasie van oordrag van die betrokke handelseffek of die sessie van die betrokke verband of die vervanging van die skuldenaar ingevolge die betrokke verband, ingevolge hierdie artikel van seëlreg vrygestel is of dat die verkryging van die betrokke eiendom ingevolge hierdie artikel van hereregte vrygestel is, na gelang van die geval. 10  
 (4) 'n Vrystelling ingevolge subartikel (2) verval tensy die registrasie van oordrag van die betrokke handelseffek of die registrasie van die sessie van die betrokke verband of die vervanging van die skuldenaar ingevolge die betrokke verband of die registrasie van die oordrag van die betrokke eiendom, na gelang van die geval, bewerkstellig word nie later nie as ses maande na die datum van die sertifikaat bedoel in subartikel (3)(b) of binne die verdere tydperk wat die Kommissaris, met inagneming van die omstandighede van die geval, goedkeur. 15  
 (5) Waar die Kommissaris oortuig is dat—  
 (a) 'n sertifikaat deur hom uitgereik kragtens subartikel (3)(b) deur bedrog verkry is of uitgereik is as gevolg van wanvoorstelling of verswyging van enige tersaaklike feit deur die beherende maatskappy of enige ander persoon; of 20  
 (b) die beherende maatskappy of enige ander betrokke persoon nagelaat het om aan die bepaling van hierdie artikel te voldoen, moet hy, indien hy oortuig is dat in die lig van die volle feite die sertifikaat nie uitgereik moes gewees het nie, of dat daar nie aan bedoelde bepaling voldoen is nie, bedoelde sertifikaat intrek, en word— 25  
 (i) die vrystelling van seëlreg of hereregte deur bedoelde sertifikaat gemagtig, met ingang van die datum van uitreiking van bedoelde sertifikaat geag ingetrek te gewees het; en 30  
 (ii) die bepaling van subartikels (2) en (6) geag nie van toepassing te gewees het nie.  
 (6) Vir die doeleindeste van belasting gehef ingevolge die Inkomstebelastingwet en ondanks andersluidende bepaling van daardie Wet, waar op of na 4 November 1994 'n sake-onderneming in geheel of gedeeltelik vervreem word (hetsy by wyse van verkoop, skenking, sessie, dividend of in enige ander vorm) ingevolge 'n rasionalisasieskema deur 'n maatskappy (hieronder die oordraggewende maatskappy genoem) aan 'n ander maatskappy (hieronder die oordagnemende maatskappy genoem) en albei bedoelde maatskappye ten tyde van bedoelde vervreemding lede van dieselfde groep maatskappye is, kan die beherende maatskappy wat by die skema betrokke is en die Kommissaris ooreenkomen dat— 40  
 (a) enige handelsvoorraad aldus vervreem, geag word verkoop te gewees het deur die oordraggewende maatskappy aan die oordagnemende maatskappy teen 'n prys gelykstaande aan die waarde van bedoelde handelsvoorraad in die hande van die oordraggewende maatskappy soos vasgestel ingevolge die bepaling van artikel 22(1) van die Inkomstebelastingwet, en sal geag word verkry te gewees het deur die oordagnemende maatskappy as handelsvoorraad; 45  
 (b) 'n gebou, masjinerie, installasie, gereedskap, werktuig of artikel aldus vervreem, waarvan die waarde by die toepassing van die Inkomstebelastingwet in berekening gebring staan te word, vir sover dit die oordraggewende maatskappy betref, geag word deur hom verkoop te gewees het teen 'n prys gelykstaande aan die belastingwaarde daarvan in sy hande; 50  
 (c) die oordraggewende maatskappy en die oordagnemende maatskappy, behoudens sodanige regstellings as wat nodig mag wees, geag word een en dieselfde maatskappy te wees: Met dien verstande dat— 55  
 60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- (3) The provisions of subsections (2) and (6) shall only apply if—
- (a) the agreement referred to in the definition of "rationalisation scheme" and a written statement setting forth details of the rationalisation scheme and any subsequent variation thereof, have been submitted by or on behalf of the controlling company of the relevant group of companies to the Commissioner, together with a mandate from each controlled company in such group which is a party to the agreement to act on its behalf for the purposes of this section, supported by a resolution of the directors or shareholders of such controlled company; and
  - (b) the Commissioner has issued a certificate to the effect that the registration of transfer of the relevant marketable security or the cession of the relevant bond or the substitution of the debtor under the relevant bond, is exempt from stamp duty under this section or that the acquisition of the relevant property is exempt from transfer duty under this section, as the case may be.
- (4) Any exemption under subsection (2) shall lapse unless registration of transfer of the relevant marketable security or the registration of the cession of the relevant bond or the substitution of the debtor under the relevant bond or the registration of transfer of the relevant property, as the case may be, is effected not later than six months after the date of the certificate referred to in subsection (3)(b) or within such further period as the Commissioner, having regard to the circumstances of the case, may approve.
- (5) Where the Commissioner is satisfied that—
- (a) a certificate issued by him under subsection (3)(b) was obtained by fraud or was issued or obtained in consequence of any misrepresentation or failure to disclose any material fact by the controlling company or any other person; or
  - (b) the controlling company or any other person concerned failed to comply with the provisions of this section,
- he shall, if he is satisfied that in the light of the full facts the certificate should not have been issued, or that such provisions have not been complied with, withdraw such certificate, and—
- (i) the exemption from stamp duty or transfer duty authorized by such certificate shall be deemed to have been withdrawn as from the date of issue of such certificate; and
  - (ii) the provisions of subsections (2) and (6) shall be deemed not to have applied.
- (6) For the purposes of the taxation levied under the Income Tax Act and notwithstanding anything to the contrary in that Act, where on or after 4 November 1994 the whole or a part of any business undertaking is disposed of (whether by way of sale, donation, cession, dividend or in any other form) in terms of a rationalisation scheme by a company (hereinafter referred to as the transferor company) to any other company (hereinafter referred to as the transferee company) and both such companies are at the time of such disposal members of one and the same group of companies, the controlling company involved in such scheme and the Commissioner may agree that—
- (a) any trading stock so disposed of shall be deemed to have been sold by the transferor company to the transferee company at a price equal to the value of such trading stock in the hands of the transferor company as determined under the provisions of section 22(1) of the Income Tax Act, and shall be deemed to have been acquired by the transferee company as trading stock;
  - (b) any building, machinery, plant, implement, utensil or article so disposed of, the value of which is to be taken into account for purposes of the Income Tax Act, shall, in so far as the transferor company is concerned, be deemed to have been sold by it at a price equal to the tax value in its hands;
  - (c) the transferor company and the transferee company shall, subject to such adjustments as may be necessary, be deemed to be one and the same company: Provided that—

- (i) die bepalings van hierdie paragraaf nie so uitgelê word nie dat dit die oordagnemende maatskappy toelaat om teen sy inkomste enige vasgestelde verlies of balans van vasgestelde verlies gely deur die oordraggewende maatskappy in vergelyking te bring nie; en 5  
(ii) die bepalings van hierdie paragraaf nie die aanspreeklikheid vir belasting van die oordraggewende maatskappy of die oordagnemende maatskappy ten opsigte van enige inkomste verkry of onkoste aangegaan voor die datum waarop die rasionalisasieskema in werking getree het, raak nie; en  
(d) waar 'n verkoop of vervreemding van enige handelsvoorraad, bate of sake-onderneming of deel daarvan beoog in paragraaf (a), (b) of (c) aanleiding gee tot die uitkering van 'n dividend, bedoelde uitkering geag word nie 'n dividend by die toepassing van Dele III en VII van Hoofstuk II van die Inkomstebelastingwet te wees nie. 10  
(7) Die bepalings van hierdie artikel is nie van toepassing nie indien die hoofdieleinde of een van die hoofdieleindes van 'n rasionalisasieskema die vermyding, uitstel of vermindering van aanspreeklikheid vir die betaling van belasting, reg of heffing is, hetsy opgelê ingevolge die Inkomstebelastingwet of 'n ander wet wat deur die Kommissaris geadministreer word, wat, by ontstentenis van die bepalings van hierdie artikel, betaalbaar sou gewees het as gevolg van die 15 aangaan van bedoelde skema.  
(8) 'n Beslissing van die Kommissaris by die uitoefening van sy diskresie kragtens hierdie artikel is aan beswaar en appèl onderhewig.

#### **Uitbreiding van toepassing van sekere wette**

**40.(1)** Die wette genoem in Bylae 1 wat onmiddellik voor die inwerkingtreding van die Grondwet van krag was in die nasionale grondgebied van die Republiek, met die uitsondering van die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei, is vanaf 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal, ook van toepassing in die gebiede van vermelde voormalige Republieke. 25  
30

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskilende wette genoem in Bylae 1 bepaal word.

(3) 'n Wet waarna in 'n wet beoog in subartikel (1) verwys word wat nog nie in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei van toepassing is nie word, by die toepassing van die betrokke wet beoog in subartikel (1), geag in sodanige gebiede van toepassing te wees. 35

(4) Die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), is, vanaf die datum van inwerkingtreding van die Wysigingswet op Belastingwette, 1994, ook van toepassing in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei. 40

(5) 'n Wet waarna in die Wet op Belasting op Toegevoegde Waarde, 1991, verwys word wat nog nie in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei van toepassing is nie word, by die toepassing van die Wet op Belasting op Toegevoegde Waarde, 1991, geag in sodanige gebiede van toepassing te wees. 45  
45

#### **Herroeping van wette, en voorbehoud**

**41.(1)** Behoudens die bepalings van subartikels (2), (3), (4) en (5) word die wette genoem in die tweede kolom van Deel 1 van Bylae 2, vanaf 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal, herroep in die mate uiteengesit in die derde kolom van Deel 1 van Bylae 2 ten opsigte van die onderskeie gebiede waarin dit van toepassing was onmiddellik voor die inwerkingtreding van die Grondwet soos uiteengesit in die vierde kolom van Deel 1 van Bylae 2. 50

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van die verskillende wette genoem in die tweede kolom van Deel 1 van Bylae 2 bepaal word. 55

(3) Enigets wat gedoen is kragtens 'n wet herroep ingevolge subartikel (1) en wat kragtens 'n bepaling van 'n wet genoem in die tweede kolom van Bylae 1 gedoen kan word, word geag kragtens sodanige bepaling van sodanige wet gedoen te wees. 60

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

- (i) the provisions of this paragraph shall not be interpreted as permitting the transferee company to set off against its income any assessed loss or balance of assessed loss incurred by the transferor company; and
- 5 (ii) the provisions of this paragraph shall not affect the liability for tax of the transferor company or the transferee company in respect of any income derived or expenditure incurred prior to the date on which the rationalisation scheme came into effect; and
- 10 (d) where any sale or disposal of any trading stock, asset or business undertaking or part thereof contemplated in paragraph (a), (b) or (c) gives rise to the distribution of a dividend, such distribution shall be deemed not to be a dividend for the purposes of Parts III and VII of Chapter II of the Income Tax Act.
- (7) The provisions of this section shall not apply if the main or one of the main 15 purposes of a rationalisation scheme is the avoidance, postponement or reduction of liability for the payment of any tax, duty or levy, whether imposed under the Income Tax Act or any other law administered by the Commissioner, which, but for the provisions of this section, would have been payable in consequence of such scheme having been entered into.
- 20 (8) Any decision of the Commissioner in the exercise of his discretion under this section shall be subject to objection and appeal.

**Extension of application of certain laws**

40. (1) The laws mentioned in Schedule 1 which immediately prior to the commencement of the Constitution were in force in the national territory of the 25 Republic, excluding the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, shall, from a date fixed by the President by proclamation in the *Gazette*, also apply in the territories of the said former Republics.
- (2) Different dates may be fixed in terms of subsection (1) in respect of 30 different laws mentioned in Schedule 1.
- (3) Any law referred to in a law contemplated in subsection (1) which is not yet applicable in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, shall for the purposes of the law contemplated in subsection (1) concerned be deemed to be applicable in the said territories.
- 35 (4) The Value-Added Tax Act, 1991 (Act No. 89 of 1991), shall, from the date of commencement of the Taxation Laws Amendment Act, 1994, also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei.
- (5) Any law referred to in the Value-Added Tax Act, 1991, which is not yet 40 applicable in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, shall for the purposes of the Value-Added Tax Act, 1991, be deemed to be applicable in the said territories.

**Repeal of laws, and savings**

41. (1) Subject to the provisions of subsections (2), (3), (4) and (5), the laws 45 mentioned in the second column of Part 1 of Schedule 2 are, from a date fixed by the President by proclamation in the *Gazette*, repealed to the extent as set out in the third column of Part 1 of Schedule 2 in respect of the different territories in which they were applicable immediately prior to the commencement of the Constitution as set out in the fourth column of Part 1 of Schedule 2.
- 50 (2) Different dates may be fixed in terms of subsection (1) in respect of different laws mentioned in the second column of Part 1 of Schedule 2.
- (3) Anything done under a law repealed in terms of subsection (1) which is capable of being done under a provision of a law mentioned in the second column of Schedule 1, shall be deemed to have been done under such provision 55 of such law.

(4) 'n Belasting of reg wat betaalbaar geword het kragtens 'n wet herroep ingevolge subartikel (1) voor of op die datum van herroeping van so 'n wet, maar wat op bedoelde datum nie betaal is nie, word verhaal ooreenkomstig en behoudens die bepalings van die betrokke wet asof daardie wet nie ingevolge subartikel (1) herroep is nie.

(5) Ondanks die bepalings van subartikel (1) word 'n reeks seëls goedgekeur vir gebruik in enige van die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei ingevolge 'n wet herroep ingevolge subartikel (1) geag nie ingetrek te wees nie op die datum van herroeping van die betrokke wet en gaan voort om van toepassing te wees vir gebruik van die aanduiding van betaling van seëlregte of 'n boete totdat anders bepaal word ingevolge 'n regulasie uitgevaardig deur die Minister van Finansies ingevolge die bepalings van die Wet op Seëlregte, 1968 (Wet No. 77 van 1968), met betrekking tot die ontmunting of intrekking van die bepaalde uitgifte van seëls.

(6) Behoudens die bepalings van subartikels (7) en (8) word die wette genoem in die tweede kolom van Deel 2 van Bylae 2, vanaf die datum van die inwerkingtreding van die Wysigingswet op Belastingwette, 1994, herroep in die mate uiteengesit in die derde kolom van Deel 2 van Bylae 2.

(7) Die bepalings van die wette herroep ingevolge subartikel (6) ingevolge waarvan belasting op toegevoegde waarde teen die koers van nul persent gehef word ten opsigte van dienste met betrekking tot weddery, bly, tot 'n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal, van krag asof dit ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), verorden was.

(8) Enigets wat gedoen is kragtens 'n wet herroep ingevolge subartikel (6) en wat kragtens 'n bepaling van die Wet op Belasting op Toegevoegde Waarde, 1991, gedoen kan word, word geag kragtens sodanige bepaling van die Wet op Belasting op Toegevoegde Waarde, 1991, gedoen te wees.

(9) 'n Belasting op toegevoegde waarde wat betaalbaar of terugbetaalbaar geword het kragtens 'n wet herroep ingevolge subartikel (6) voor of op die datum van herroeping van so 'n wet, maar wat op bedoelde datum nie betaal of terugbetaal is nie, na gelang van die geval, word verhaal of terugbetaal ooreenkomstig en behoudens die bepalings van die betrokke wet asof daardie wet nie ingevolge subartikel (6) herroep is nie.

#### Kort titel

42. Hierdie Wet heet die Wysigingswet op Belastingwette, 1994.

(4) Any tax or duty which has become payable under a law repealed in terms of subsection (1) before or on the date of the repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been repealed in 5 terms of subsection (1).

(5) Notwithstanding the provisions of subsection (1), any series of stamps approved for use in any of the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei in terms of a law repealed in terms of subsection (1), shall be deemed not to have been withdrawn on the date of the 10 repeal of the law concerned and shall continue to apply for use of denoting the payment of any stamp duty or any penalty until otherwise provided in terms of a regulation made by the Minister of Finance in terms of the provisions of the Stamp Duties Act, 1968 (Act No. 77 of 1968), as to the demonetization or withdrawal of the particular issue of stamps.

15 (6) Subject to the provisions of subsections (7) and (8), the laws mentioned in the second column of Part 2 of Schedule 2 are, from the commencement of the Taxation Laws Amendment Act, 1994, repealed to the extent as set out in the third column of Part 2 of Schedule 2.

(7) The provisions of the laws repealed in terms of subsection (6) in terms of 20 which value-added tax is levied at the rate of zero per cent in respect of services relating to betting shall, until a date fixed by the Minister of Finance by notice in the *Gazette*, remain in force as if enacted in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

(8) Anything done under a law repealed in terms of subsection (6) which is 25 capable of being done under a provision of the Value-Added Tax Act, 1991, shall be deemed to have been done under such provision of the Value-Added Tax Act, 1991.

(9) Any value-added tax which has become payable or refundable under a law 30 repealed in terms of subsection (6) before or on the date of the repeal of such a law, but which has not at the said date been paid or refunded, as the case may be, shall be recovered or refunded in accordance with and subject to the provisions of the law concerned as if that law had not been repealed in terms of subsection (6).

#### Short title

35 42. This Act shall be called the Taxation Laws Amendment Act, 1994.

---

Wet No. 20, 1994

## WYSIGINGSWET OP BELASTINGWETTE, 1994

## BYLAE 1

## UITBREIDING VAN DIE TOEPASSING VAN SEKERE WETTE (ARTIKEL 40)

Nommer en jaar van wet	Kort titel
Wet No. 32 van 1948	Handelseffektebelastingwet, 1948
Wet No. 40 van 1949	Wet op Hereregte, 1949
Wet No. 45 van 1955	Wet op Boedelbelasting, 1955
Wet No. 77 van 1968	Wet op Seëlregte, 1968

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

**SCHEDULE 1****EXTENSION OF THE APPLICATION OF CERTAIN LAWS (SECTION 40)**

Number and year of law	Short title
Act No. 32 of 1948	Marketable Securities Tax Act, 1948
Act No. 40 of 1949	Transfer Duty Act, 1949
Act No. 45 of 1955	Estate Duty Act, 1955
Act No. 77 of 1968	Stamp Duties Act, 1968

## BYLAE 2

## Deel 1

## WETTE HERROEP (ARTIKEL 41(1))

Nommer en jaar van wet		Kort titel	Omvang van wette herroep	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep word
(a)	Wet No. 32 van 1948	Handelseffektebelastingswet, 1948	Die geheel	Die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei
(b)	Wet No. 40 van 1949	Wet op Hereregt, 1949	Die geheel	Die gebiede van die voormalige Republieke van Transkei, Bophuthatswana en Venda
	Wet No. 59 van 1951	Wysigingswet op Hereregt, 1951	Die geheel	
	Wet No. 31 van 1953	Wysigingswet op Hereregt, 1953	Die geheel	
	Wet No. 32 van 1954	Wysigingswet op Hereregt, 1954	Die geheel	
	Wet No. 70 van 1963	Wysigingswet op Inkomstewette, 1963	Die geheel	
	Wet No. 77 van 1964	Wysigingswet op Inkomstewette, 1964	Artikels 1 tot 15	
	Wet No. 81 van 1965	Wysigingswet op Inkomstewette, 1965	Die geheel	
	Wet No. 56 van 1966	Wysigingswet op Inkomstewette, 1966	Die geheel	
(c)	Wet No. 77 van 1968	Wet op Seëlregte, 1968	Die geheel	Die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei
	Wet No. 103 van 1969	Wysigingswet op Inkomstewette, 1969	Die geheel	
	Wet No. 72 van 1970	Wysigingswet op Inkomstewette, 1970	Die geheel	
	Wet No. 92 van 1971	Wysigingswet op Inkomstewette, 1971	Artikels 1, 2 en 13	
	Wet No. 89 van 1972	Wysigingswet op Inkomstewette, 1972	Artikel 2 en artikels 9 tot 13	
	Wet No. 66 van 1973	Wysigingswet op Inkomstewette, 1973	Artikels 2 tot 20	
	Wet No. 88 van 1974	Wysigingswet op Inkomstewette, 1974	Die geheel	
	Wet No. 70 van 1975	Wysigingswet op Inkomstewette, 1975	Die geheel	
(d)	Wet No. 54 van 1976	Wet op die Abattoirbedryf, 1976	Artikel 77	Die gebiede van die voormalige Republieke van Transkei, Bophuthatswana en Venda

**SCHEDULE 2****Part 1****LAWS REPEALED (SECTION 41(1))**

<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of laws repealed</b>	<b>Area of national territory in respect of which law is repealed</b>
(a) Act No. 32 of 1948	Marketable Securities Tax Act, 1948	The whole	The territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei
(b) Act No. 40 of 1949	Transfer Duty Act, 1949	The whole	The territories of the former Republics of Transkei, Bophuthatswana and Venda
Act No. 59 of 1951	Transfer Duty Amendment Act, 1951	The whole	
Act No. 31 of 1953	Transfer Duty Amendment Act, 1953	The whole	
Act No. 32 of 1954	Transfer Duty Amendment Act, 1954	The whole	
Act No. 70 of 1963	Revenue Laws Amendment Act, 1963	The whole	
Act No. 77 of 1964	Revenue Laws Amendment Act, 1964	Sections 1 to 15	
Act No. 81 of 1965	Revenue Laws Amendment Act, 1965	The whole	
Act No. 56 of 1966	Revenue Laws Amendment Act, 1966	The whole	
(c) Act No. 77 of 1968	Stamp Duties Act, 1968	The whole	The territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei
Act No. 103 of 1969	Revenue Laws Amendment Act, 1969	The whole	
Act No. 72 of 1970	Revenue Laws Amendment Act, 1970	The whole	
Act No. 92 of 1971	Revenue Laws Amendment Act, 1971	Sections 1, 2 and 13	
Act No. 89 of 1972	Revenue Laws Amendment Act, 1972	Section 2 and sections 9 to 13	
Act No. 66 of 1973	Revenue Laws Amendment Act, 1973	Sections 2 to 20	
Act No. 88 of 1974	Revenue Laws Amendment Act, 1974	The whole	
Act No. 70 of 1975	Revenue Laws Amendment Act, 1975	The whole	
(d) Act No. 54 of 1976	Abattoir Industry Act, 1976	Section 77	The territories of the former Republics of Transkei, Bophuthatswana and Venda

Wet No. 20, 1994

## WYSIGINGSWET OP BELASTINGWETTE, 1994

<b>Nommer en jaar van wet</b>	<b>Kort titel</b>	<b>Omvang van wette herroep</b>	<b>Gebied van nasionale grondgebied ten opsigte waarvan wet herroep word</b>	
(e) Wet No. 104 van 1976	Wysigingswet op Inkomstewette, 1976	Die geheel	Die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei	
(f) Wet No. 114 van 1977	Wysigingswet op Inkomstewette, 1977	Artikels 1 tot 6, en 9 tot 20	Die gebiede van die voormalige Republieke van Bophuthatswana, Venda en Ciskei	
(g)	Wet No. 95 van 1978	Wysigingswet op Inkomstewette, 1978	Die geheel	Die gebiede van die voormalige Republieke van Venda en Ciskei
	Wet No. 102 van 1979	Wysigingswet op Inkomstewette, 1979	Die geheel	
(h)	Wet No. 106 van 1980	Wysigingswet op Inkomstewette, 1980	Die geheel	Die gebied van die voormalige Republiek van Ciskei
	Wet No. 99 van 1981	Wysigingswet op Inkomstewette, 1981	Die geheel	
(i)	Wet No. 18 van 1978 (Transkei)	“Stamp Duties Amendment Act, 1978”	Die geheel	Die gebied van die voormalige Republiek van Transkei
	Wet No. 22 van 1983 (Transkei)	“Stamp Duties Amendment Act, 1983”	Die geheel	
	Wet No. 7 van 1985 (Transkei)	“Stamp Duties Amendment Act, 1985”	Die geheel	
	Wet No. 14 van 1986 (Transkei)	“Stamp Duties Amendment Act, 1986”	Die geheel	
	Dekreet No. 17 van 1989 (Transkei)	“Decree No. 17 (Revenue Laws Amendment) of 1989”	Artikel 3	
	Dekreet No. 16 van 1991 (Transkei)	“Decree No. 16 (Value-Added Tax) of 1991”	Artikels 79 tot 84	
(j)	Wet No. 25 van 1980 (Bophuthatswana)	Bophuthatswana Wysigingswet op Hereregt, 1980	Die geheel	Die gebied van die voormalige Republiek van Bophuthatswana
	Wet No. 4 van 1984 (Bophuthatswana)	Wysigingswet op Inkomstewette, 1984	Artikels 2 en 3(2)(b)	
	Wet No. 12 van 1986 (Bophuthatswana)	Wysigingswet op Inkomstewette, 1986	Die geheel	
	Wet No. 32 van 1986 (Bophuthatswana)	Wysigingswet op Hereregt, 1986	Die geheel	
	Wet No. 6 van 1987 (Bophuthatswana)	Wysigingswet op Inkomstewette, 1987	Die geheel	

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of laws repealed</b>	<b>Area of national territory in respect of which law is repealed</b>
(e) Act No. 104 of 1976	Revenue Laws Amendment Act, 1976	The whole	The territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei
(f) Act No. 114 of 1977	Revenue Laws Amendment Act, 1977	Sections 1 to 6, and 9 to 20	The territories of the former Republics of Bophuthatswana, Venda and Ciskei
(g) Act No. 95 of 1978 Act No. 102 of 1979	Revenue Laws Amendment Act, 1978 Revenue Laws Amendment Act, 1979	The whole The whole	The territories of the former Republics of Venda and Ciskei
(h) Act No. 106 of 1980 Act No. 99 of 1981	Revenue Laws Amendment Act, 1980 Revenue Laws Amendment Act, 1981	The whole The whole	The territory of the former Republic of Ciskei
(i) Act No. 18 of 1978 (Transkei) Act No. 22 of 1983 (Transkei) Act No. 7 of 1985 (Transkei) Act No. 14 of 1986 (Transkei) Decree No. 17 of 1989 (Transkei) Decree No. 16 of 1991 (Transkei)	Stamp Duties Amendment Act, 1978 Stamp Duties Amendment Act, 1983 Stamp Duties Amendment Act, 1985 Stamp Duties Amendment Act, 1986 Decree No. 17 (Revenue Laws Amendment) of 1989 Decree No. 16 (Value-Added Tax) of 1991	The whole The whole The whole The whole Section 3 Sections 79 to 84	The territory of the former Republic of Transkei
(j) Act No. 25 of 1980 (Bophuthatswana) Act No. 4 of 1984 (Bophuthatswana) Act No. 12 of 1986 (Bophuthatswana) Act No. 32 of 1986 (Bophuthatswana) Act No. 6 of 1987 (Bophuthatswana)	Bophuthatswana Transfer Duty Amendment Act, 1980 Revenue Laws Amendment Act, 1984 Revenue Laws Amendment Act, 1986 Transfer Duty Amendment Act, 1986 Revenue Laws Amendment Act, 1987	The whole Sections 2 and 3(2)(b) The whole The whole The whole	The territory of the former Republic of Bophuthatswana

Wet No. 20, 1994

## WYSIGINGSWET OP BELASTINGWETTE, 1994

Nommer en jaar van wet	Kort titel	Omvang van wette herroep	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep word
Wet No. 25 van 1991 (Bophuthatswana)	Wet op Belasting op Toegevoegde Waarde, 1991	Artikels 79 tot 84	
Wet No. 34 van 1992 (Bophuthatswana)	Wysigingswet op Belastingwette, 1992	Artikels 14 tot 17	
Wet No. 35 van 1993 (Bophuthatswana)	Wysigingswet op Belastingwette, 1993	Artikels 3, 4, 18, 19 en 20	
(k) Wet No. 33 van 1983 (Ciskei)	“Revenue Laws Amendment Act, 1983”	Die geheel	Die gebied van die voormalige Republiek van Ciskei
Wet No. 13 van 1985 (Ciskei)	“Revenue Laws Amendment Act, 1985”	Artikel 1	

## TAXATION LAWS AMENDMENT ACT, 1994

Act No. 20, 1994

Number and year of law	Short title	Extent of laws repealed	Area of national territory in respect of which law is repealed
Act No. 25 of 1991 (Bophuthatswana)	Value-Added Tax Act, 1991	Sections 79 to 84	
Act No. 34 of 1992 (Bophuthatswana)	Taxation Laws Amendment Act, 1992	Sections 14 to 17	
Act No. 35 of 1993 (Bophuthatswana)	Taxation Laws Amendment Act, 1993	Sections 3, 4, 18, 19 and 20	
(k) Act No. 33 of 1983 (Ciskei) Act No. 13 of 1985 (Ciskei)	Revenue Laws Amendment Act, 1983 Revenue Laws Amendment Act, 1985	The whole Section 1	The territory of the former Republic of Ciskei

**BYLAE 2****Deel 2****WETTE HERROEP (ARTIKEL 41(6))**

Wette van die voormalige Republiek van Transkei		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Dekreet No. 16 van 1991	“Decree No. 16 (Value-Added Tax) of 1991”	Artikels 1 tot 78
Dekreet No. 15 van 1992	“Decree No. 15 [Validation of Decree No. 16 (Value-Added Tax) of 1991]”	Die geheel
Dekreet No. 2 van 1994	“Decree No. 2 [Further Amendment of Decree No. 16 (Value-Added Tax) of 1991] of 1994”	Die geheel, behalwe artikels 79 tot 84

Wette van die voormalige Republiek van Bophuthatswana		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 25 van 1991	Wet op Belasting op Toegevoegde Waarde, 1991	Die geheel, behalwe artikels 79 tot 84
Wet No. 34 van 1992	Wysigingswet op Belastingwette, 1992	Artikels 21 tot 52
Wet No. 34 van 1993	Wysigingswet op Belasting op Toegevoegde Waarde, 1993	Die geheel

Wette van die voormalige Republiek van Venda		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Proklamasie No. 32 van 1991	“Value-Added Tax Proclamation, 1991”	Die geheel
Proklamasie No. 10 van 1992	“Value-Added Tax Amendment Proclamation, 1992”	Die geheel
Proklamasie No. 03 van 1993	“Value-Added Tax Amendment Proclamation, 1993”	Die geheel
Proklamasie No. 08 van 1993	“Value-Added Tax Second Amendment Proclamation, 1993”	Die geheel

Wette van die voormalige Republiek van Ciskei		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Dekreet No. 17 van 1991	“Value-Added Tax Decree, 1991”	Die geheel
Dekreet No. 19 van 1992	“Value-Added Tax Amendment Decree, 1992”	Die geheel
Dekreet No. 25 van 1992	“Value-Added Tax Second Amendment Decree, 1992”	Die geheel
Dekreet No. 8 van 1994	“Value-Added Tax Amendment Decree, 1994”	Die geheel

**SCHEDULE 2****Part 2****LAWS REPEALED (SECTION 41(6))**

<b>Laws of the former Republic of Transkei</b>		
<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Decree No. 16 of 1991	Decree No. 16 (Value-Added Tax) of 1991	Sections 1 to 78
Decree No. 15 of 1992	Decree No. 15 [Validation of Decree No. 16 (Value-Added Tax) of 1991]	The whole
Decree No. 2 of 1994	Decree No. 2 [Further Amendment of Decree No. 16 (Value-Added Tax) of 1991] of 1994	The whole, except sections 79 to 84

<b>Laws of the former Republic of Bophuthatswana</b>		
<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 25 of 1991	Value-Added Tax Act, 1991	The whole, except sections 79 to 84
Act No. 34 of 1992	Taxation Laws Amendment Act, 1992	Sections 21 to 52
Act No. 34 of 1993	Value-Added Tax Amendment Act, 1993	The whole

<b>Laws of the former Republic of Venda</b>		
<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Proclamation No. 32 of 1991	Value-Added Tax Proclamation, 1991	The whole
Proclamation No. 10 of 1992	Value-Added Tax Amendment Proclamation, 1992	The whole
Proclamation No. 03 of 1993	Value-Added Tax Amendment Proclamation, 1993	The whole
Proclamation No. 08 of 1993	Value-Added Tax Second Amendment Proclamation, 1993	The whole

<b>Laws of the former Republic of Ciskei</b>		
<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Decree No. 17 of 1991	Value-Added Tax Decree, 1991	The whole
Decree No. 19 of 1992	Value-Added Tax Amendment Decree, 1992	The whole
Decree No. 25 of 1992	Value-Added Tax Second Amendment Decree, 1992	The whole
Decree No. 8 of 1994	Value-Added Tax Amendment Decree, 1994	The whole

