



31 JUL 1995

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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CAPE TOWN, 19 JULY 1995

No. 16546

KAAPSTAD, 19 JULIE 1995

No. 1052.

19 July 1995

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

No. 37 of 1995: Taxation Laws Amendment Act, 1995.

KANTOOR VAN DIE PRESIDENT

No. 1052.

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. 37 van 1995: Wysigingswet op Belastingwette, 1995.

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 Transfer Duty Act, 1949, so as to further regulate the imposition of, and exemption from, transfer duty; to amend the Estate Duty Act, 1955, so as to effect certain consequential amendments; to amend the Regional Services Councils Act, 1985, so as to substitute an obsolete expression; to amend the KwaZulu and Natal Joint Services Act, 1990, so as to substitute an obsolete expression; to amend the Income Tax Act, 1993, so as to substitute a date referred to in the provisions relating to unbundling transactions; to amend the Taxation Laws Amendment Act, 1994, so as to widen the ambit of the provisions providing for the rationalisation of groups of companies; and to further regulate the repeal of certain laws; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 10 July 1995.)

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

Amendment of section 2 of Act 40 of 1949, as substituted by section 2 of Act 77 of 1964 and amended by section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992 and section 3 of Act 97 of 1993

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1. Section 2 of the Transfer Duty Act, 1949, is hereby amended by the deletion of subsection (7).

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992 and section 5 of Act 97 of 1993

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2. Section 9 of the Transfer Duty Act, 1949, is hereby amended—

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

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ALGEMENE VERDUIDELIKENDE NOTA:

- I** Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
II Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

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“a religious, charitable or educational institution of a public character which is exempt from tax in terms of section 10(1)(f) of the Income Tax Act, 1962 (Act No. 58 of 1962), in respect of property acquired for religious, charitable or educational purposes exclusively”; and

(b) by the substitution for paragraphs (a) and (b) of subsection (12B) of the following paragraphs, respectively:

“(a) any property consisting of land and any dwelling-house thereon or of a residential apartment and an undivided share in common property held under a sectional title deed contemplated in the Sectional Titles Act, 1986, if the value of such property, determined in accordance with the provisions of sections 5 (excluding the provisions of section 5(11)), 6, 7 and 8, does not exceed R60 000; or

(b) any unimproved land acquired for the purpose of erecting a dwelling-house thereon, if the value of such land, determined in accordance with the provisions of sections 5 (excluding the provisions of section 5(11)), 6, 7 and 8, does not exceed R24 000.”.

Amendment of section 11 of Act 45 of 1955, as amended by section 3 of Act 56 of 1966 and section 13 of Act 87 of 1988

3. Section 11 of the Estate Duty Act, 1955, is hereby amended by the substitution for subparagraphs (ii) and (iii) of paragraph (b) of the following subparagraphs, respectively:

- “(ii) as to any property referred to in paragraph (b) [or (cB)] of that subsection, the donee;
- (iii) as to any property referred to in paragraph (cA) or (d) of that subsection, the executor.”.

Substitution of section 15 of Act 109 of 1985, as substituted by section 9 of Act 78 of 1986

4. The following section is hereby substituted for section 15 of the Regional Services Councils Act, 1985:

“Furnishing of information

15. Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section [4 of the Sales Tax Act, 1978 (Act No. 103 of 1978)] 6 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), the Commissioner for Inland Revenue or any person designated by him, may furnish to a council such information as in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy.”.

Substitution of section 21 of Act 84 of 1990

5. The following section is hereby substituted for section 21 of the KwaZulu and Natal Joint Services Act, 1990:

“Furnishing of information

21. Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section [4 of the Sales Tax Act, 1978 (Act No. 103 of 1978)] 6 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), the Commissioner for Inland Revenue of the Republic or any person designated by him, may furnish to a board such information as in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy.”.

- “n godsdienstige, liefdadigheids- of opvoedkundige inrigting van ’n openbare aard wat ingevolge artikel 10(1)(f) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van belasting vrygestel is ten opsigte van eiendom wat verkry is uitsluitlik vir godsdienstige, liefdadigheids- of opvoedkundige doeleinades”; en
- (b) deur paragrawe (a) en (b) van subartikel (12B) deur onderskeidelik die volgende paragrawe te vervang:
- (a) eiendom bestaande uit grond en ’n woonhuis daarop of uit ’n woonstel en ’n onverdeelde aandeel in gemeenskaplike eiendom wat besit word ingevolge ’n deeltitelbewys in die Wet op Deeltitels, 1986, beoog, indien die waarde van daardie eiendom, bepaal ooreenkomsdig die bepalings van artikels 5 (uitgesluit die bepalings van artikel 5(11)), 6, 7 en 8, nie R60 000 te bove gaan nie; of
- (b) enige onverbeterde grond verkry ten einde daarop ’n woonhuis op te rig, indien die waarde van daardie grond, bepaal ooreenkomsdig die bepalings van artikels 5 (uitgesluit die bepalings van artikel 5(11)), 6, 7 en 8, nie R24 000 te bove gaan nie.”.

Wysiging van artikel 11 van Wet 45 van 1955, soos gewysig deur artikel 3 van Wet 56 van 1966 en artikel 13 van Wet 87 van 1988

3. Artikel 11 van die Boedelbelastingwet, 1955, word hierby gewysig deur subparagrawe (ii) en (iii) van paragraaf (b) deur onderskeidelik die volgende subparagrawe te vervang:
- (ii) betreffende eiendom bedoel in paragraaf (b) [of (cB)] van daardie subartikel, die begiftigde;
- (iii) betreffende eiendom bedoel in paragraaf (cA) of (d) van daardie subartikel, die eksekuteur.”.

Vervanging van artikel 15 van Wet 109 van 1985, soos vervang deur artikel 9 van Wet 78 van 1986

4. Artikel 15 van die Wet op Streeksdiensterade, 1985, word hierby deur die volgende artikel vervang:
- “Verstreking van inligting”**
15. Ondanks die bepalings van artikel 4 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), en artikel [4 van die Verkoopbelastingwet, 1978 (Wet No. 103 van 1978)] 6 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), kan die Kommissaris van Binnelandse Inkomste of iemand deur hom aangewys, aan ’n raad die inligting verstrek wat na die oordeel van genoemde Kommissaris of persoon nodig is vir die bepaling en invordering van ’n streeksdienstehelling en ’n streeksvestigingsheffing.”.

Vervanging van artikel 21 van Wet 84 van 1990

5. Artikel 21 van die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990, word hierby deur die volgende artikel vervang:
- “Verstreking van inligting”**
21. Ondanks die bepalings van artikel 4 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), en artikel [4 van die Verkoopbelastingwet, 1978 (Wet No. 103 van 1978)] 6 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), kan die Kommissaris van Binnelandse Inkomste van die Republiek of iemand deur hom aangewys, aan ’n raad die inligting verstrek wat na die oordeel van genoemde Kommissaris of persoon nodig is vir die bepaling en invordering van ’n streeksdienstehelling en streeksvestigingsheffing.”.

Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993, section 4 of Act 168 of 1993 and section 34 of Act 20 of 1994

6. Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution for the expression "4 November 1994", wherever it occurs, of the expression "19 June 1995".

Amendment of section 39 of Act 20 of 1994

7. Section 39 of the Taxation Laws Amendment Act, 1994, is hereby amended—

(a) by the substitution in paragraph (a) of the definition of "controlling company" in subsection (1) for the expression "4 November 1994" of 10 the expression "19 June 1995";

(b) by the addition to the definition of "controlling company" in subsection (1) of the following proviso:

“(Provided that for the purposes of a scheme contemplated in paragraph (a)(iii) of the definition of ‘rationalisation scheme’ in this subsection, the company may also be a company other than a listed company);”;

(c) by the insertion after the definition of "controlling company" in subsection (1) of the following definition:

“‘former state’ means the former Republic of Transkei, Bophuthatswana, Venda or Ciskei;”;

(d) by the substitution in the words preceding paragraph (a) of the definition of "rationalisation scheme" in subsection (1) for the expression "4 November 1994" of the expression "19 June 1995";

(e) by the addition to paragraph (a) of the definition of "rationalisation scheme" in subsection (1) of the following subparagraph:

“(iii) to enable any company in the group in question which is incorporated under a law of a former state, to dispose of the whole or a part of its business undertaking to any other company in the group in question which is incorporated under a law of the Republic as it existed prior to the commencement of the Constitution; or”;

(f) by the substitution for the definitions of "stamp duty" and "transfer duty" in subsection (1) of the following definitions, respectively:

“‘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 and includes any similar duty leviable in terms of a law of a former state;”;

“‘transfer duty’ means the duty leviable under the Transfer Duty Act and includes any similar duty leviable in terms of a law of a former state;”;

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

“(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—

(i) Parts III and VII of Chapter II of the Income Tax Act; or

Wysiging van artikel 60 van Wet 113 van 1993, soos gewysig deur artikel 20 van Wet 140 van 1993, artikel 4 van Wet 168 van 1993 en artikel 34 van Wet 20 van 1994

6. Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig deur die uitdrukking “4 November 1994”, waar dit ook al voorkom, deur die uitdrukking “19 Junie 1995” te vervang.

Wysiging van artikel 39 van Wet 20 van 1994

7. Artikel 39 van die Wysigingswet op Belastingwette, 1994, word hierby gewysig—

- 10 10. (a) deur in paragraaf (a) van die omskrywing van “beherende maatskappy” in subartikel (1) die uitdrukking “4 November 1994” deur die uitdrukking “19 Junie 1995” te vervang;
- (b) deur die volgende voorbehoudsbepaling by die omskrywing van “beherende maatskappy” in subartikel (1) te voeg:
- 15 15. “Met dien verstande dat vir die doeleindes van ’n skema beoog in paragraaf (a)(iii) van die omskrywing van ‘rasionalisasieskema’ in hierdie subartikel, die maatskappy ook ’n ander maatskappy as ’n genoteerde maatskappy kan wees;”;
- (c) deur die omskrywing van “hereregte” in subartikel (1) deur die volgende omskrywing te vervang:
- 20 20. “‘hereregte’ die reg wat ingevolge die Wet op Hereregte hefbaar is en ook ’n soortgelyke reg wat ingevolge ’n wet van ’n voormalige staat hefbaar is;”;
- (d) deur in die woorde wat paragraaf (a) van die omskrywing van “rasionalisasieskema” in subartikel (1) voorafgaan die uitdrukking “4 November 1994” deur die uitdrukking “19 Junie 1995” te vervang;
- 25 25. (e) deur die volgende subparagraph by paragraaf (a) van die omskrywing van “rasionalisasieskema” in subartikel (1) te voeg:
 - 30 30. “(iii) om ’n maatskappy in die betrokke groep wat ingelyf is kragtens ’n wet van ’n voormalige staat, in staat te stel om sy hele of ’n gedeelte van sy sake-onderneming te vvreem aan ’n ander maatskappy in die betrokke groep wat ingelyf is kragtens ’n wet van die Republiek soos dit bestaan het voor die inwerkingtreding van die Grondwet; of”;
- 35 35. (f) deur die omskrywing van “seëlreg” in subartikel (1) deur die volgende omskrywing te vervang:
 - 40 40. “‘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 en ook ’n soortgelyke reg wat ingevolge ’n wet van ’n voormalige staat hefbaar is;”;
- 45 45. (g) deur die volgende omskrywing na die omskrywing van “seëlreg” in subartikel (1) in te voeg:
 - 50 50. “‘voormalige staat’ die voormalige Republiek van Transkei, Bophuthatswana, Venda of Ciskei;”;
- (h) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 - 55 55. “(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 te wees nie by die toepassing van—
 - (i) Dele III en VII van Hoofstuk II van die Inkomstebelastingwet [te wees nie]; of

- (ii) the provisions of a law of a former state imposing a tax similar to the tax imposed in terms of the provisions of the Parts referred to in subparagraph (i);”;
- (h) by the substitution in the words preceding paragraph (a) of subsection (6) for the expression “4 November 1994” of the expression “19 June 1995”; 5
- (i) by the substitution for paragraph (d) of subsection (6) of the following paragraph:
- “(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— 10
 (i) Parts III and VII of Chapter II of the Income Tax Act; or
 (ii) the provisions of a law of a former state imposing a tax similar to the tax imposed in terms of the provisions of the Parts referred to in subparagraph (i).”; and 15
- (j) by the insertion of the following subsection after subsection (7):
- “(7A) In the case of a rationalisation scheme devised solely or mainly to enable a company incorporated under a law of a former state, to dispose of the whole or a part of its business undertaking to any other company in the same group which is incorporated under a law of the Republic as it existed prior to the commencement of the Constitution, subsections (2) and (6) shall apply only in relation to transactions entered into to give effect to the objective of the scheme.”. 20
 25

Amendment of Part 2 of Schedule 2 to Act 20 of 1994

8. (1) Schedule 2 to the Taxation Laws Amendment Act, 1994, is hereby amended by the substitution for Part 2 of the following Part:

“Part 2”

LAWS REPEALED (section 41(6))

Laws of the former Republic of Transkei

Number and year of law	Short title	Extent of repeal	
Decree No. 16 of 1991	Decree No. 16 (Value-Added Tax) of 1991	Sections 1 to 78	35
Decree No. 15 of 1992	Decree No. 15 [Validation of Decree No. 16 (Value-Added Tax) of 1991]	The whole	04
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]	40

Laws of the former Republic of Bophuthatswana

Number and year of law	Short title	Extent of repeal	
Act No. 25 of 1991	Value-Added Tax Act, 1991	The whole, except sections 79 to 84	02
Act No. 34 of 1992	Taxation Laws Amendment Act, 1992	Sections 21 to 52	45
Act No. 34 of 1993	Value-Added Tax Amendment Act, 1993	The whole	

- (ii) die bepalings van 'n wet van 'n voormalige staat wat 'n belasting hef wat soortgelyk is aan die belasting gehef ingevolge die bepalings van die Dele bedoel in subparaagraaf (i);";
- 5 (i) deur in die woorde wat paragraaf (a) van subartikel (6) voorafgaan die uitdrukking "4 November 1994" deur die uitdrukking "19 Junie 1995" te vervang;
- (j) deur paragraaf (d) van subartikel (6) deur die volgende paragraaf te vervang:
- 10 "(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 te wees nie by die toepassing van—
- 15 (i) Dele III en VII van Hoofstuk II van die Inkomstbelastingwet [te wees nie]; of
- (ii) die bepalings van 'n wet van 'n voormalige staat wat 'n belasting hef wat soortgelyk is aan die belasting gehef ingevolge die bepalings van die Dele bedoel in subparaagraaf (i)."; en
- 20 (k) deur die volgende subartikel na subartikel (7) in te voeg:
- "(7A) In die geval van 'n rasionalisasieskema wat uitsluitlik of hoofsaaklik ontwerp is om 'n maatskappy wat ingelyf is kragtens 'n wet van 'n voormalige staat, in staat te stel om sy hele of 'n gedeelte van sy sake-onderneming te vervreem aan 'n ander maatskappy in dieselfde groep wat ingelyf is kragtens 'n wet van die Republiek soos dit bestaan het voor die inwerkingtreding van die Grondwet, is die bepalings van subartikels (2) en (6) slegs van toepassing met betrekking tot transaksies aangegaan om gevolg te gee aan die oogmerk van die skema.".

Wysiging van Deel 2 van Bylae 2 by Wet 20 van 1994

8.(1) Bylae 2 by die Wysigingswet op Belastingwette, 1994, word hierby gewysig deur Deel 2 deur die volgende Deel te vervang:

"Deel 2

35 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]

45 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
50 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

Laws of the former Republic of Venda

Number and year of law	Short title	Extent of repeal
Proclamation No. 32 of 1991	Value-Added Tax Proclamation, 1991	The whole, except section 85 of 'Annexure A' thereto
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

Laws of the former Republic of Ciskei

Number and year of law	Short title	Extent of repeal
Decree No. 17 of 1991	Value-Added Tax Decree, 1991	The whole, except section 78
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

(2) Subsection (1) shall be deemed to have come into operation on 25 November 1994.

Short title

9. This Act shall be called the Taxation Laws Amendment Act, 1995.

Wette van die voormalige Republiek van Venda

Nommer en jaar van wet	Kort titel	Omvang van herroeping
5 Proklamasie No. 32 van 1991	'Value-Added Tax Proclamation, 1991'	Die geheel, <u>behalwe artikel 85 van 'Bylae A'</u> daarby
10 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
15 Dekreet No. 17 van 1991	'Value-Added Tax Decree, 1991'	Die geheel, <u>behalwe artikel 78</u>
Dekreet No. 19 van 1992	'Value-Added Tax Amendment Decree, 1992'	Die geheel
20 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

(2) Subartikel (1) word geag op 25 November 1994 in werking te getree het.

25 Kort titel

9. Hierdie Wet heet die Wysigingswet op Belastingwette, 1995.

