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GOVERNMENT GAZETTE

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

1102.

3 July 1996

No. 1102.

3 Julie 1996

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

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

37 of 1996: Taxation Laws Amendment Act, 1996.

No. 37 van 1996: Wysigingswet op Belastingwette, 1996.

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 further define, to substitute or to delete certain expressions; to extend the base of the marketable securities tax; to reduce the rate of tax payable in respect of the said tax; and to further regulate the manner of payment of the said tax; to amend the Transfer Duty Act, 1949, so as to further define certain expressions; to further regulate the imposition of transfer duty; and to substitute obsolete references; to amend the Estate Duty Act, 1955, so as to increase the rate of estate duty; to amend the Stamp Duties Act, 1968, so as to further regulate the manner of payment of stamp duty; to further define or to substitute certain expressions; to substitute or to delete obsolete provisions and references; to reduce the stamp duty tariffs in respect of the registration of transfer, the cancellation or redemption and the acquisition of marketable securities; to increase the stamp duty on debit entries and instalment credit agreements; and to provide for an exemption in respect of the registration of transfer of marketable securities; to amend the Value-Added Tax Act, 1991, so as to further define or to substitute certain designations and expressions; to further regulate activities which constitute financial services; to extend the provisions relating to secrecy to the Chief Executive Officer and recipients or intended recipients of supplies; to further regulate the valuation of supplies made to connected persons or supplies which comprise the management of superannuation schemes; to further regulate the calculation of the tax payable in respect of fixed property or any real right therein; to effect certain consequential amendments; to provide that vendors on the invoice basis make an adjustment where an input tax deduction has been claimed, but any amount in respect of the supply in question has not been paid; to effect a textual adjustment in the Afrikaans text; to authorise refunds under the export incentive scheme; to authorise the estimation of the amount on which tax is payable in certain circumstances; to further regulate the reporting of unprofessional conduct; to remove a restriction on the freedom to contract in respect of changes in the rate of value-added tax; to further regulate the imposition or withdrawal of the said tax in respect of any supply; to provide for exemptions in respect of the importation of certain goods; and to substitute an obsolete reference; to amend the Income Tax Act, 1993, so as to empower the Minister of Finance to determine from time to time a date in respect of certain interests; and to amend the Taxation Laws Amendment Act, 1994, so as to empower the said Minister to determine from time to time a date in respect of certain interests; to provide that no sales tax, penalty or interest is recoverable in respect of the importation of certain goods into the former Republic of Transkei; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 27 June 1996.)

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Handelseffektebelastingwet, 1948, ten einde sekere uitdrukings nader te omskryf, te vervang of te skrap; die grondslag van die belasting op handelseffekte uit te brei; die skaal van belasting betaalbaar ten opsigte van genoemde belasting te verlaag; en die wyse van betaling van genoemde belasting verder te reël; tot wysiging van die Wet op Hereregte, 1949, ten einde sekere uitdrukings nader te omskryf; die heffing van hereregte verder te reël; en uitgediende verwysings te vervang; tot wysiging van die Boedelbelastingwet, 1955, ten einde die skaal van boedelbelasting te verhoog; tot wysiging van die Wet op Seëlregte, 1968, ten einde die wyse van betaling van seëlregte verder te reël; sekere uitdrukings nader te omskryf of te vervang; uitgediende bepalings en verwysings te vervang of te skrap; die seëlregtariewe ten opsigte van die registrasie van oordrag, die intrekking of aflossing en die verkryging van handelseffekte te verlaag; die seëlreg op debetposte en paaientkrediettooreenkomste te verhoog; en voorsiening te maak vir 'n vrystelling ten opsigte van die registrasie van oordrag van handelseffekte; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere benamings en uitdrukings nader te omskryf of te vervang; bedrywighede wat finansiële dienste uitmaak, verder te reël; die bepalings met betrekking tot geheimhouding na die Hoof- Uitvoerende Beampte en ontvangers of voornemende ontvangers van lewerings uit te brei; die waarde-bepaling van lewerings wat aan verbonde persone gedoen word of lewerings wat die bestuur van aftreeskemas behels, verder te reël; die berekening van die belasting wat ten opsigte van vasgoed of 'n saaklike reg daarin betaalbaar is, verder te reël; sekere gevolglike wysigings aan te bring; voorsiening daarvoor te maak dat ondernemers op die faktuurbasis 'n verrekening doen waar 'n insetbelastingaftrekking geëis is, maar 'n bedrag ten opsigte van die betrokke lewering nie betaal is nie; 'n tekstuele aanpassing in die Afrikaanse teks aan te bring; terugbetalings ingevolge die uitvoeraansporingskema te magtig; die be-raming van die bedrag waarop belasting betaalbaar is in sekere omstandighede te magtig; die rapportering van onprofessionele gedrag verder te reël; 'n beperking op die vryheid om ten opsigte van veranderinge in die koers van belasting op toegevoegde waarde te kontrakteer, te verwyder; die heffing of intrekking van genoemde belasting ten opsigte van 'n lewering verder te reël; voorsiening te maak vir vrystellings ten opsigte van die invoer van sekere goed; en 'n uitgediende verwysing te vervang; tot wysiging van die Inkomstebelastingwet, 1993, ten einde die Minister van Finansies te magtig om van tyd tot tyd 'n datum ten opsigte van sekere belange te bepaal; en tot wysiging van die Wysigingswet op Belastingwette, 1994, ten einde genoemde Minister te magtig om van tyd tot tyd 'n datum ten opsigte van sekere belange te bepaal; om voorsiening daarvoor te maak dat geen verkoopbelasting, boete of rente ten opsigte van die invoer van sekere goed in die voormalige Republiek van Transkei verhaalbaar is nie; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)
(Goedgekeur op 27 Junie 1996.)

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

Substitution of section 1 of Act 32 of 1948, as amended by section 35 of Act 77 of 1968, section 1 of Act 92 of 1971, section 1 of Act 88 of 1974 and section 1 of Act 106 of 1980

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1. (1) The following section is hereby substituted for section 1 of the Marketable Securities Tax Act, 1948:

“Definitions

1. In this Act, unless the context indicates otherwise—

‘Commissioner’ means the Commissioner for Inland Revenue; 10

‘joint account’ means any partnership entered into solely between a member of a stock exchange in the Republic and a person in any other country whose ordinary business in such country consists of or includes the buying and selling of marketable securities]

‘marketable [security] securities’ means any [security, stock, share, right of option or other interest sold or capable of being sold in a sharemarket or exchange or otherwise, and includes any scrip, certificate, warrant or other instrument representing such security, stock, share, right of option or other interest] listed securities as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); 15

‘member’ means any person admitted as a member of a stock exchange; 20

‘stockbroker’ means any natural person who carries on the business of buying and selling marketable securities [on behalf of other persons, and includes any merchant bank registered as such under the Banks Act, 1965 (Act No. 23 of 1965)] and who is a practising member of the South African Institute of Stockbrokers; 25

‘stock exchange’ means any association licensed in terms of the Stock Exchanges Control Act, 1985, to carry on the business of a stock exchange.”

(2) The provisions of subsection (1) shall come into operation on 1 August 1996. 30

Substitution of section 2 of Act 32 of 1948, as substituted by section 1 of Act 114 of 1977 and amended by section 1 of Act 102 of 1979, section 1 of Act 71 of 1986 and section 1 of Act 136 of 1991

2. (1) The following section is hereby substituted for section 2 of the Marketable Securities Tax Act, 1948: 35

“Imposition of marketable securities tax

2. There shall be paid for the benefit of the [State] National Revenue Fund in respect of every purchase of marketable securities [by a stockbroker on behalf of any person] through the agency of or from a member, a tax to be called the Marketable Securities Tax (hereinafter referred to as ‘the tax’), at the rate of [1 per cent] 0,5 per cent of the consideration for which [such] those securities are so purchased.” 40

(2) The provisions of subsection (1)—

(a) in so far as those provisions relate to the reduction of the rate of tax, shall be deemed to have come into operation on 1 April 1996; and 45

(b) in so far as those provisions relate to any other amendment effected by the said subsection (1), shall come into operation on 1 August 1996.

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

Vervanging van artikel 1 van Wet 32 van 1948, soos gewysig deur artikel 35 van Wet 77 van 1968, artikel 1 van Wet 92 van 1971, artikel 1 van Wet 88 van 1974 en artikel 1 van Wet 106 van 1980

1. (1) Artikel 1 van die Handelseffektebelastingwet, 1948, word hierby deur die volgende artikel vervang:

“Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 10 ‘effektebeurs’ ’n vereniging wat ingevolge die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985), gelisensieer is om die besigheid van ’n effektebeurs te dryf;
 ‘effektemakelaar’ ’n natuurlike persoon wat die besigheid van koop en verkoop van handelseffekte dryf en wat ’n praktiserende lid van die
 15 Suid-Afrikaanse Instituut van Aandelemakelaars is;
 ‘handelseffekte’ enige genoteerde effekte soos in die Wet op Beheer van Effektebeurse, 1985, omskryf;
 ‘Kommissaris’ die Kommissaris van Binnelandse Inkomste;
 [‘gesamentlike rekening’ ’n vennootskap wat aangegaan is slegs tussen
 20 ’n lid van ’n effektebeurs in die Republiek en ’n persoon in ’n ander land wie se gewone besigheid in daardie land uit die koop en verkoop van handelseffekte bestaan of dit insluit]
 ‘lid’ ’n persoon wat as ’n lid van ’n effektebeurs toegelaat is.
 [‘handelseffek’ enige sekuriteit, effek, aandeel, opsiering of ander belang wat op ’n aandelemark of beurs of andersins verkoop word of
 25 verkoop kan word, met inbegrip van enige aandelesertifikaat, sertifikaat, bewys of ander stuk wat so ’n sekuriteit, effek, aandeel, opsiering of ander belang verteenwoordig;
 ‘effektemakelaar’ iemand wat sake doen as koper en verkoper van handelseffekte ten behoeve van ander persone en ook ’n aksepbank as sodanig geregistreer kragtens die Bankwet, 1965 (Wet No. 23 van 1965)]”.

(2) Die bepaling van subartikel (1) tree op 1 Augustus 1996 in werking.

Vervanging van artikel 2 van Wet 32 van 1948, soos vervang deur artikel 1 van Wet 114 van 1977 en gewysig deur artikel 1 van Wet 102 van 1979, artikel 1 van Wet 71 van 1986 en artikel 1 van Wet 136 van 1991

2. (1) Artikel 2 van die Handelseffektebelastingwet, 1948, word hierby deur die volgende artikel vervang:

“Oplegging van handelseffektebelasting

2. Daar word ten opsigte van elke koop van handelseffekte deur [’n
 40 effektemakelaar ten behoeve van iemand anders] die tussenkoms van of by ’n lid, ’n belasting met die naam van die Belasting op Handelseffekte (hieronder ‘die belasting’ genoem) ten bate van die [Staatsinkomstefonds] Nasionale Inkomstefonds betaal teen die skaal van [1 persent] 0,5
 45 persent van die bedrag waarteen [die handelseffekte] daardie effekte aldus gekoop word.”.

(2) Die bepaling van subartikel (1)—

- (a) vir sover daardie bepaling op die verlaging van die skaal van belasting betrekking het, word geag op 1 April 1996 in werking te getree het; en
- 50 (b) vir sover daardie bepaling betrekking het op ’n ander wysiging wat deur genoemde subartikel (1) teweeggebring is, tree op 1 Augustus 1996 in werking.

Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982, section 1 of Act 92 of 1983, section 1 of Act 118 of 1984, section 1 of Act 81 of 1985, section 1 of Act 87 of 1988, section 1 of Act 136 of 1992 and section 1 of Act 97 of 1993 5

3. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended—

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

“(a) in respect of the purchase **[by a stockbroker]** of marketable securities **[on behalf of a joint account or any other stockbroker who is liable for the tax by virtue of the fact that he is acting for a principal in connection with the purchase of those securities]** by a stockbroker or a member on the own account and for the benefit of the stockbroker or the member;”;

(b) by the substitution for paragraph (d) of the following paragraph:

“(d) in respect of the purchase of any interest-bearing debentures, including debenture stock, debenture bonds and any other securities of a juristic person, whether constituting a charge on the assets of the juristic person or not, listed by **[any recognized]** a stock exchange **[in the Republic]** or **[listed]** by a financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989);”;

(c) by the addition of the following paragraph:

“(e) in respect of the purchase of marketable securities by a person who is not ordinarily resident in the Republic or in Lesotho, Namibia or Swaziland.”.

(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

Substitution of section 4 of Act 32 of 1948, as substituted by section 2 of Act 103 of 1969 and amended by section 3 of Act 114 of 1977

4. (1) The following section is hereby substituted for section 4 of the Marketable Securities Tax Act, 1948:

“Persons liable for tax, time of payment thereof and declarations to be furnished in connection therewith

4. (1) Every **[stockbroker]** member shall, subject to the provisions of section 3, in respect of every month, and not later than **[fourteen]** 14 days after the last day of that month or within such further period as the Commissioner, having regard to the circumstances of the case, may allow, pay to the receiver of revenue for the area in which such **[stockbroker]** member carries on business, the amount representing the tax payable on all **[purchases of]** marketable securities **[effected by him, or at his instance by another stockbroker on behalf of other persons]** purchased through the agency of or from such member during that month.

(2) Every such payment shall be accompanied by a declaration in such form as may be prescribed by the Commissioner containing particulars of all **[purchases of]** marketable securities **[by or at the instance of the stockbroker]** purchased through the agency of or from the member concerned during the month in respect of which the payment is made.

(3) A **[stockbroker]** member who has not during any particular month effected **[either directly or through another stockbroker]** any **[purchase]** transaction in respect of marketable securities, shall within **[fourteen]** 14 days after the last day of that month or within such further period as the Commissioner, having regard to the circumstances of the case, may allow, lodge a declaration to that effect with the receiver of revenue for the area in which **[that stockbroker]** such member carries on business.”.

(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

Wysiging van artikel 3 van Wet 32 van 1948, soos gewysig deur artikel 12 van Wet 64 van 1960, artikel 36 van Wet 77 van 1968, artikel 2 van Wet 88 van 1974, artikel 2 van Wet 114 van 1977, artikel 1 van Wet 95 van 1978, artikel 2 van Wet 106 van 1980, artikel 1 van Wet 87 van 1982, artikel 1 van Wet 92 van 1983, artikel 1 van Wet 118 van 1984, artikel 1 van Wet 81 van 1985, artikel 1 van Wet 87 van 1988, artikel 1 van Wet 136 van 1992 en artikel 1 van Wet 97 van 1993

3. (1) Artikel 3 van die Handelseffektebelastingwet, 1948, word hierby gewysig—

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

“(a) ten opsigte van die koop [deur ’n effektemakelaar] van handelseffekte [ten behoeve van ’n gesamentlike rekening of ’n ander effektemakelaar wat vir die belasting aanspreeklik is op grond daarvan dat hy in verband met die koop van daardie handelseffekte vir ’n prinsipaal optree] deur ’n effektemakelaar of ’n lid vir die eie rekening en ten voordele van die effektemakelaar of die lid;”;

(b) deur paragraaf (d) deur die volgende paragraaf te vervang:

“(d) ten opsigte van die koop van enige rentedraende skuldbriewe, met inbegrip van skuldbriefeffekte, skuldbriefverbande en enige ander sekuriteite van ’n regspersoon, hetsy dit ’n las teen die bates van die regspersoon uitmaak al dan nie, wat deur ’n [erkende] effektebeurs [in die Republiek genoteer is] of deur ’n finansiële beurs soos omskryf in die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), genoteer is;”;

(c) deur die volgende paragraaf by te voeg:

“(e) ten opsigte van die koop van handelseffekte deur ’n persoon wat nie gewoonlik in die Republiek of in Lesotho, Namibië of Swaziland woonagtig is nie.”.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Vervanging van artikel 4 van Wet 32 van 1948, soos vervang deur artikel 2 van Wet 103 van 1969 en gewysig deur artikel 3 van Wet 114 van 1977

4. (1) Artikel 4 van die Handelseffektebelastingwet, 1948, word hierby deur die volgende artikel vervang:

“Persone wat vir belasting aanspreeklik is, tydstip van betaling daarvan en verklarings wat in verband daarmee verstrek moet word

4. (1) Behoudens die bepalings van artikel 3, betaal elke [effektemakelaar] lid, ten opsigte van elke maand en nie later nie dan [veertien] 14 dae na die laaste dag van daardie maand, of binne die verdere tydperk wat die Kommissaris, met inagneming van die omstandighede van die geval, toelaat, aan die ontvanger van inkomste van die gebied waarin so ’n [effektemakelaar] lid sake doen, die bedrag wat die belasting verteenwoordig wat betaalbaar is ten opsigte van [elke koop van] alle handelseffekte wat deur [hom, of op sy versoek deur ’n ander effektemakelaar, ten behoeve van ander persone] die tussenkoms van of by so ’n lid gedurende daardie maand [bewerkstellig] gekoop is.

(2) Elke sodanige betaling gaan vergesel van ’n verklaring in die vorm soos deur die Kommissaris voorgeskryf, wat besonderhede bevat van [elke koop van] alle handelseffekte wat deur [of op versoek van die betrokke effektemakelaar] die tussenkoms van of by die betrokke lid gekoop is gedurende die maand ten opsigte waarvan die betaling gemaak word.

(3) ’n [Effektemakelaar] Lid wat nie gedurende ’n bepaalde maand ’n [koop] transaksie ten opsigte van handelseffekte [hetsy regstreeks of deur middel van ’n ander effektemakelaar] bewerkstellig het nie, lê binne [veertien] 14 dae na die laaste dag van daardie maand of binne die verdere tydperk wat die Kommissaris, met inagneming van die omstandighede van die geval, toelaat, ’n verklaring tot dien effekte aan die ontvanger van inkomste van die gebied waarin [daardie effektemakelaar] so ’n lid sake doen, voor.”.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Substitution of section 8 of Act 32 of 1948, as amended by section 5 of Act 114 of 1977

5. (1) The following section is hereby substituted for section 8 of the Marketable Securities Tax Act, 1948:

“Recovery of tax from purchasers

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8. A [stockbroker] member may recover the amount of the tax (but not the amount of any penalty that may become payable under section [five] 5) payable by [him] such member in respect of any purchase of marketable securities, from the [person on whose behalf that purchase has been effected] purchaser of those securities.”

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(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

Substitution of long title of Act 32 of 1948, as substituted by section 6 of Act 114 of 1977

6. (1) The following long title is hereby substituted for the long title of the Marketable Securities Tax Act, 1948:

15

“ACT

To provide for the imposition of a tax on [purchases] the purchase of marketable securities through the agency of or from a member of a stock exchange.”

(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

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Substitution of word “stockbroker” in Act 32 of 1948

7. (1) The Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the word “stockbroker”, wherever it appears in sections 6(1) and 10(2), of the word “member”.

(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

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Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959, section 1 of Act 77 of 1964, section 5 of Act 103 of 1969, section 4 of Act 106 of 1980, section 1 of Act 86 of 1987, section 2 of Act 87 of 1988 and section 9 of Proclamation R.11 of 1994

8. (1) Section 1 of the Transfer Duty Act, 1949, is hereby amended—

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(a) by the insertion after the definition of “mining asset” of the following definition:

“ ‘person’ includes the estate of a deceased or insolvent person and any trust;” and

(b) by the addition of the following definition:

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“ ‘trust’ means any trust consisting of cash or other assets which are administered and controlled by a person acting in a fiduciary capacity, where such person is appointed under a deed of trust or by agreement or under the will of a deceased person.”

(2) The provisions of subsection (1) shall come into operation on 1 August 1996.

40

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, section 3 of Act 97 of 1993 and section 1 of Act 37 of 1995

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

45

(a) by the substitution in subsection (1) for the words “Consolidated Revenue Fund” of the words “National Revenue Fund”; and

(b) by the addition of the following subsection:

Vervanging van artikel 8 van Wet 32 van 1948, soos gewysig deur artikel 5 van Wet 114 van 1977

5. (1) Artikel 8 van die Handelseffektebelastingwet, 1948, word hierby deur die volgende artikel vervang:

5 “Verhaal van belasting op kopers

8. 'n [Effektemakelaar] Lid kan die bedrag van die belasting wat [hy] so 'n lid ten opsigte van [’n] enige koop van handelseffekte moet betaal (maar nie die bedrag van enige boete nie wat ingevolge artikel [vyf] 5 betaalbaar mag word) [verhaal] op die [persoon ten behoeve van wie daardie koop bewerkstellig is] koper van daardie effekte verhaal.”.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Vervanging van lang titel van Wet 32 van 1948, soos vervang deur artikel 6 van Wet 114 van 1977

6. (1) Die lang titel van die Handelseffektebelastingwet, 1948, word hierby deur die volgende lang titel vervang:

“WET

Om voorsiening te maak vir die oplegging van 'n belasting op die koop van handelseffekte deur die tussenkoms van of by 'n lid van 'n effektebeurs.”.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Vervanging van woord “effektemakelaar” in Wet 32 van 1948

7. (1) Die Handelseffektebelastingwet, 1948, word hierby gewysig deur die woord “effektemakelaar”, oral waar dit in artikels 6(1) en 10(2) voorkom, deur die woord “lid” te vervang.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Wysiging van artikel 1 van Wet 40 van 1949, soos gewysig deur artikel 11 van Wet 80 van 1959, artikel 1 van Wet 77 van 1964, artikel 5 van Wet 103 van 1969, artikel 4 van Wet 106 van 1980, artikel 1 van Wet 86 van 1987, artikel 2 van Wet 87 van 1988 en artikel 9 van Proklamasie R.11 van 1994

8. (1) Artikel 1 van die Wet op Hereregte, 1949, word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van “mynbate” in te voeg:

“ ‘persoon’ ook die boedel van 'n oorlede of insolvente persoon en enige trust;” en

(b) deur die volgende omskrywing na die omskrywing van “transaksie” in te voeg:

“ ‘trust’ enige trust bestaande uit kontant of ander bates wat geadmistreer en beheer word deur 'n persoon wat in 'n fidusiêre hoedanigheid optree, waar so 'n persoon ingevolge 'n trustakte of ooreenkoms of ingevolge 'n testament van 'n oorlede persoon aangestel is;”.

(2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking.

Wysiging van artikel 2 van Wet 40 van 1949, soos vervang deur artikel 2 van Wet 77 van 1964 en gewysig deur artikel 1 van Wet 56 van 1966, artikel 2 van Wet 66 van 1973, artikel 3 van Wet 88 van 1974, artikel 5 van Wet 106 van 1980, artikel 3 van Wet 87 van 1988, artikel 2 van Wet 136 van 1992, artikel 3 van Wet 97 van 1993 en artikel 1 van Wet 37 van 1995

9. (1) Artikel 2 van die Wet op Hereregte, 1949, word hierby gewysig—

(a) deur in subartikel (1) die woorde “Gekonsolideerde Inkomstefonds” deur die woorde “Nasionale Inkomstefonds” te vervang; en

(b) deur die volgende subartikel by te voeg:

“(8) For the purposes of this section, any trustee or administrator of a trust or any other person acting in a fiduciary capacity shall, in respect of any property acquired by him or any property held by him of which the value is enhanced as contemplated in subsection (1), be deemed to be any person other than a natural person.”

(2) The provisions of subsection (1)(b) shall come into operation on 1 August 1996 and shall apply in respect of—

(a) the acquisition of any property; or

(b) the enhancement of the value of any property by the renunciation of an interest in or a restriction upon the use or disposal of that property, on or after that date.

Amendment of section 3 of Act 40 of 1949, as substituted by section 4 of Act 88 of 1974 and amended by section 1 of Act 99 of 1981 and section 4 of Act 97 of 1993

10. (1) Section 3 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The duty and any penalty payable under section 4 and any transfer duty and interest payable under any law repealed by this Act shall be paid to a receiver of revenue, on the establishment of the [Directorate: Inland Revenue, Department of Finance] South African Revenue Service (hereafter in this subsection referred to as the departmental receiver of revenue), for the area in which the property in question is situate or, if the property is situate in the area of more than one departmental receiver of revenue, to any one of those departmental receivers of revenue, or, in either case, to the departmental receiver of revenue in whose area is situate the deeds registry [for] in which the property is [situate] registered.”

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 April 1996.

Amendment of First Schedule to Act 45 of 1955, as substituted by section 9 of Act 92 of 1971 and amended by section 13 of Act 106 of 1980, section 3 of Act 71 of 1986 and section 16 of Act 87 of 1988

11. (1) The First Schedule to the Estate Duty Act, 1955, is hereby amended by the substitution for the expression “15 per cent”, where it appears in the words preceding the proviso, of the expression “25 per cent”.

(2) The provisions of subsection (1) shall be deemed to have come into operation on 14 March 1996 and shall apply in respect of the estate of any person who has died or dies on or after that date.

Amendment of section 5 of Act 77 of 1968, as amended by section 9 of Act 89 of 1972, section 7 of Act 66 of 1973, section 9 of Act 114 of 1977, section 5 of Act 118 of 1984, section 10 of Act 86 of 1987, section 19 of Act 87 of 1988, section 6 of Act 136 of 1991 and section 6 of Act 136 of 1992

12. Section 5 of the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (iii) of the proviso to subsection (1) of the following paragraph:

“(iii) where the Commissioner is satisfied that any person or class of persons cannot conveniently denote the duty in respect of fixed deposit receipts or instalment credit agreements, or in respect of the original issue or the registration of any transfer of marketable securities, by means of stamps affixed to such fixed deposit receipts or to such instalment credit agreements or, in the case of the original issue of marketable securities, to such marketable securities or, in the case of the registration of any transfer of marketable securities, to the relevant instrument of transfer referred to in section 23, he may, subject to such conditions as he may impose and subject to the exercise of such control as he considers necessary, agree that payment of such duty may be acknowledged by

“(8) By die toepassing van hierdie artikel word ’n trustee of administrateur van ’n trust of enige ander persoon wat in ’n fidusiêre hoedanigheid optree, ten opsigte van enige eiendom deur hom verkry of enige eiendom deur hom besit waarvan die waarde verhoog word soos in subartikel (1) beoog, geag ’n ander persoon as ’n natuurlike persoon te wees.”.

(2) Die bepalings van subartikel (1)(b) tree op 1 Augustus 1996 in werking en is van toepassing ten opsigte van—

- (a) die verkryging van enige eiendom; of
- (b) die verhoging van die waarde van enige eiendom ten gevolge van die afstand van ’n belang in of ’n beperking op die gebruik van of beskikking oor daardie eiendom,

op of na daardie datum.

Wysiging van artikel 3 van Wet 40 van 1949, soos vervang deur artikel 4 van Wet 88 van 1974 en gewysig deur artikel 1 van Wet 99 van 1981 en artikel 4 van Wet 97 van 1993

10. (1) Artikel 3 van die Wet op Hereregte, 1949, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Hereregte en enige kragtens artikel 4 betaalbare boete en hereregte en rente betaalbaar kragtens ’n wet wat deur hierdie Wet herroep is, word betaal aan ’n ontvanger van inkomste, op die diensstaat van die **[Direktoraat: Binnelandse Inkomste, Departement van Finansies]** Suid-Afrikaanse Inkomste Diens (hierna in hierdie subartikel die departementele ontvanger van inkomste genoem), van die gebied waarin die betrokke eiendom geleë is of, indien die eiendom in die gebied van meer dan een departementele ontvanger van inkomste geleë is, aan enigeen van daardie departementele ontvangers van inkomste, of, in óf die een óf die ander geval, aan die departementele ontvanger van inkomste in wie se gebied die registrasiekantoor van aktes **[vir die eiendom]** geleë is waarin die eiendom geregistreer is.”.

(2) Die bepalings van subartikel (1) word geag op 1 April 1996 in werking te getree het.

Wysiging van Eerste Bylae by Wet 45 van 1955, soos vervang deur artikel 9 van Wet 92 van 1971 en gewysig deur artikel 13 van Wet 106 van 1980, artikel 3 van Wet 71 van 1986 en artikel 16 van Wet 87 van 1988

11. (1) Die Eerste Bylae by die Boedelbelastingwet, 1955, word hierby gewysig deur die uitdrukking “15 persent”, waar dit voorkom in die woorde wat die voorbehoudsbepaling voorafgaan, deur die uitdrukking “25 persent” te vervang.

(2) Die bepalings van subartikel (1) word geag op 14 Maart 1996 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 5 van Wet 77 van 1968, soos gewysig deur artikel 9 van Wet 89 van 1972, artikel 7 van Wet 66 van 1973, artikel 9 van Wet 114 van 1977, artikel 5 van Wet 118 van 1984, artikel 10 van Wet 86 van 1987, artikel 19 van Wet 87 van 1988, artikel 6 van Wet 136 van 1991 en artikel 6 van Wet 136 van 1992

12. Artikel 5 van die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (iii) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

“(iii) waar die Kommissaris oortuig is dat dit vir ’n persoon of kategorie van persone ongerieflik is om die seëlreg ten opsigte van vaste deposito-kwitansies of paaientkredietooreenkomste, of ten opsigte van die oorspronklike uitreiking of die registrasie van enige oordrag van handelseffekte, deur middel van die plakking van seëls op sodanige vaste deposito-kwitansies of op sodanige paaientkredietooreenkomste of, in die geval van die oorspronklike uitreiking van handelseffekte, op sodanige handelseffekte of, in die geval van die registrasie van enige oordrag van handelseffekte, op die tersaaklike oordragstuk bedoel in artikel 23 aan te dui, hy onderworpe aan die voorwaardes wat hy oplê en onderworpe aan die uitoefening van die

means of the issue of a special receipt, and any such fixed deposit receipt, instalment credit agreement, [or] marketable security or instrument of transfer which bears on its face the words 'duty paid', shall for the purposes of this Act be deemed to be duly stamped."

Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 66 of 1973, section 10 of Act 88 of 1974, section 20 of Act 106 of 1980, section 6 of Act 87 of 1982, section 5 of Act 92 of 1983, section 25 of Act 87 of 1988, section 8 of Act 69 of 1989, section 81 of Act 89 of 1991 and section 7 of Act 136 of 1991

13. (1) Section 23 of the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution in subsection (1) for the words "recognized stock exchange" in the definition of "arbitrage transaction" of the words "stock exchange";
 - (b) by the substitution in the said subsection (1) for the definition of "broker" of the following definition:

" 'broker' means a person who carries on the business of buying and selling marketable securities **[on behalf of other persons]** and who is a member of a **[recognized]** stock exchange in the Republic or a practising member of the South African Institute of Stockbrokers;"
 - (c) by the insertion in the said subsection (1) after the definition of "instrument of transfer" of the following definition:

" '**lending arrangement**' means any arrangement or agreement in terms of which—

 - (a) a person (hereinafter referred to as the lender) lends a marketable security to another person (hereinafter referred to as the borrower) in order to enable the borrower to effect delivery of the marketable security under a transaction entered into by the borrower to sell the marketable security; and
 - (b) the borrower in return undertakes to transfer a marketable security of the same kind and of the same or equivalent quantity and quality to the lender within a period of six months as from the date of such loan;"
 - (d) by the substitution for subparagraph (ii) of paragraph (b) of subsection (4) of the following subparagraph:

"(ii) where exemption from duty is claimed under paragraph (f) of the Exemptions to Item 15(3) of Schedule 1, such instrument bears an endorsement made by the **[buying broker or a bank acting on behalf of the transferee in connection with the relevant purchase]** member as defined in section 1 of the Marketable Securities Tax Act, 1948 (Act No. 32 of 1948), in such form as the Commissioner may approve, to the effect that the tax referred to in section 2 of the **[Marketable Securities Tax Act, 1948 (Act No. 32 of 1948)]** said Act has on or after the date of commencement of this Act become payable in respect of the purchase **[by the transferee of such]** of the marketable security in question; or"
 - (e) by the insertion after subparagraph (viiA) of paragraph (b) of the said subsection (4) of the following subparagraph:

"(viiB) where exemption from duty is claimed under paragraph (nB) of the Exemptions to Item 15(3) of Schedule 1, such instrument bears an endorsement made by the borrower or his agent (if such agent is a bank or a broker), in such form as the Commissioner may approve, to the effect that the registration of transfer is effected in consequence of the return to the lender in question of a marketable security previously lent to that borrower in terms of a lending arrangement; or"
 - (f) by the deletion of subsection (7A);

beheer wat hy nodig ag, kan instem dat betaling van bedoelde seëlreg deur middel van die uitreiking van 'n spesiale kwitansie erken kan word, en so 'n vaste deposito-kwitansie, paaientkrediettooreenkoms, [of] handelseffek of oordragstuk op die voorkant waarvan die woorde 'seëlreg betaal' voorkom, word by die toepassing van hierdie Wet geag behoorlik geseël te wees."

Wysiging van artikel 23 van Wet 77 van 1968, soos gewysig deur artikel 20 van Wet 103 van 1969, artikel 13 van Wet 92 van 1971, artikel 11 van Wet 89 van 1972, artikel 10 van Wet 66 van 1973, artikel 10 van Wet 88 van 1974, artikel 20 van Wet 106 van 1980, artikel 6 van Wet 87 van 1982, artikel 5 van Wet 92 van 1983, artikel 25 van Wet 87 van 1988, artikel 8 van Wet 69 van 1989, artikel 81 van Wet 89 van 1991 en artikel 7 van Wet 136 van 1991

13. (1) Artikel 23 van die Wet op Seëlregte, 1968, word hierby gewysig—
- (a) deur in subartikel (1) die woorde "erkende effektebeurs" in die omskrywing van "arbitrasie-transaksie" deur die woord "effektebeurs" te vervang;
- 15 (b) deur in genoemde subartikel (1) die volgende omskrywing na die omskrywing van "handelseffekte" in te voeg:
- "leningsreëling" 'n reëling of ooreenkoms ingevolge waarvan—
- (a) 'n persoon (hieronder die uitlener genoem) 'n handelseffek aan 'n ander persoon (hieronder die lener genoem) leen ten einde die lener in staat te stel om lewering van die handelseffek te bewerkstellig ingevolge 'n transaksie wat die lener aangaan het om die handelseffek te verkoop; en
- 20 (b) die lener as teenprestasie onderneem om 'n handelseffek van dieselfde soort en van dieselfde of gelyke hoeveelheid en gehalte binne 'n tydperk van ses maande vanaf die datum van so 'n lening aan die uitlener oor te dra;"
- 25 (c) deur in genoemde subartikel (1) die omskrywing van "makelaar" deur die volgende omskrywing te vervang:
- "'makelaar' iemand wat [sake doen as koper en verkoper van handelseffekte ten behoeve van ander persone] die besigheid van koop en verkoop van handelseffekte dryf en wat 'n lid [is] van 'n [erkende] effektebeurs in die Republiek of 'n praktiserende lid van die Suid-Afrikaanse Instituut van Aandelemakelaars is;"
- 30 (d) deur subparagraaf (ii) van paragraaf (b) van subartikel (4) deur die volgende subparagraaf te vervang:
- 35 "(ii) waar aanspraak gemaak word op vrystelling van seëlreg ingevolge paragraaf (f) van die Vrystellings by Item 15(3) van Bylae 1, die oordragstuk 'n endossement dra wat deur die [kopende makelaar of 'n bank wat ten behoeve van die oordragnemer in verband met die betrokke koop optree] lid soos omskryf in artikel 1 van die Handelseffektebelastingwet, 1948 (Wet No. 32 van 1948), aangebring is, in die vorm deur die Kommissaris goedgekeur, [aangebring is] ten effekte dat die [in artikel 2 van die Handelseffektebelastingwet, 1948 (Wet No. 32 van 1948), bedoelde] belasting in artikel 2 van genoemde Wet bedoel op of na die datum van inwerkingtreding van hierdie Wet [ten opsigte van die koop van bedoelde handelseffekte deur die oordragnemer] betaalbaar geword het ten opsigte van die koop van die betrokke handelseffek; of";
- 40 (e) deur die volgende subparagraaf na subparagraaf (viiA) van paragraaf (b) van genoemde subartikel (4) in te voeg:
- 45 "(viiB) waar aanspraak gemaak word op 'n vrystelling van seëlreg ingevolge paragraaf (nB) van die Vrystellings by Item 15(3) van Bylae 1, die oordragstuk 'n endossement dra wat deur die lener of sy agent (indien so 'n agent 'n bank of 'n makelaar is) aangebring is, in die vorm deur die Kommissaris goedgekeur, ten effekte dat die registrasie van oordrag bewerkstellig word as gevolg van die teruggawe aan die betrokke uitlener van 'n handelseffek wat voorheen ingevolge 'n leningsreëling aan daardie lener geleen is; of";
- 50 (f) deur subartikel (7A) te skrap;
- 55
- 60

(g) by the substitution for paragraph (b) of subsection (8) of the following paragraph:

“(b) makes any endorsement on any instrument of transfer for the purposes of subsection (4)(b)(ii), (v), (vi), (vii), [or] (viiA) or (viiB) which is false or incorrect, or fails to comply with the provisions of subsection (5); or”;
and

(h) by the substitution for paragraph (c) of the said subsection (8) of the following paragraph:

“(c) as the transferee in respect of any marketable security, or as the agent of such transferee, makes any note for the purposes of subsection (7)(b) [or (7A)(b)] or Item 15(3)(a) of Schedule 1, which is false or incorrect.”.

(2) The provisions of subsection (1)(a), (b), (c), (d), (e) and (g) shall come into operation on 1 August 1996.

Amendment of section 24 of Act 77 of 1968, as amended by section 21 of Act 103 of 1969, section 11 of Act 88 of 1974, section 4 of Act 70 of 1975, section 12 of Act 114 of 1977, section 6 of Act 92 of 1983, section 26 of Act 87 of 1988, section 9 of Act 69 of 1989, section 82 of Act 89 of 1991 and section 14 of Act 97 of 1993

14. (1) Section 24 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words “fourteen days”, wherever they appear in subsections (11)(a) and (13), of the expression “21 days”.

(2) The provisions of subsection (1) shall come into operation on 1 August 1996 and shall apply to any payment of duty due on or after that date.

Amendment of Item 6 of Schedule 1 to Act 77 of 1968, as inserted by section 10 of Act 118 of 1984 and amended by section 4 of Act 71 of 1986, section 32 of Act 87 of 1988 and section 7 of Act 136 of 1992

15. (1) Item 6 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for the amount “0 15” in the column “Amount of Duty” of the amount “0 20”.

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 June 1996.

Amendment of Item 13A of Schedule 1 to Act 77 of 1968, as substituted by section 8 of Act 136 of 1991 and amended by section 7 of Act 20 of 1994

16. (1) Item 13A of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for the tariff of stamp duty of the following tariff:

	“R	c	
does not exceed R5 000	2	00	
exceeds R5 000 but does not exceed R10 000	4	00	
“ R10 000 “ “ “ “ “ R20 000	8	00	
“ R20 000 “ “ “ “ “ R40 000	16	00	40
“ R40 000 “ “ “ “ “ R60 000	24	00	
“ R60 000 “ “ “ “ “ R80 000	32	00	
“ R80 000 “ “ “ “ “ R100 000	40	00	
“ R100 000 “ “ “ “ “ R130 000	50	00	
“ R130 000 “ “ “ “ “ R150 000	60	00	45
“ R150 000 “ “ “ “ “ R180 000	70	00	
“ R180 000 “ “ “ “ “ R200 000	80	00	
“ R200 000	100	00	35

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 June 1996.

- (g) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:
“(b) ’n endossement op ’n oordragstuk vir die doeleindes van subartikel (4)(b)(ii), (v), (vi), (vii), [of] (viiA) of (viiB) aanbring wat vals of onjuis is, of versuim om die bepalinge van subartikel (5) na te kom; of”; en
- 5 (h) deur paragraaf (c) van genoemde subartikel (8) deur die volgende paragraaf te vervang:
“(c) as die oordragnemer ten opsigte van [handelseffekte] ’n handelseffek, of as die verteenwoordiger van so ’n oordragnemer, ’n aantekening vir die doeleindes van subartikel (7)(b) [of 7A)(b)] of Item 15(3)(a) van
- 10 Bylae 1 maak wat vals of onjuis is.”.
- (2) Die bepalinge van subartikel (1)(a), (b), (c), (d), (e) en (g) tree op 1 Augustus 1996 in werking.

15 Wysiging van artikel 24 van Wet 77 van 1968, soos gewysig deur artikel 21 van Wet 103 van 1969, artikel 11 van Wet 88 van 1974, artikel 4 van Wet 70 van 1975, artikel 12 van Wet 114 van 1977, artikel 6 van Wet 92 van 1983, artikel 26 van Wet 87 van 1988, artikel 9 van Wet 69 van 1989, artikel 82 van Wet 89 van 1991 en artikel 14 van Wet 97 van 1993

14. (1) Artikel 24 van die Wet op Seëlregte, 1968, word hierby gewysig deur die woorde “veertien dae”, oral waar hulle in subartikels (11)(a) en (13) voorkom, deur die uitdrukking “21 dae” te vervang.
- (2) Die bepalings van subartikel (1) tree op 1 Augustus 1996 in werking en is van toepassing op enige betaling van seëlreg wat op of na daardie datum verskuldig is.

25 Wysiging van Item 6 van Bylae 1 by Wet 77 van 1968, soos ingevoeg deur artikel 10 van Wet 118 van 1984 en gewysig deur artikel 4 van Wet 71 van 1986, artikel 32 van Wet 87 van 1988 en artikel 7 van Wet 136 van 1992

15. (1) Item 6 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur die bedrag “0 15” in die kolom “Bedrag van Seëlreg” deur die bedrag “0 20” te vervang.
- (2) Die bepalings van subartikel (1) word geag op 1 Junie 1996 in werking te getree 30 het.

Wysiging van Item 13A van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 8 van Wet 136 van 1991 en gewysig deur artikel 7 van Wet 20 van 1994

- 16.** (1) Item 13A van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur die skaal van seëlreg deur die volgende skaal te vervang:

		“R c
	R5 000 nie te bowe gaan nie	2 00
	R5 000 te bowe gaan, maar nie R10 000 nie	4 00
	R10 000 “ “ “ “ “ R20 000 “	8 00
40	R20 000 “ “ “ “ “ R40 000 “	16 00
	R40 000 “ “ “ “ “ R60 000 “	24 00
	R60 000 “ “ “ “ “ R80 000 “	32 00
	R80 000 “ “ “ “ “ R100 000 “	40 00
	R100 000 “ “ “ “ “ R130 000 “	50 00
45	R130 000 “ “ “ “ “ R150 000 “	60 00
	R150 000 “ “ “ “ “ R180 000 “	70 00
	R180 000 “ “ “ “ “ R200 000 “	80 00
	R200 000 te bowe gaan	100 00”

- (2) Die bepalings van subartikel (1) word geag op 1 Junie 1996 in werking te getree 50 het.

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 van 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 83 of Act 89 of 1991, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993, section 17 of Act 140 of 1993 and section 8 of Act 20 of 1994

17. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution in subparagraph (f) of paragraph (3) for the words preceding subparagraph (i) of the following words:

“[in any other case] if the marketable security was sold or disposed of after 31 March 1991 but not later than 31 March 1996 and the date of the sale or disposal is noted on the relevant instrument of transfer referred to in section 23 of this Act by the transferee or his agent and such note is signed by the transferee or his agent.”;

(b) by the addition to paragraph (3) of the following subparagraph:

“(g) in any other case—

(i) if transfer—

(aa) other than a transfer contemplated in subparagraph (bb), is registered before the expiry of a period of six months; or

(bb) is registered in the name of a broker, or the nominee of a broker, on or after 1 August 1996 and is so registered before the expiry of a period of three months,

from the date of execution of the relevant instrument of transfer referred to in section 23 of this Act: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security transferred.....

(ii) if transfer—

(aa) is registered after the expiry of the period of six months referred to in subparagraph (i)(aa); or

(bb) is registered in the name of a broker, or the nominee of a broker, after the expiry of the period of three months referred to in subparagraph (i)(bb).....

Three times the duty which would have been payable under (g)(i) if transfer had been registered before the expiry of the said period of six or three months, as the case may be.”;

(c) by the substitution for paragraph (f) of “Exemptions from the duty under paragraph (3)” of the following paragraph:

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 83 van Wet 89 van 1991, artikel 9 van Wet 136 van 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993, artikel 17 van Wet 140 van 1993 en artikel 8 van Wet 20 van 1994

17. (1) Item 15 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur in subparagraaf (f) van paragraaf (3) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

15 “[in enige ander geval] indien die handelseffekte verkoop of vervreem is na 31 Maart 1991 maar nie later nie as 31 Maart 1996 en die datum van die verkoop of vervreemding op die betrokke oordragstuk in artikel 23 van hierdie Wet bedoel, aangeteken is deur die oordragnemer of sy verteenwoordiger en daardie aantekening deur die oordragnemer of sy

20 verteenwoordiger onderteken is.”;

(b) deur die volgende subparagraaf by paragraaf (3) te voeg:

“(g) in enige ander geval—

(i) indien oordrag—

25 (aa) uitgesonderd ’n oordrag in subparagraaf (bb) beoog, geregistreer word binne ’n tydperk van ses maande; of

(bb) op of na 1 Augustus 1996 in die naam van ’n makelaar, of die genomineerde van ’n makelaar, geregistreer word en aldus geregistreer word binne ’n tydperk van drie maande,

vanaf die datum van verlyding van die betrokke oordragstuk in artikel 23 van hierdie Wet bedoel: vir elke R10, of deel daarvan, van die bedrag of waarde van die vergoeding gegee of, waar geen vergoeding gegee word nie of die vergoeding gegee minder is as die waarde van die handelseffek wat oorgedra word, van die waarde van die handelseffek wat oorgedra word 0 05

40 (ii) indien oordrag—

(aa) na die verstryking van die tydperk van ses maande bedoel in subparagraaf (i)(aa) geregistreer word; of

45 (bb) na die verstryking van die tydperk van drie maande bedoel in subparagraaf (i)(bb) in die naam van ’n makelaar, of die genomineerde van ’n makelaar, geregistreer word Drie maal die

50 seëlreg wat ingevolge (g)(i) betaalbaar sou gewees het indien oordrag binne bedoelde tydperk van ses of drie maande, na gelang van die geval, geregistreer was.”;

60 (c) deur paragraaf (f) van “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” deur die volgende paragraaf te vervang:

- “(f) Any registration of transfer of any marketable security purchased by any person on or after the date of commencement of this Act, if **[the purchase by such]** that person **[of]** has purchased such marketable security **[was negotiated by a stockbroker]** through the agency of or from a member as defined in **[the definition of ‘stockbroker’ in]** section 1 of the Marketable Securities Tax Act, 1948 (Act No. 32 of 1948), and the tax referred to in section 2 of **[that]** the said Act has on or after **[the said]** that date become payable in respect of **[such]** the purchase of such marketable security.”;
- (d) by the substitution for subparagraph (i) of paragraph (nA) of the said “Exemptions from the duty under paragraph (3)” of the following subparagraph:
- “(i) the purchaser is not ordinarily resident in the Republic **[South West Africa, Botswana, Lesotho, Swaziland or any country which formerly formed part of the Republic]** or in Lesotho, Namibia or Swaziland; and”;
- (e) by the insertion after paragraph (nA) of the said “Exemptions from the duty under paragraph (3)” of the following paragraph:
- “(nB) Any registration of transfer of any marketable security in the name of the lender of a marketable security, if such registration of transfer is effected in consequence of the return to that lender of a marketable security previously lent to the borrower in question in terms of a lending arrangement.”;
- (f) by the substitution for the words “recognized stock exchange” in paragraph (p) of the said “Exemptions from the duty under paragraph (3)” of the words “stock exchange”;
- (g) by the substitution in paragraph (4) for the amount “0 10” in the column “Amount of Duty” of the amount “0 05”; and
- (h) by the substitution for subparagraphs (v) and (vi) of paragraph (5) of the following subparagraphs:
- “(v) if the date of acquisition of such marketable security falls on or after 1 April 1991, but not later than 31 March 1996, and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security 0 10
- “(vi) if the date of acquisition of such marketable security falls on or after 1 April 1996 and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security 0 05

- “(f) ’n Registrasie van oordrag van **[handelseffekte]** ’n handelseffek deur ’n persoon op of na die datum van inwerkingtreding van hierdie Wet gekoop, indien **[die koop deur]** daardie persoon **[van sodanige handelseffekte]** so ’n handelseffek deur die tussenkoms van of by ’n **[effektemakelaar]** lid soos omskryf in **[die omskrywing van ‘effektemakelaar’ in]** artikel 1 van die Handelseffektebelastingwet, 1948 (Wet No. 32 van 1948), **[omskryf, bewerkstellig is]** gekoop het en die belasting in artikel 2 van **[daardie]** genoemde Wet bedoel **[ten opsigte van bedoelde koop]** op of na **[bedoelde]** daardie datum betaalbaar geword het ten opsigte van die koop van so ’n handelseffek.”;
- (d) deur subparagraaf (i) van paragraaf (nA) van genoemde “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” deur die volgende subparagraaf te vervang:
- “(i) die koper nie gewoonlik woonagtig is nie in die Republiek **[Suidwes-Afrika, Botswana, Lesotho, Swaziland of enige land wat voorheen deel van die Republiek uitgemaak het]** of in Lesotho, Namibië of Swaziland; en”;
- (e) deur na paragraaf (nA) van genoemde “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” die volgende paragraaf in te voeg:
- “(nB) ’n Registrasie van oordrag van ’n handelseffek in die naam van die uitlener van ’n handelseffek, indien bedoelde registrasie van oordrag bewerkstellig word as gevolg van die teruggawe aan daardie uitlener van ’n handelseffek wat voorheen ingevolge ’n leningsreëling aan die betrokke lener geleen is.”;
- (f) deur die woorde “erkende effektebeurs” in paragraaf (p) van genoemde “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” deur die woord “effektebeurs” te vervang;
- (g) deur in paragraaf (4) die bedrag “0 10” in die kolom “Bedrag van Seëlreg” deur die bedrag “0 05” te vervang; en
- (h) deur subparagraawe (v) en (vi) van paragraaf (5) deur die volgende subparagraawe te vervang:
- “(v) indien die datum van verkryging van bedoelde **[handelseffekte]** handelseffek op of na 1 April 1991, maar nie later nie as 31 Maart 1996, val en die betrokke akte of verklaring bedoel in artikel 23(15) van hierdie Wet behoorlik geseël word voor die verstryking van ’n tydperk van ses maande vanaf die datum van sodanige verkryging: vir elke R10, of deel daarvan, van die bedrag of waarde van die vergoeding gegee of, waar geen vergoeding gegee word nie of die vergoeding gegee minder is as die waarde van die **[handelseffekte]** handelseffek wat oorgedra word, van die waarde van die **[handelseffekte]** handelseffek 0 10
- “(vi) indien die datum van verkryging van bedoelde handelseffek op of na 1 April 1996 val en die betrokke akte of verklaring bedoel in artikel 23(15) van hierdie Wet behoorlik geseël word voor die verstryking van ’n tydperk van ses maande vanaf die datum van sodanige verkryging: vir elke R10, of deel daarvan, van die bedrag of waarde van die vergoeding gegee of, waar geen vergoeding gegee word nie of die vergoeding gegee minder is as die waarde van die handelseffek wat oorgedra word, van die waarde van die handelseffek 0 05

- [(vi)] (vii) if the relevant deed or declaration is not duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), (iv), [or] (v) or (vi), as the case may be Three times the duty which would have been payable under (i), (ii), (iii), (iv), [or] (v) or (vi) (whichever is applicable), if the deed or declaration had been duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), (iv), [or] (v) or (vi), as the case may be.”.

(2)(a) The provisions of subsection (1)(a), (b), in so far as it relates to Item 15(g)(i)(aa) or (g)(ii)(aa), (g) and (h) shall be deemed to have come into operation on 1 April 1996.

(b) The provisions of subsection (1)(b), in so far as it relates to Item 15(g)(i)(bb) or (g)(ii)(bb), (c), (d), (e) and (f) shall come into operation on 1 August 1996.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, section 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993 and section 9 of Act 20 of 1994

18. Section 1 of the Value-Added Tax Act, 1991 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion after the definition of “cash value” of the following definition:

“ ‘Chief Executive Officer’ means the Director-General: South African Revenue Service;”; and

(b) by the substitution for the definition of “Republic” of the following definition:

“ ‘Republic’, in the geographical sense, means the territory of the Republic of South Africa and includes the territorial waters, the [fishing] contiguous zone and the continental shelf referred to respectively in sections [2, 3 and 7] 4, 5 and 8 of the [Territorial Waters Act, 1963 (Act No. 87 of 1963)] Maritime Zones Act, 1994 (Act No. 15 of 1994);”.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, section 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992 and section 10 of Act 20 of 1994

19. (1) Section 2 of the principal Act is hereby amended—

(a) by the deletion of paragraph (e) of subsection (1);

(b) by the substitution for paragraph (f) of the said subsection (1) of the following paragraph:

“(f) the provision by any person of credit under an agreement [(in this subsection referred to as a credit agreement) whereby] by which money or money’s worth is provided by that person to another person who agrees to pay in the future a sum or sums exceeding in the aggregate the amount of such money or money’s worth;”;

(c) by the deletion of paragraphs (g) and (h) of the said subsection (1);

5 ~~[(vi)]~~(vii) indien die betrokke akte of verklaring
 nie binne die tydperk van ses maande
 bedoel in subparagraaf (i), (ii), (iii), (iv),
 [of] (v) of (vi), na gelang van die geval,
 behoorlik geseël word nie

Drie maal die seël-
 reg wat ingevolge
 (i), (ii), (iii), (iv),
 [of] (v) of (vi) be-
 taalbaar sou
 gewees het (watter
 ook al van toe-
 passing is), indien
 die akte of verkla-
 ring binne die tyd-
 perk van ses
 maande bedoel in
 subparagraaf (i),
 (ii), (iii), (iv), [of]
 (v) of (vi), na ge-
 lang van die geval,
 behoorlik geseël
 was.”.

10 (2)(a) Die bepalings van subartikel (1)(a), (b), vir sover dit op Item 15(g)(i)(aa) of
 15 (g)(ii)(aa) betrekking het, (g) en (h) word geag op 1 April 1996 in werking te getree
 20 het.

 (b) Die bepalings van subartikel (1)(b), vir sover dit op Item 15(g)(i)(bb) of
 (g)(ii)(bb) betrekking het, (c), (d), (e) en (f) tree op 1 Augustus 1996 in werking.

30 **Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet
 136 van 1991, artikel 1 van Goewermentskennisgewing 2695 van 8 Novem-
 ber 1991, artikel 12 van Wet 136 van 1992, artikel 1 van Wet 61 van 1993, artikel
 22 van Wet 97 van 1993 en artikel 9 van Wet 20 van 1994**

18. Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (hieronder die
 Hoofwet genoem), word hierby gewysig—

35 (a) deur die volgende omskrywing na die omskrywing van “hierdie Wet” in te
 voeg:

 “‘Hoof- Uitvoerende Beampte’ die Direkteur-generaal: Suid-
 Afrikaanse Inkomste Diens;”; en

40 (b) deur die omskrywing van “Republiek” deur die volgende omskrywing te
 vervang:

 “‘Republiek’, in die geografiese sin, die gebied van die Republiek van
 Suid-Afrika en ook die territoriale waters, die [visserysone] aan-
 grensende sone en die vastelandsplat onderskeidelik bedoel in artikels
 [2, 3 en 7] 4, 5 en 8 van die [Wet op Territoriale Waters, 1963 (Wet
 No. 87 van 1963)] Wet op Maritieme Sones, 1994 (Wet No. 15 van
 1994);”.

**Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet
 136 van 1991, artikel 2 van Goewermentskennisgewing 2695 van 8 Novem-
 ber 1991, artikel 13 van Wet 136 van 1992 en artikel 10 van Wet 20 van 1994**

19. (1) Artikel 2 van die Hoofwet word hierby gewysig—

50 (a) deur paragraaf (e) van subartikel (1) te skrap;

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

 “(f) die voorsiening deur ’n persoon van krediet [kragtens] ingevolge ’n
 ooreenkoms [(in hierdie subartikel ’n kredietooreenkoms genoem)
 waarvolgens] waarby geld of [’n] waarde in geld deur daardie persoon
 verskaf word aan ’n ander persoon wat onderneem om in die toekoms
 ’n som of somme te betaal wat in totaal die bedrag van daardie geld of
 waarde in geld te bowe gaan;”;

 (c) deur paragrafe (g) en (h) van genoemde subartikel (1) te skrap;

- (d) by the substitution for paragraph (i) of the said subsection (1) of the following paragraph:
- “(i) the provision, or transfer of ownership, of a **[life] long-term** insurance policy or the provision of reinsurance in respect of any such policy: Provided that such an activity shall not be deemed to be a financial service to the extent that it includes the management of a superannuation scheme;”;
- (e) by the substitution for paragraph (j) of the said subsection (1) of the following paragraph:
- “(j) the provision, or transfer of ownership, of an interest in a superannuation scheme **[or the management of a superannuation scheme];**”;
- (f) by the deletion of paragraph (n) of the said subsection (1);
- (g) by the addition of the following proviso to the said subsection (1):
- “: Provided that the activities contemplated in paragraphs (a), (b), (c), (d) and (f) shall not be deemed to be financial services to the extent that the consideration payable in respect thereof is any fee, commission or similar charge, excluding any discounting cost.”;
- (h) by the substitution in subsection (2) for the definition of “life insurance policy” of the following definition:
- “ ‘long-term insurance policy’ means any policy of insurance issued in the ordinary course of carrying on long-term insurance business as defined in section 1(1) of the Insurance Act, 1943 (Act No. 27 of 1943) **[‘life insurance policy’ means a life policy as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), and includes a funeral policy, a home service policy and an industrial policy as respectively defined in the said section];**”;
- (i) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- “(a) A **[life] long-term** insurance policy or any other policy of insurance;”.
- (2) The provisions of subsection (1) shall come into operation on 1 October 1996.

Amendment of section 6 of Act 89 of 1991

20. Section 6 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) **[A] The Chief Executive Officer or a person employed in carrying out the provisions of this Act shall not—**
- (a) disclose to any person or his representative any matter in respect of any other person that may in the case of the Chief Executive Officer, in the performance of his duties as Chief Executive Officer, or in any other case, in the exercise of his powers or the performance of his duties under the said provisions, come to his knowledge; or
- (b) permit any person to have access to any records in the possession or custody of the Commissioner,
- except in the case of the Chief Executive Officer, in the performance of his duties as Chief Executive Officer, or in any other case, in the exercise of his powers or the performance of his duties in terms of this Act, or by order of a competent court: Provided that the Chief Executive Officer, in the performance of his duties as Chief Executive Officer, or the Auditor-General, [shall] in the performance of his duties in terms of section [5] 3 of the Auditor-General Act, [1989 (Act No. 52 of 1989)], 1995 (Act No. 12 of 1995), shall have access to all records and documents in the possession or custody of the Commissioner for the purposes of this Act.”; and
- (b) by the addition to subsection (2) of the following paragraph:
- “(d) confirming to the recipient or intended recipient of a supply whether the supplier is registered in terms of this Act or not.”.

- (d) deur paragraaf (i) van genoemde subartikel (1) deur die volgende paragraaf te vervang:
- 5 “(i) die verskaffing van, of die oordrag van eiendomsreg in, ’n **[lebens-versekeringspolis]** langtermynversekeringspolis of die verskaffing van herversekering ten opsigte van so ’n polis: Met dien verstande dat so ’n aktiwiteit nie geag word ’n finansiële diens te wees nie in die mate wat dit die bestuur van ’n aftreeskema insluit;”;
- (e) deur paragraaf (j) van genoemde subartikel (1) deur die volgende paragraaf te vervang:
- 10 “(j) die verskaffing van, of die oordrag van eiendomsreg in, ’n belang in ’n aftreeskema **[of die bestuur van ’n aftreeskema];**”;
- (f) deur paragraaf (n) van genoemde subartikel (1) te skrap;
- (g) deur die volgende voorbehoudsbepaling by genoemde subartikel (1) te voeg:
- 15 “: Met dien verstande dat die aktiwiteite beoog in paragrawe (a), (b), (c), (d) en (f) nie geag word finansiële dienste te wees nie in die mate wat die vergoeding wat ten opsigte daarvan betaalbaar is enige gelde, kommissie of soortgelyke vordering is, maar nie ook enige verdiskonteringskoste nie.”;
- (h) deur in subartikel (2) die omskrywing van “lebensversekeringspolis” deur die volgende omskrywing te vervang:
- 20 “‘langtermynversekeringspolis’ enige versekeringspolis wat uitgereik word in die gewone loop van die dryf van langtermynversekeringsbesigheid soos in artikel 1(1) van die Versekeringswet, 1943 (Wet No. 27 van 1943), omskryf [**‘lebensversekeringspolis’ ’n lewenspolis soos in artikel 1 van die Versekeringswet, 1943 (Wet No. 27 van 1943), omskryf en ook ’n begrafnispolis, ’n nywerheidspolis en ’n tuisdienspolis soos onderskeidelik omskryf in genoemde artikel;**];”;
- 25 en
- (i) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
- 30 “(a) ’n **[Lewensversekeringspolis]** Langtermynversekeringspolis of enige ander versekeringspolis;”.

(2) Die bepalings van subartikel (1) tree op 1 Oktober 1996 in werking.

Wysiging van artikel 6 van Wet 89 van 1991

20. Artikel 6 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 35 “(1) **[Iemand]** Die Hoof- Uitvoerende Beampte of iemand wat diens doen by die uitvoering van die bepalings van hierdie Wet, mag nie—
- (a) aan iemand of sy verteenwoordiger enige aangeleentheid ten opsigte van iemand anders wat in die geval van die Hoof- Uitvoerende Beampte, by die uitvoering van sy pligte as Hoof- Uitvoerende Beampte, of in enige ander geval, by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte kragtens **[daardie]** bedoelde bepalings, tot sy kennis mag kom, openbaar nie; of
- 40 (b) iemand toelaat om toegang te verkry tot aantekeninge in die besit of onder die bewaring van die Kommissaris nie,
- 45 behalwe in die geval van die Hoof- Uitvoerende Beampte, by die uitvoering van sy pligte as Hoof- Uitvoerende Beampte, of in enige ander geval, by die uitoefening van sy bevoegdhede of die verrigting van sy pligte ingevolge hierdie Wet, of op bevel van ’n bevoegde geregshof: Met dien verstande dat die Hoof- Uitvoerende Beampte, by die uitvoering van sy pligte as Hoof- Uitvoerende Beampte, of die Ouditeur-generaal, by die uitvoering van sy pligte ingevolge artikel [5] 3 van die Wet op die Ouditeur-generaal, **[1989 (Wet No. 52 van 1989)]** 1995 (Wet No. 12 van 1995), toegang het tot alle aantekeninge en stukke in die besit of onder die bewaring van die Kommissaris vir die doeleindes van hierdie Wet.”;
- 50 en
- 55 (b) deur die volgende paragraaf by subartikel (2) te voeg:
- “(d) aan die ontvanger of voornemende ontvanger van ’n lewering te bevestig of die leweraar ingevolge hierdie Wet geregistreer is al dan nie.”.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, section 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993 and section 12 of Act 20 of 1994

21. (1) Section 10 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (4) of the following paragraph: 5

“(a) a supply is made by a [vendor] person for no consideration or for a consideration in money which is less than the open market value of the supply; and”; and

(b) by the insertion after subsection (22) of the following subsection: 10

“(22A) Where any supply is made which comprises the management of a superannuation scheme as contemplated in section 2(1)(i), the consideration in money for such supply shall be deemed to be the greater of the cost of making such supply or any consideration for such supply.”.

(2) The provisions of subsection (1)(b) shall come into operation on 1 October 1996. 15

Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, section 7 of Government Notice 2695 of 8 November 1991, section 18 of Act 136 of 1992, section 28 of Act 97 of 1993 and section 14 of Act 20 of 1994

22. (1) Section 12 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph: 20

“(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] the 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;”. 25

(2) The provisions of subsection (1) shall come into operation on 1 October 1996.

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, section 30 of Act 97 of 1993 and section 16 of Act 20 of 1994 30

23. (1) Section 16 of the principal Act is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (a) of subsection (3) of the following subparagraph: 35

“(i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of ‘input tax’ in section 1 applies and supplies referred to in subparagraph (iiA)) made to the vendor during that tax period;”; 40

(b) by the substitution in subparagraph (ii) of paragraph (a) of the said subsection

(3) for the words preceding the proviso of the following words: 45

“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 any consideration which [reduces or discharges] has the effect of reducing or discharging 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] relating to the purchase price [in respect of] for those supplies has been made during that tax period”; 50

(c) by the insertion after subparagraph (ii) of paragraph (a) of the said subsection

(3) of the following subparagraph: 50

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, artikel 5 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993 en artikel 12 van Wet 20 van 1994

- 5 21. (1) Artikel 10 van die Hoofwet word hierby gewysig—
 (a) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:
 “(a) ’n lewering deur ’n **[ondernemer] persoon** gedoen word teen geen
 vergoeding nie of teen ’n vergoeding in geld wat minder as die ope
 markwaarde van die lewering is; en”; en
10 (b) deur die volgende subartikel na subartikel (22) in te voeg:
 “(22A) Waar enige lewering gedoen word wat die bestuur van ’n aftree-
 skema behels soos in artikel 2(1)(i) beoog, word die vergoeding in geld vir
 sodanige lewering geag die grootste te wees van die koste om daardie
 lewering te doen of enige vergoeding vir daardie lewering.”.
15 (2) Die bepalings van subartikel (1)(b) tree op 1 Oktober 1996 in werking.

Wysiging van artikel 12 van Wet 89 van 1991, soos gewysig deur artikel 28 van Wet 136 van 1991, artikel 7 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 18 van Wet 136 van 1992, artikel 28 van Wet 97 van 1993 en artikel 14 van Wet 20 van 1994

- 20 22. (1) Artikel 12 van die Hoofwet word hierby gewysig deur paragraaf (a) deur die
 volgende paragraaf te vervang:
 “(a) Die lewering van enige finansiële dienste, **[met inbegrip van die same-**
 hangende lewering van enige ander goed of dienste gelewer deur die
 leweraar van daardie finansiële dienste waar die lewering van bedoelde
25 **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 onderworpe sou wees;”.
30 (2) Die bepalings van subartikel (1) tree op 1 Oktober 1996 in werking.

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, artikel 30 van Wet 97 van 1993 en artikel 16 van Wet 20 van 1994

- 35 23. (1) Artikel 16 van die Hoofwet word hierby gewysig—
 (a) deur subparagraaf (i) van paragraaf (a) van subartikel (3) deur die volgende
 subparagraaf te vervang:
 “(i) ten opsigte van lewerings van goed en dienste (behalwe lewerings
 van tweedehandse goed waarop paragraaf (b) van die omskrywing
 van ‘insetbelasting’ in artikel 1 van toepassing is en lewerings in
40 subparagraaf (iiA) bedoel) gedoen aan die ondernemer gedurende
 daardie belastingtydperk;”;
 (b) deur in subparagraaf (ii) van paragraaf (a) van genoemde subartikel (3) die
 woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde
 te vervang:
45 “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]** in die mate wat betaling van
 enige vergoeding wat die uitwerking het om ’n verpligting (hetsy ’n
 bestaande verpligting of ’n verpligting wat in die toekoms sal ontstaan)
50 **[ten opsigte van of as gevolg van, hetsy regstreeks of onregstreeks]**
 wat op die koopprys [ten opsigte van] vir daardie lewerings betrekking
 het, te verminder of [nakom] te vervul gedurende daardie belasting-
 tydperk gedoen is”;
 (c) deur die volgende subparagraaf na subparagraaf (ii) van paragraaf (a) van
55 genoemde subartikel (3) in te voeg:

- “(iiA) in respect of supplies made to the vendor under sales concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)(d) apply, to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;”;
- (d) by the substitution for subparagraph (v) of paragraph (a) of the said subsection (3) of the following subparagraph:
- “(v) calculated in accordance with section 21(2)(b) or 21(7) or section 22(1) or 22(4), as applicable to the vendor;”;
- (e) by the substitution in subparagraph (i) of paragraph (b) of the said subsection (3) for the words preceding the proviso of the following words:
- “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) or [9(3)](d) or [9](4) apply, to the extent that payments of any consideration which **[reduce or discharge]** has the effect of reducing or discharging 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]** relating to the purchase price **[in respect of such]** for those supplies have been made during **[the]** that tax period”;
- (f) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- “(a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis—
- (i) subject to the provisions of subparagraph (ii), where a supply is made or is deemed to be made by him during **[the]** that tax period;
- (ii) where a supply is made under a sale concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)(d) apply, to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for that supply has been made during that tax period; or”;
- (g) by the substitution for subparagraph (i) of paragraph (b) of the said subsection (4) of the following subparagraph:
- “(i) to the extent that payment of any consideration which **[reduces or discharges]** has the effect of reducing or discharging 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]** relating to the purchase price has been received by the vendor during **[the]** that tax period **[in respect of a]** for any supply of goods or services in respect of which the provisions of section 9(1), [9](3)(a), [9(3)](b) or [9(3)](d) or [9](4) or 21(2)(a) or [21](6) apply;”.
- (2) The provisions of subsection (1)(a), (c) and (f) shall be deemed to have come into operation on 6 June 1996.

Amendment of section 18A of Act 89 of 1991, as inserted by section 24 of Act 136 of 1992 and amended by section 19 of Act 20 of 1994

24. Section 18A of the principal Act is hereby amended by the substitution for the proviso to subsection (2) of the following proviso:

“: Provided that—

- (i) the cost to such vendor of acquiring such enterprise, part, goods or services may be reduced by any amount which represents an appropriate allocation of such full cost to the acquisition of any goods or services which form part of such enterprise or part of an enterprise and in respect

- “(iiA) ten opsigte van lewerings aan die ondernemer gedoen ingevolge
verkope aangegaan op of na 6 Junie 1996 ten opsigte waarvan die
bepalings van artikel 9(3)(d) van toepassing is, in die mate wat
betaling van enige vergoeding wat die uitwerking het om ’n
verpligting (hetsy ’n bestaande verpligting of ’n verpligting wat in
die toekoms sal ontstaan) wat op die koopprys vir daardie
lewerings betrekking het, te verminder of te vervul gedurende
daardie belastingtydperk gedoen is;”;
- (d) deur subparagraaf (v) van paragraaf (a) van genoemde subartikel (3) deur die
 volgende subparagraaf te vervang:
 “(v) bereken ooreenkomstig artikel 21(2)(b) of 21(7) of artikel 22(1) of
 22(4), soos van toepassing op die ondernemer;”;
- (e) deur in subparagraaf (i) van paragraaf (b) van genoemde subartikel (3) die
 woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde
 te vervang:
 “ten opsigte van lewerings van goed en dienste aan die ondernemer
 gedoen ten opsigte waarvan die bepalinge van artikel 9(1), [9](3)(a),
 [9](3)(b) of [9](3)(d) of [9](4) van toepassing is, [vir sover] in die mate
 wat betalings van enige vergoeding wat die uitwerking het om ’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] wat op die koopprys **[ten opsigte van]** vir daardie
 lewerings betrekking het, te verminder of **[nakom]** te vervul gedurende
[die] daardie belastingtydperk gedoen is”;
- (f) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:
 “(a) in die geval van ’n ondernemer wat ingevolge artikel 15 op ’n
 faktuurbasis rekenskap van belasting wat betaalbaar is, moet gee—
 (i) behoudens die bepalinge van subparagraaf (ii), waar ’n lewering
 deur hom gedurende **[die]** daardie belastingtydperk gedoen is of
 geag word gedoen te wees;
 (ii) waar ’n lewering gedoen is ingevolge ’n verkoop aangegaan op of
 na 6 Junie 1996 ten opsigte waarvan die bepalinge van artikel
 9(3)(d) van toepassing is, in die mate wat betaling van enige
 vergoeding wat die uitwerking het om ’n verpligting (hetsy ’n
 bestaande verpligting of ’n verpligting wat in die toekoms sal
 ontstaan) wat op die koopprys vir daardie lewering betrekking het,
 te verminder of te vervul gedurende daardie belastingtydperk
 gedoen is; of”; en
- (g) deur subparagraaf (i) van paragraaf (b) van genoemde subartikel (4) deur die
 volgende subparagraaf te vervang:
 “(i) **[vir sover]** in die mate wat betaling van enige vergoeding wat die
 uitwerking het om ’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] wat op die
 koopprys betrekking het, te verminder of **[nakom]** te vervul deur
 die ondernemer gedurende **[die]** daardie belastingtydperk ontvang
 is **[ten opsigte van die]** vir enige lewering van goed of dienste ten
 opsigte waarvan die bepalinge van artikel 9(1), [9](3)(a), [9](3)(b)
 of [9](3)(d) of [9](4) of 21(2)(a) of [21](6) van toepassing is;”.
- (2) Die bepalinge van subartikel (1)(a), (c) en (f) word geag op 6 Junie 1996 in
 werking te getree het.

**Wysiging van artikel 18A van Wet 89 van 1991, soos ingevoeg deur artikel 24 van
 Wet 136 van 1992 en gewysig deur artikel 19 van Wet 20 van 1994**

24. Artikel 18A van die Hoofwet word hierby gewysig deur die voorbehoudsbepa-
 ling by subartikel (2) deur die volgende voorbehoudsbepaling te vervang:

“: Met dien verstande dat—

- (i) die koste vir daardie ondernemer om bedoelde onderneming, gedeelte,
 goed of dienste te verkry, verminder kan word met ’n bedrag wat ’n
 toepaslike toedeling van daardie volle koste aan die verkryging van
 enige goed of dienste wat deel uitmaak van bedoelde onderneming of
 gedeelte van ’n onderneming verteenwoordig en ten opsigte van die

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of the acquisition of which by the vendor a deduction of input tax would be denied **[by]** in terms of section 17(2); or

- (ii) where such enterprise, part, goods or services were acquired—
 - (aa) by means of a supply made by a vendor for no consideration or for a consideration in money which is less than the open market value of the supply; and
 - (bb) in circumstances where the supplier and the recipient are connected persons,
- the cost of such enterprise, part, goods or services shall be deemed to be the open market value of the supply of such enterprise, part, goods or services.”.

Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, section 13 of Government Notice 2695 of 8 November 1991 and section 27 of Act 136 of 1992

25. Section 22 of the principal Act is hereby amended by the addition of the following subsections:

“(3) Where a vendor who is required to account for tax payable on an invoice basis in terms of section 15—

- (a) has made a deduction of input tax in terms of section 16(3) in respect of a taxable supply of goods or services made to him; and
- (b) has, within a period of 36 months after the expiry of the tax period within which such deduction was made, not paid the full consideration in respect of such supply,

an amount equal to the tax fraction, as applicable at the time of such deduction, of that portion of the consideration which has not been paid shall be deemed to be tax charged in respect of a taxable supply made in the next following tax period after the expiry of the period of 36 months: Provided that the period of 36 months shall, if any contract in writing in terms of which such supply was made provides for the payment of consideration or any portion thereof to take place after the expiry of the tax period within which such deduction was made, in respect of such consideration or portion be calculated as from the end of the month within which such consideration or portion was payable in terms of that contract.

(4) If a vendor who has accounted for tax payable in accordance with subsection (3) at any time thereafter pays any portion of the consideration in respect of the supply in question, he may in terms of section 16(3) make a deduction of input tax of an amount equal to the tax fraction, as applicable at the time of the deduction contemplated in paragraph (a) of the said subsection (3), of that portion of the consideration so paid.

(5) For the purposes of this section ‘month’ means any one of the 12 months of any year.”.

Amendment of section 33 of Act 89 of 1991

26. Section 33 of the principal Act is hereby amended by the substitution in the Afrikaans text for the first proviso to subsection (2) of the following proviso:

“: Met dien verstande dat die Kommissaris, by **[bewys]** aanvoering van gegronde **[rede]** redes, ’n verdragting by die indiening van ’n bedoelde kennisgewing van **[beswaar]** appèl binne bedoelde tydperk kan kondoneer”.

Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993

27. (1) Section 44 of the principal Act is hereby amended by the addition of the following subsection:

“(9) The Commissioner may make or authorise a refund of any amount of tax which has become refundable to any person under the provisions of an export incentive scheme referred to in paragraph (d) of the definition of ‘exported’ in section 1.”.

verkryging waarvan deur die ondernemer 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou word; of

(ii) waar bedoelde onderneming, gedeelte, goed of dienste verkry is—

(aa) by wyse van 'n lewering gedoen deur 'n ondernemer teen geen vergoeding nie of teen 'n vergoeding in geld wat minder as die ope markwaarde van die lewering is; en

(bb) onder omstandighede waar die leweraar en die ontvanger verbonde persone is,

die koste van bedoelde onderneming, gedeelte, goed of dienste geag word die ope markwaarde van die lewering van bedoelde onderneming, gedeelte, goed of dienste te wees.”.

Wysiging van artikel 22 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1991, artikel 13 van Goewermentskennisgewing 2695 van 8 November 1991 en artikel 27 van Wet 136 van 1992

25. Artikel 22 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

“(3) Waar 'n ondernemer wat ingevolge artikel 15 op 'n faktuurbasis rekenskap moet gee van belasting wat betaalbaar is—

(a) 'n aftrekking van insetbelasting ingevolge artikel 16(3) gedoen het ten opsigte van 'n belasbare lewering van goed of dienste aan hom gedoen; en

(b) binne 'n tydperk van 36 maande na die verstryking van die belastingtydperk waarin sodanige aftrekking gedoen is, nie die volle vergoeding ten opsigte van sodanige lewering betaal het nie,

word 'n bedrag gelyk aan die belastingbreukdeel, soos van toepassing op die tydperk van sodanige aftrekking, van daardie gedeelte van die vergoeding wat nie betaal is nie, geag belasting te wees wat gehef word ten opsigte van 'n belasbare lewering wat in die eersvolgende belastingtydperk na die verstryking van die tydperk van 36 maande gedoen is: Met dien verstande dat die tydperk van 36 maande, indien enige skriftelike kontrak ingevolge waarvan sodanige lewering gedoen is daarvoor voorsiening maak dat die betaling van vergoeding of 'n gedeelte daarvan plaasvind na die verstryking van die belastingtydperk waarin sodanige aftrekking gedoen is, ten opsigte van sodanige vergoeding of gedeelte bereken word vanaf die einde van die maand waarin sodanige vergoeding of gedeelte ingevolge daardie kontrak betaalbaar was.

(4) Indien 'n ondernemer wat ooreenkomstig subartikel (3) rekenskap gegee het van belasting wat betaalbaar is te eniger tyd daarna enige gedeelte van die vergoeding ten opsigte van die betrokke lewering betaal, kan hy ingevolge artikel 16(3) 'n aftrekking van insetbelasting doen van 'n bedrag gelyk aan die belastingbreukdeel, soos van toepassing op die tydperk van die aftrekking in paragraaf (a) van genoemde subartikel (3) beoog, van daardie gedeelte van die vergoeding wat aldus betaal is.

(5) By die toepassing van hierdie artikel beteken ‘maand’ enigeen van die 12 maande van 'n jaar.”.

Wysiging van artikel 33 van Wet 89 van 1991

26. Artikel 33 van die Hoofwet word hierby gewysig deur die eerste voorbehoudsbepaling by subartikel (2) deur die volgende voorbehoudsbepaling te vervang:

“: Met dien verstande dat die Kommissaris, by [bewys] aanvoering van gegronde [rede] redes, 'n vertraging by die indiening van 'n bedoelde kennisgewing van [beswaar] appèl binne bedoelde tydperk kan kondoneer”.

Wysiging van artikel 44 van Wet 89 van 1991, soos gewysig deur artikel 37 van Wet 97 van 1993

27. (1) Artikel 44 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

“(9) Die Kommissaris kan 'n terugbetaling doen of magtig van enige bedrag belasting wat aan enige persoon terugbetaalbaar geword het ingevolge die bepaling van 'n uitvoeraansporingskema bedoel in paragraaf (d) van die omskrywing van ‘uitgevoer’ in artikel 1.”.

(2) The provisions of subsection (1) shall be deemed to have come into operation on 30 September 1991.

Amendment of section 61 of Act 89 of 1991

28. Section 61 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Where in respect of any supply made by a vendor, the vendor has, in consequence of any fraudulent action or any misrepresentation by the recipient of [such] the supply, incorrectly applied a rate of zero per cent or treated such supply as being exempt from tax, the Commissioner may, notwithstanding anything [in this Act] to the contrary contained in this Act, raise an assessment upon the recipient for the amount of tax payable, together with any penalty [and] or interest that has become payable in terms of section 39 in respect of such amount, and, in raising such assessment, the Commissioner may estimate the amount on which the tax is payable.”.

Amendment of section 63 of Act 89 of 1991

29. Section 63 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) was intended to enable or assist the client to avoid or unduly postpone the performance of any duty or obligation imposed on such client by or under this Act or to obtain any refund of tax under this Act to which such client is not entitled, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation or the obtaining of any such refund; and”.

Amendment of section 67 of Act 89 of 1991, as amended by section 43 of Act 136 of 1991, section 21 of Government Notice 2695 of 8 November 1991 and section 38 of Act 136 of 1992

30. Section 67 of the principal Act is hereby amended—

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

“(1) Whenever the value-added tax is imposed or increased in respect of [the] any supply of goods or services in relation to which any agreement was entered into by the acceptance of an offer made before the tax was imposed or increased, as the case may be, the vendor may, unless agreed to the contrary in any agreement in writing and notwithstanding anything to the contrary contained in any [agreement or] law, recover from the recipient, as an addition to the amounts payable by the recipient to the vendor, a sum equal to any amount payable by the vendor by way of the said tax or increase, as the case may be, and any amount so recoverable by the vendor shall, whether [or not] it is recovered or not, be accounted for by the vendor under the provisions of this Act as part of the consideration in respect of the said supply.”; and

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

“(2) Whenever the value-added tax is withdrawn or decreased in respect of any supply of goods or services in relation to which any agreement was entered into by the acceptance of an offer made before the tax was withdrawn or decreased, as the case may be, the vendor shall, unless agreed to the contrary in any agreement in writing and notwithstanding anything to the contrary contained in any [agreement or] law, reduce the amount payable to him by the recipient by way of any consideration in which the amount of such tax was included, by a sum equal to the amount of the tax withdrawn or the amount by which the tax [is] was decreased, as the case may be.”.

(2) Die bepalings van subartikel (1) word geag op 30 September 1991 in werking te getree het.

Wysiging van artikel 61 van Wet 89 van 1991

28. Artikel 61 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Waar ten opsigte van ’n lewering deur ’n ondernemer gemaak, die ondernemer, as gevolg van bedrieglike optrede of ’n wanvoorstelling deur die ontvanger van die lewering, verkeerdelik ’n koers van nul persent toegepas het of [daardie] sodanige lewering as vrygestel van belasting behandel het, kan die Kommissaris, ondanks enige andersluidende bepaling van hierdie Wet, ’n aanslag op die ontvanger maak vir die bedrag aan belasting wat betaalbaar is, tesame met enige boete of rente wat ingevolge artikel 39 ten opsigte van [daardie] so ’n bedrag betaalbaar geword het, en, by die maak van so ’n aanslag, kan die Kommissaris die bedrag waarop die belasting betaalbaar is, beraam.”.

15 Wysiging van artikel 63 van Wet 89 van 1991

29. Artikel 63 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

“(a) bedoel is om die kliënt in staat te stel of te help om die verrigting van ’n plig of verpligting wat by of [ingevolge] kragtens hierdie Wet op bedoelde kliënt gelê is, te vermy of oormatig uit te stel of om ’n terugbetaling van belasting ingevolge hierdie Wet te verkry waarop bedoelde kliënt nie geregtig is nie, of vanweë die nalatigheid van so iemand tot die vermyding of oormatige uitstel van die verrigting van so ’n plig of verpligting of tot die verkryging van so ’n terugbetaling gelei het; en”.

25 Wysiging van artikel 67 van Wet 89 van 1991, soos gewysig deur artikel 43 van Wet 136 van 1991, artikel 21 van Goewermentskennisgewing 2695 van 8 November 1991 en artikel 38 van Wet 136 van 1992

30. Artikel 67 van die Hoofwet word hierby gewysig—

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

“(1) Wanneer die belasting op toegevoegde waarde gehef of vermeerder word ten opsigte van [die] ’n lewering van goed of dienste met betrekking waartoe ’n ooreenkoms aangegaan is deur die aanname van ’n aanbod gemaak voordat die belasting gehef of vermeerder was, na gelang van die geval, kan die ondernemer, tensy anders in ’n skriftelike kontrak ooreengekom en ondanks andersluidende bepalings van [’n ooreenkoms of] die een of ander wet, op die ontvanger, as ’n byvoeging by die bedrae betaalbaar deur die ontvanger aan die ondernemer, ’n som verhaal gelyk aan ’n bedrag deur die ondernemer betaalbaar by wyse van genoemde belasting of vermeerdering, na gelang van die geval, en enige bedrag aldus verhaalbaar deur die ondernemer moet, hetsy dit verhaal is al dan nie, deur die ondernemer in berekening gebring word ingevolge die bepalings van hierdie Wet as deel van die vergoeding ten opsigte van genoemde lewering.”; en

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

“(2) Wanneer die belasting op toegevoegde waarde ingetrek of verminder word ten opsigte van ’n lewering van goed of dienste met betrekking waartoe ’n ooreenkoms aangegaan is deur die aanname van ’n aanbod gemaak voordat die belasting ingetrek of verminder was, na gelang van die geval, moet die ondernemer, tensy anders in ’n skriftelike kontrak ooreengekom en ondanks andersluidende bepalings van [’n ooreenkoms of] die een of ander wet, die bedrag wat aan hom deur die ontvanger betaalbaar is by wyse van vergoeding waarby die bedrag van bedoelde belasting ingesluit is, verminder met ’n som gelyk aan die bedrag van die belasting wat ingetrek is of die bedrag waarmee die belasting verminder is, na gelang van die geval.”.

Amendment of section 67A of Act 89 of 1991, as inserted by section 6 of Act 61 of 1993 and amended by section 41 of Act 97 of 1993

31. Section 67A of the principal Act is hereby amended—

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

“(a) goods are provided before the date on which an increase or decrease in the rate of tax leviable under section 7(1)(a) becomes effective in respect of the supply of such goods or the date on which the tax is imposed or withdrawn in respect of the supply of such goods; or”;

(b) by the substitution for paragraph (c) of the said subsection (1) of the following paragraph:

“(c) services are performed during a period beginning before and ending before, on or after the [said] date on which an increase or decrease in the rate of tax leviable under section 7(1)(a) becomes effective in respect of the supply of such services or the date on which the tax is imposed or withdrawn in respect of the supply of such services,”;

(c) by the substitution for paragraph (i) of the said subsection (1) of the following paragraph:

“(i) in the case of the increase or decrease in the rate of the tax on the said date, the tax payable in respect of the supply of the goods referred to in paragraph (a) or the supply of the goods referred to in paragraph (b) which are provided during a period referred to in that paragraph which [ends] expires before the said date or the supply of services referred to in paragraph (c) which are performed during a period referred to in that paragraph which [ends] expires before the said date, shall be determined at the rate applicable on the day before the said date or, in the case of the imposition of the tax on the said date, any such supply of goods or services, as the case may be, shall be deemed not to be subject to such tax or, in the case of the withdrawal of the tax on the said date, any such supply of goods or services, as the case may be, shall be deemed to be subject to such tax as if such tax had not been withdrawn; and”;

(d) by the substitution for paragraph (ii) of the said subsection (1) of the following paragraph:

“(ii) where the period referred to in paragraph (b) or the period referred to in paragraph (c) [ends] expires on or after the said date, the value of the supply in respect of the period in question shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part (hereinafter [called] referred to as the first part) relating to the provision of the goods or the performance of the services, as the case may be, before the said date and a part (hereinafter referred to as the second part) relating to the provision of the goods or the performance of the services, as the case may be, on or after the said date, and, in the case of the increase or decrease in the rate of the tax on the said date, the tax payable in respect of each part shall be separately determined, the tax in respect of the first part being determined at the rate applicable on the day before the said date and the tax in respect of the second part at the rate applicable on the said date or, in the case of the imposition of the tax on the said date, the first part shall be deemed not to be subject to such tax or, in the case of the withdrawal of the tax on the said date, the first part shall be deemed to be subject to such tax as if such tax had not been withdrawn.”.

Wysiging van artikel 67A van Wet 89 van 1991, soos ingevoeg deur artikel 6 van Wet 61 van 1993 en gewysig deur artikel 41 van Wet 97 van 1993

31. Artikel 67A van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
- 5 “(a) goed voorsien word voor die datum waarop ’n verhoging of vermindering van die koers van belasting wat ingevolge artikel 7(1)(a) hefbaar is ten opsigte van die lewering van sodanige goed van krag word of die datum waarop die belasting ten opsigte van die lewering van sodanige goed gehef of ingetrek word; of”;
- 10 (b) deur paragraaf (c) van genoemde subartikel (1) deur die volgende paragraaf te vervang:
- “(c) dienste verrig word gedurende ’n tydperk wat begin voor en eindig voor, op of na **[bedoelde]** die datum waarop ’n verhoging of vermindering van die koers van belasting wat ingevolge artikel 7(1)(a) hefbaar is ten opsigte van die lewering van sodanige dienste van krag word of die datum waarop die belasting ten opsigte van die lewering van sodanige dienste gehef of ingetrek word,”;
- 15 (c) deur paragraaf (i) van genoemde subartikel (1) deur die volgende paragraaf te vervang:
- 20 “(i) in die geval van die verhoging of vermindering van die koers van die belasting op gemelde datum, word die belasting wat betaalbaar is ten opsigte van die lewering van die goed bedoel in paragraaf (a) of die lewering van die goed bedoel in paragraaf (b) wat voorsien word gedurende ’n tydperk in daardie paragraaf bedoel wat voor gemelde datum [eindig] verstryk of die lewering van dienste bedoel in paragraaf (c) wat verrig word gedurende ’n tydperk in daardie paragraaf bedoel wat voor gemelde datum [eindig] verstryk, vasgestel teen die koers van toepassing op die dag voor gemelde datum of, in die geval van die heffing van die belasting op gemelde datum, word so ’n lewering van goed of dienste, na gelang van die geval, geag nie aan bedoelde belasting onderworpe te wees nie of, in die geval van die intrekking van die belasting op gemelde datum, word so ’n lewering van goed of dienste, na gelang van die geval, geag aan bedoelde belasting onderworpe te wees asof bedoelde belasting nie ingetrek was nie; en”;
- 25 30 35 (d) deur paragraaf (ii) van genoemde subartikel (1) deur die volgende paragraaf te vervang:
- “(ii) waar die tydperk in paragraaf (b) bedoel of die tydperk in paragraaf (c) bedoel op of na gemelde datum **[eindig]** verstryk, word die waarde van die lewering ten opsigte van die betrokke tydperk, op grond van ’n billike en redelike toedeling, geag uit ’n deel (hieronder die eerste deel genoem) wat betrekking het op die voorsiening van die goed of die verrigting van die dienste, na gelang van die geval, voor gemelde datum en ’n deel (hieronder die tweede deel genoem) wat betrekking het op die voorsiening van die goed of die verrigting van die dienste, na gelang van die geval, op of na gemelde datum te bestaan, en, in die geval van die verhoging of vermindering van die koers van die belasting op gemelde datum, word die belasting wat betaalbaar is ten opsigte van elke deel afsonderlik vasgestel, terwyl die belasting ten opsigte van die eerste deel vasgestel word teen die koers van toepassing op die dag voor gemelde datum en die belasting ten opsigte van die tweede deel teen die koers van toepassing op gemelde datum of, in die geval van die heffing van die belasting op gemelde datum, word die eerste deel geag nie aan bedoelde belasting onderworpe te wees nie of, in die geval van die intrekking van die belasting op gemelde datum, word die eerste deel geag aan bedoelde belasting onderworpe te wees asof bedoelde belasting nie ingetrek was nie.”.
- 40 45 50 55

Amendment of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, section 24 of Government Notice 2695 of 8 November 1991, section 43 of Act 136 of 1992, Government Notice 2244 of 31 July 1992, section 44 of Act 97 of 1993, Government Notice 1955 of 7 October 1993 and section 32 of Act 20 of 1994

32. (1) Paragraph 1 of PART A of Schedule 1 to the principal Act is hereby amended— 5
- (a) by the substitution for Item No. 405.04/00.00/03.00 of the following Item: 10
- “405.04/00.00/03.00 Goods approved by the Commissioner for Customs and Excise, entered before or on 8 February 1997 and forwarded free to an organisation or body approved by the said Commissioner which cares for the welfare of children, subject to the conditions imposed by that Commissioner in each case and to a permit issued by him on or before 8 February 1996.”;
- (b) by the addition to Item No. 407.06 of the following proviso: 15
- “: Provided that the said goods are not disposed of within a period of six months as from the date of entry.”;
- (c) by the deletion of Item No. 412.02;
- (d) by the substitution for Item No. 460.11/63.09/01.04 of the following Item: 20
- “460.11/63.09/01.04 Worn clothing, entered before or on 8 February 1997 in terms of a specific permit issued on or before 8 February 1996 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.”;
- (e) by the substitution for Heading No. 38.11.11.20 of the following Heading: 25
- “38.11/3811.11 Anti-knock preparations: based on lead compounds. [38.11.11.20 Anti-knock preparations (other, for mineral oils)]”; 30
- and
- (f) by the substitution for Heading No. 49.07/4907.00.30 of the following Heading: 35
- “49.07/4907.00.30 Travellers cheques and bills of exchange, denominated in a foreign currency.”.
- (2) The provisions of subsection (1)(a) and (d) shall be deemed to have come into operation on 8 February 1996.

Substitution of words “State Revenue Fund” in Act 89 of 1991

33. The principal Act is hereby amended by the substitution for the words “State Revenue Fund”, wherever they appear, of the words “National Revenue Fund”. 40

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, section 34 of Act 20 of 1994 and section 6 of Act 37 of 1995

34. Section 60(1) of the Income Tax Act, 1993, is hereby amended—
- (a) by the substitution in paragraph (a) of the definition of “distributable shares” 45
- for the words preceding subparagraph (i) of the following words:
- “any shares in one or more listed companies held on 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette* by an unbundling company (hereinafter referred to as the holder) for its own benefit, whether directly or indirectly through one or more intermediate companies, if—”; and 50
- (b) by the substitution in paragraph (c) of the said definition of “distributable shares” for the words preceding subparagraph (i) of the following words:

Wysiging van Bylae 1 by Wet 89 van 1991, soos gewysig deur artikel 48 van Wet 136 van 1991, artikel 24 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 43 van Wet 136 van 1992, Goewermentskennisgewing 2244 van 31 Julie 1992, artikel 44 van Wet 97 van 1993, Goewermentskennisgewing 1955 van 7 Oktober 1993 en artikel 32 van Wet 20 van 1994

32. (1) Paragraaf 1 van DEEL A van Bylae 1 by die Hoofwet word hierby gewysig—

(a) deur Item No. 405.04/00.00/03.00 deur die volgende Item te vervang:

“405.04/00.00/03.00 Deur die Kommissaris van Doeane en Aksyns goedgekeurde goed, wat geklaar word voor of op 8 Februarie 1997 en gratis versend word aan 'n deur genoemde Kommissaris goedgekeurde organisasie of liggaam wat omsien na die belange van kinders, onderworpe aan die voorwaardes wat daardie Kommissaris in elke geval stel en aan 'n permit wat voor of op 8 Februarie 1996 deur hom uitgereik is.”;

(b) deur die volgende voorbehoudsbepaling by Item No. 407.06 te voeg:

“: Met dien verstande dat bedoelde goed nie binne 'n tydperk van ses maande vanaf die datum van klaring daarvan vervreem mag word nie.”;

(c) deur Item No. 412.02 te skrap;

(d) deur Item No. 460.11/63.09/01.04 deur die volgende Item te vervang:

“460.11/63.09/01.04 Verslete klerasie, geklaar voor of op 8 Februarie 1997 ingevolge 'n bepaalde permit uitgereik voor of op 8 Februarie 1996 deur die Direkteur-generaal: Handel en Nywerheid op aanbeveling van die Raad op Tariese 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.”;

(e) deur Pos No. 38.11.11.20 deur die volgende Pos te vervang:

“38.11/3811.11 Klopweerdepreparate: gebaseer op loodverbindinge.
[38.11.11.20 Klopweerdepreparate (ander, vir mineraalolies)]”;

(f) deur Pos No. 49.07/4907.00.30 deur die volgende Pos te vervang:

“49.07/4907.00.30 Reisigerstjeks en wissels, gedenomineer in 'n buitelandse geldeenheid.”.

(2) Die bepalinge van subartikel (1)(a) en (d) word geag op 8 Februarie 1996 in werking te getree het.

40 Vervanging van woord “Staatsinkomstefonds” in Wet 89 van 1991

33. Die Hoofwet word hierby gewysig deur die woord “Staatsinkomstefonds”, oral waar dit voorkom, deur die woorde “Nasionale Inkomstefonds” te vervang.

45 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, artikel 34 van Wet 20 van 1994 en artikel 6 van Wet 37 van 1995

34. Artikel 60(1) van die Inkomstebelastingwet, 1993, word hierby gewysig—

(a) deur in paragraaf (a) van die omskrywing van “uitkeerbare aandeel” die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“enige aandeel in een of meer genoteerde maatskappye op 19 Junie 1995 of die ander datum wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal deur 'n ontbondelingsmaatskappy (hieronder die houer genoem) vir sy eie voordeel gehou, hetsy regstreeks of onregstreeks deur een of meer tussenmaatskappye, indien—”; en

(b) deur in paragraaf (c) van genoemde omskrywing van “uitkeerbare aandeel” die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“any shares in an unlisted company held on 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette* by an unbundling company for its own benefit if—”.

Amendment of section 39 of Act 20 of 1994, as amended by section 7 of Act 37 of 1995

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

(a) in subsection (1)—

(i) by the substitution for paragraph (a) of the definition of “controlling company” of the following paragraph:

“(a) on 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette* or, where such other company is incorporated after such date, or after such other 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”;

(ii) by the substitution in the definition of “rationalisation scheme” for the words preceding paragraph (a) of the following words:

“means any scheme effected in terms of [a written] an agreement in writing concluded on or after 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette* for the rationalisation of the activities of a group of companies where—”; and

(b) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

“For the purposes of [the] taxation levied under the Income Tax Act and notwithstanding anything to the contrary contained in that Act, where on or after 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette*, 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—”.

Sales tax, penalty or interest not recoverable in respect of certain goods imported into the former Republic of Transkei

36. No amount of any sales tax, penalty or interest otherwise duly claimable under any law of the former Republic of Transkei by virtue of which a sales tax was leviable in respect of machinery or plant imported into the said Republic for use in the carrying on of any manufacturing enterprise thereat shall be recoverable if it is shown to the satisfaction of the Commissioner for Inland Revenue referred to in section 37 of the Income Tax Act, 1994 (Act No. 21 of 1994), that such goods were imported in pursuance of representations addressed to the government of the said Republic resulting in an undertaking in writing having been given on behalf of that government to the effect that legislation would be enacted to exempt such imported goods from sales tax, but that the enactment of the said legislation was left in abeyance.

Short title

37. This Act shall be called the Taxation Laws Amendment Act, 1996.

“enige aandele in ’n ongenoteerde maatskappy op 19 Junie 1995 of die ander datum wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal deur ’n ontbondelingsmaatskappy vir sy eie voordeel gehou indien—”.

5 Wysiging van artikel 39 van Wet 20 van 1994, soos gewysig deur artikel 7 van Wet 37 van 1995

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

(a) in subartikel (1)—

- 10 (i) deur paragraaf (a) van die omskrywing van “beherende maatskappy” deur die volgende paragraaf te vervang:

“(a) op 19 Junie 1995 of die ander datum wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal of, waar bedoelde ander maatskappy ingelyf is na bedoelde datum, of na bedoelde ander 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”; en

- 20 (ii) deur in die omskrywing van “rasionalisasieskema” die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“ ’n skema uitgevoer ingevolge ’n geskrewe ooreenkoms aangegaan op of na 19 Junie 1995 of die ander datum wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal vir die rasionalisasie van die aktiwiteite van ’n groep maatskappye waar—”; en

- 25 (b) deur in subartikel (6) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Vir die doeleindes van belasting hehef ingevolge die Inkomstebelastingwet en ondanks andersluidende bepalinge van daardie Wet, waar op of na 19 Junie 1995 of die ander datum wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal ’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 oordragnemende maatskappy genoem) en albei bedoelde maatskappye ten tyde van bedoelde vervreemding lede van dieselfde groep maatskappye is, kan die beherende maatskappy wat by [die] so ’n skema betrokke is en die Kommissaris ooreenkom dat—”.

40 Verkoopbelasting, boete of rente nie verhaalbaar nie ten opsigte van sekere goed wat in die voormalige Republiek van Transkei ingevoer is

- 36.** Geen bedrag aan enige verkoopbelasting, boete of rente andersins behoorlik vorderbaar ingevolge ’n wet van die voormalige Republiek van Transkei waarkragtens ’n verkoopbelasting hefbaar was ten opsigte van masjinerie of toerusting wat in genoemde Republiek ingevoer is vir gebruik by die bedryf van ’n vervaardigings-
45 onderneming aldaar is verhaalbaar nie indien daar ten genoë van die Kommissaris van Binnelandse Inkomste bedoel in artikel 37 van die Inkomstebelastingwet, 1994 (Wet No. 21 van 1994), aangevoer word dat sodanige goed ingevoer is na aanleiding van
vertoë wat tot die regering van genoemde Republiek gerig is met die gevolg dat daar
’n skriftelike onderneming namens daardie regering gegee is met die strekking dat
50 wetgewing verorden sou word om sodanige ingevoerde goed van verkoopbelasting vry te stel, maar dat die verordening van bedoelde wetgewing agterweë gelaat is.

Kort titel

37. Hierdie Wet heet die Wysigingswet op Belastingwette, 1996.