



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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VAN DIE REPUBLIEK VAN SUID-AFRIKA

As 'n Nuusblad by die Poskantoor Geregistreer

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KAAPSTAD, 19 JULIE 1995

KANTOOR VAN DIE PRESIDENT

No. 1047.

19 July 1995

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

No. 1047.

19 Julie 1995

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

No. 19 of 1995: Tax Amnesty Act, 1995.

No. 19 van 1995: Wet op Belastingamnestie, 1995.

Application for amnesty

2. (1) Any qualifying person may within the amnesty period apply for amnesty in terms of this Act.

(2) An application for amnesty shall be made in writing to the Commissioner and shall be accompanied by an undertaking by the qualifying person concerned that such person will comply with such provisions of any law as relate to such person's liability for—

- (a) normal tax in respect of the last year of assessment ending before 1 March 1995; and
- (b) any other qualifying tax which became payable by such person before the date of such person's application for amnesty, other than any tax or duty contemplated in section 3(a).

(3) Any qualifying person who after 27 April 1994, but before the commencement of the amnesty period furnished the Commissioner with full information relating to such person's liability for the taxes contemplated in subsection (2), shall be deemed to have applied for amnesty in terms of this Act.

Scope of amnesty

3. Subject to the provisions of section 4, any qualifying person who has made an application under section 2 shall—

- (a) not be liable for the payment of—
 - (i) any normal tax due in respect of any year of assessment ending before 1 March 1994;
 - (ii) any value-added tax in respect of the supply of goods or services or imported services or on the importation of goods before 1 March 1994;
 - (iii) any employees tax which such person was required to deduct or withhold from remuneration paid by such person or which such person became liable to pay, before 1 March 1995, whether or not such employees tax was in fact deducted or withheld by such person;
 - (iv) any stamp duty in respect of the execution of any instrument before 1 March 1994 or the registration of transfer of any marketable security, before that date;
 - (v) any non-resident shareholders tax in respect of any dividend declared before 1 March 1994;
 - (vi) any secondary tax on companies in respect of any dividend declared before 1 March 1994;
 - (vii) any donations tax in respect of any property disposed of by such qualifying person under a donation which took effect before 1 March 1994; and
 - (viii) any sales tax;
- (b) not be liable for the payment of any interest due in respect of the late payment of any qualifying tax referred to in section 2, in so far as such interest is due in respect of a period ending not later than the last day of the amnesty period;
- (c) not be liable for any penalties or additional tax in respect of the non-payment or late payment of any tax or duty referred to in paragraph (a) or (b); and
- (d) not be subject to criminal prosecution for offences committed in relation to any tax or duty referred to in paragraph (a) or (b).

Non-qualifying taxes

4. The amnesty shall not apply to any tax, duty, interest or penalty—

- (a) which was paid by the qualifying person; or
- (b) which is payable or becomes payable in consequence of any return or information furnished by the qualifying person or any representative of such person to the Commissioner before 27 April 1994, or in conse-

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Aansoek om amnestie

2. (1) 'n Kwalifiserende persoon kan binne die amnestietylperk om amnestie aansoek doen ingevolge hierdie Wet.

(2) 'n Aansoek om amnestie word skriftelik by die Kommissaris gedoen en word vergesel van 'n onderneming deur die betrokke kwalifiserende persoon dat bedoelde persoon sal voldoen aan die bepalings van enige wet wat betrekking het op bedoelde persoon se aanspreeklikheid vir—

- (a) normale belasting ten opsigte van die laaste jaar van aanslag eindgoude voor 1 Maart 1995; en
- (b) enige ander kwalifiserende belasting wat deur bedoelde persoon betaalbaar geword het voor die datum van bedoelde persoon se aansoek om amnestie, anders as 'n belasting of reg beoog in artikel 3(a).

(3) 'n Kwalifiserende persoon wat na 27 April 1994, maar voor die begin van die amnestietylperk die Kommissaris van volle inligting voorsien het met betrekking tot bedoelde persoon se aanspreeklikheid vir die belastings beoog in subartikel (2), word geag aansoek om amnestie te gedoen het ingevolge hierdie Wet.

Omvang van amnestie

3. Behoudens die bepalings van artikel 4, is 'n kwalifiserende persoon wat ingevolge artikel 2 aansoek gedoen het—

- (a) nie aanspreeklik nie vir die betaling van—
 - (i) enige normale belasting verskuldig ten opsigte van 'n jaar van aanslag eindgoude voor 1 Maart 1994;
 - (ii) enige belasting op toegevoegde waarde ten opsigte van die lewering van goed of dienste of ingevoerde dienste of op die invoer van goed voor 1 Maart 1994;
 - (iii) enige werknehmersbelasting wat bedoelde persoon moes afgetrek of teruggehou het van besoldiging deur bedoelde persoon betaal of waarvoor bedoelde persoon aanspreeklik geword het om te betaal voor 1 Maart 1995, ongeag of sodanige werknehmersbelasting inderdaad deur bedoelde persoon afgetrek of teruggehou was;
 - (iv) enige seëlreg ten opsigte van die verlyding van 'n stuk voor 1 Maart 1994 of die registrasie van oordrag van 'n handelseffek voor daardie datum;
 - (v) enige belasting op buitenlandse aandeelhouers ten opsigte van 'n dividend voor 1 Maart 1994 verklaar;
 - (vi) enige sekondêre belasting op maatskappye ten opsigte van 'n dividend voor 1 Maart 1994 verklaar;
 - (vii) enige belasting op geskenke ten opsigte van eiendom waaraan beskik is deur bedoelde kwalifiserende persoon ingevolge 'n skenkning wat voor 1 Maart 1994 in werking getree het; en
 - (viii) enige verkoopbelasting;
- (b) nie aanspreeklik nie vir die betaling van enige rente verskuldig ten opsigte van die laat betaling van 'n kwalifiserende belasting in artikel 2 bedoel, vir sover sodanige rente verskuldig is ten opsigte van 'n tydperk wat eindig nie later nie as die laaste dag van die amnestietylperk;
- (c) nie aanspreeklik nie vir enige boete of addisionele belasting ten opsigte van die nie-betaling of laat betaling van enige belasting of reg in paragraaf (a) of (b) bedoel; en
- (d) nie onderworpe nie aan kriminele vervolging vir misdrywe gepleeg met betrekking tot enige belasting of reg in paragraaf (a) of (b) bedoel.

Nie-kwalifiserende belastings

4. Die amnestie is nie van toepassing nie op enige belasting, reg, rente of boete—

- (a) wat deur die kwalifiserende persoon betaal is; of
- (b) wat betaalbaar is of betaalbaar word as gevolg van enige opgawe of inligting deur die kwalifiserende persoon of 'n verteenwoordiger van bedoelde persoon aan die Kommissaris voor 27 April 1994 verstrek, of

quence of an investigation into the affairs of the qualifying person commenced by the Commissioner before that date and of which the qualifying person or any representative of such person was aware.

Provisions relating to sales tax

- 5.** (1) Where any person (whether a qualifying person or not)—
- (a) is held liable by the Commissioner to pay an amount of sales tax and pays such amount during the amnesty period or within six months thereafter; or
 - (b) is dissatisfied with the calculation of any amount of sales tax which such person is held liable by the Commissioner to pay and such person makes application within the amnesty period for the matter to be re-examined and thereafter during, or within nine months after, the amnesty period, pays such sales tax as is finally determined by the Commissioner as a result of such re-examination,
- no penalty shall, notwithstanding the provisions of the Sales Tax Acts, be payable in terms of the provisions of such Sales Tax Acts: Provided that where such amount has not been paid in full within the time allowed in terms of paragraph (a) or (b), as the case may be, such penalty shall be payable in respect of the amount which has not been paid.
- (2) Where the Commissioner is satisfied that any person is unable for any reason to furnish accurate information in respect of any matter relating to the determination of the liability for the payment of any sales tax by such person, the Commissioner may for the purpose of bringing such matter to finality agree with such person as to the amount of sales tax payable and, notwithstanding anything to the contrary in the Sales Tax Acts, raise an assessment on such person giving effect to such agreement, which assessment shall not be subject to objection and appeal.
- (3) If the amount of sales tax so agreed upon is paid within nine months after the date of such assessment, no penalty shall be payable: Provided that where such amount has not been paid in full within the time allowed, any penalty in terms of the provisions of the Sales Tax Acts shall be payable in respect of the amount which has not been paid.

Withdrawal of amnesty

- 6.** An amnesty granted to any qualifying person shall be withdrawn—
- (a) if such person wilfully makes any default in complying with the undertaking referred to in section 2(2); or
 - (b) if, without reasonable grounds, such person fails to pay any tax or duty contemplated in section 2 which is due by such person—
- (i) within a period of one year after the end of the amnesty period; or
 - (ii) where such person has agreed to pay such tax or duty within a shorter period, within such shorter period.

Short title

- 7.** This Act shall be called the Tax Amnesty Act, 1995.

as gevolg van 'n ondersoek wat ingestel is na die kwalifiserende persoon se sake waarmee voor daardie datum deur die Kommissaris begin is en waarvan die kwalifiserende persoon of 'n verteenwoordiger van bedoelde persoon, bewus was.

5 Bepalings met betrekking tot verkoopbelasting

5. (1) Waar 'n persoon (hetsy 'n kwalifiserende persoon al dan nie)—

- (a) deur die Kommissaris aanspreeklik gehou word vir die betaling van 'n bedrag aan verkoopbelasting en bedoelde persoon die bedrag gedurende die amnestietydperk of binne ses maande daarna betaal; of
- 10 (b) ontevrede is met die berekening van 'n bedrag aan verkoopbelasting waarvoor bedoelde persoon deur die Kommissaris vir betaling aanspreeklik gehou word en bedoelde persoon binne die amnestietydperk aansoek doen dat die aangeleentheid hersien word en daarna gedurende, of binne nege maande na, die amnestietydperk die bedrag aan verkoopbelasting betaal wat final deur die Kommissaris bepaal is as gevolg van bedoelde hersiening,

is, ondanks die bepalings van die Verkoopbelastingwette, geen boete ingevolge die bepalings van bedoelde Verkoopbelastingwette betaalbaar nie: Met dien verstande dat waar sodanige bedrag nie ten volle binne die tydperk toegelaat 20 ingevolge paragraaf (a) of (b), na gelang van die geval, betaal word nie, sodanige boete betaalbaar is ten opsigte van die bedrag wat nie betaal is nie.

(2) Waar die Kommissaris oortuig is dat 'n persoon om enige rede nie in staat is nie om akkurate inligting te verstrek ten opsigte van enige aangeleentheid met betrekking tot die bepaling van die aanspreeklikheid vir die betaling van enige 25 verkoopbelasting deur bedoelde persoon, kan die Kommissaris ten einde die aangeleentheid te finaliseer met bedoelde persoon ooreenkomm oor die bedrag wat aan verkoopbelasting betaalbaar is en ondanks andersluidende bepalings in die Verkoopbelastingwette, 'n aanslag op bedoelde persoon hef waarin uitvoering gegee word aan sodanige ooreenkoms, welke aanslag nie aan beswaar 30 en appèl onderhewig is nie.

(3) Indien die bedrag aan verkoopbelasting aldus ooreengekom binne nege maande na die datum van bedoelde aanslag betaal word, is geen boete betaalbaar nie: Met dien verstande dat waar bedoelde bedrag nie ten volle binne die toelaatbare tyd betaal is nie, 'n boete ingevolge die bepalings van die 35 Verkoopbelastingwette betaalbaar is ten opsigte van die bedrag wat nie betaal is nie.

In trekking van amnestie

6. 'n Amnestie verleen aan 'n kwalifiserende persoon word ingetrek—

- (a) indien bedoelde persoon opsetlik nalaat om die onderneming bedoel in artikel 2(2), na te kom; of
- 40 (b) indien bedoelde persoon, sonder redelike gronde, versium om enige belasting of reg beoog in artikel 2 wat deur bedoelde persoon verskuldig is, te betaal—
 - (i) binne 'n tydperk van een jaar na die einde van die amnestietydperk; of
 - 45 (ii) waar bedoelde persoon ingestem het om bedoelde belasting of reg binne 'n korter tydperk te betaal, binne bedoelde korter tydperk.

Kort titel

7. Hierdie Wet heet die Wet op Belastingamnestie, 1995.

