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GOVERNMENT GAZETTE

STAATSKOERANT

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No. 18113

PRESIDENT'S OFFICE

No. 916.

4 July 1997

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

No. 27 of 1997: Taxation Laws Amendment Act, 1997

KANTOOR VAN DIE PRESIDENT

No. 916.

4 Julie 1997

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

No. 27 van 1997: Wysigingswet op Belastingwette, 1997.

[] Words in bold type in square brackets indicate omissions from existing enactments.

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

To amend the Marketable Securities Tax Act, 1948, so as to reduce the rate of tax payable in respect of the purchase of marketable securities; and to withdraw an exemption; to amend the Transfer Duty Act, 1949, so as to effect certain textual amendments; to amend the Estate Duty Act, 1955, so as to adjust a definition; and to effect certain consequential amendments; to amend the Customs and Excise Act, 1964, so as to repeal a section; to effect certain textual alterations; and to amend Schedule No. 1 to the said Act; to amend the Stamp Duties Act, 1968, so as to adjust or delete certain obsolete provisions; to further regulate the payment of stamp duty; and to reduce the stamp duty tariffs in respect of the registration of transfer, the cancellation or redemption and the acquisition of marketable securities; to amend the Customs and Excise Amendment Act, 1990, so as to repeal a section; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to exclude certain activities from the scope of the exemption for financial services; to deem a supply of goods to be made in relation to goods imported by a foreign principal; to provide for a time of supply rule in respect of such deemed supply; to further regulate the valuation of certain deemed supplies; to limit the application of the rate of zero per cent in respect of services rendered elsewhere than in the Republic; to limit the application of the exemption for passenger transport; to further regulate the collection of value-added tax on the importation of goods; to limit the application of the payments basis of accounting for the said tax and to further regulate the accounting for the said tax when the accounting basis is changed; to further regulate the calculation of input tax in respect of second-hand fixed property; to further regulate the tax payable in respect of fixed property supplied to connected persons; to provide for a deduction in respect of properties in possession; to make further provision in respect of entertainment and adjustments of output tax and input tax; to provide that an amount shall not be deducted more than once; to further regulate the records to be maintained in the case of the acquisition of second-hand goods; to further regulate the circumstances in which a deduction may be made in respect of irrecoverable debts written off; to provide for certain deductions to be made in respect of the face value of accounts receivable transferred at face value on a non-recourse basis which is written off as irrecoverable; to shorten the period within which a vendor on the invoice basis must make an adjustment where he has not made payment in respect of a supply while he has claimed input tax; to further regulate the registration of vendors; to further provide for the right of objection; to further provide for the payment of additional tax, penalty or interest where an appeal has been lodged; to further regulate the payment of interest in respect of refunds made after an appeal has been noted; to further regulate the charging of interest and penalties; to further provide for the collection of tax after five years; to provide that a claim for a refund must be received by the Commissioner within a certain period; to further regulate the payment of interest on delayed refunds; to deem separate persons carrying on the same enterprise to be a single person under certain circumstances; to provide

ALGEMEENE VERDUIDELIKENDE NOTA:

Woorde in vet druk tussen vierkante hake dus skrapings uit bestaande verordeninge aan.

bestaande verordening aan.

Woorde met 'n volstreep daaronder, dui invoegings in be-

staande verordening aan.

WEL

Tot wysiging van die Handelsetfektebelastingswet, 1948, ten einde die skaal van belasting betaalbaar ten opsigte van die koop van handelsetfekte te verlaag; en 'n wysiging in te trek; tot wysiging van die Wet op Hereregte, 1949, ten einde sekere tekstuële wysigings aan te bring; tot wysiging van die Boedelbelastingwet, 1955, ten einde 'n omskrywing aan te bring; en sekere gevolgglike wysigings te doen; tot wysiging van die Doane- en Akysnswet, 1964, ten einde 'n artikel te herroep; sekere tekstuële wysigings te doen; en Bv'lae No. 1 by bedoelde Wet te wysig; tot wysiging van die Wet op Seelregte, 1968, ten einde sekere veronderdepe bepallings aan te pas of te skrap; die belalling van seelregte verder te reël; en die seelregtariewe ten opsigte van die registrasie van oordrag, die intrekking of aflossing en die verkryging van handelsetfekte te verlaag; tot wysiging van die Doane- en Akysnswysigingswet, 1990, ten einde 'n artikel te herroep; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings nader te omskryf; sekere aktiwiteite van die trefwydte van die wysielling van finansieie dienste uit te sluit; te ag dat 'n lewering van goed plaasvind met betrekking tot goed wat deur 'n buitelandse prinsiiaal ingevoer word; voorsiening te maak vir 'n tyd van lewering reël ten opsigte van so 'n geagte lewering; die waarde van sekere geagte leweringe verder te reël; die toepassing van die koers van nul persent ten opsigte van die lewering van dienste buite die Republiek te beperk; die toepassing van die wysielling vir passasiersvervoer te beperk; die inoerding van belasting op toegevoegde waarde op die inoer van goed verder te reël; die toepassing van die betalingsbasis vir die rekenskap van bedoelde belasting verder te reël wanneer die rekeningkundige basis verander word; die berekening van die inselbelasting ten opsigte van tweedehandse vasgoed verder te reël; die belasting betaalbaar ten opsigte van vasgoed aan verbonde persone gelewer, verder te reël; voorsiening te maak vir 'n aftrekkling ten opsigte van eiendom in besit; verder voorsiening te maak ten opsigte van onthaal en vertrekkinge van uitselbelasting en inselbelasting; voorsiening te maak dat 'n bedrag nie meer as een keer afgetrek word nie; die rekords wat gehou moet word in die geval van die verkryging van tweedehandse goed, verder te reël; die omstandighede waarin 'n aftrekkling gedoen kan word ten opsigte van onverhaalbare skulde afgeskryf, verder te reël; voorsiening te maak dat sekere aftrekkings gedoen kan word ten opsigte van die sigswaarde van handelsetdebiteure oorgedra teen sigswaarde op 'n sonder verhaalsregbasis as onverhaalbaar afgeskryf; die tydperk waarbinnne 'n ondernemer op die faktuurbasis 'n vertrekking moet doen waar hy nie belalling ten opsigte van 'n lewering gedoen het nie terwyl hy inselbelasting geëls het, te verkort; die registrasie van ondernemers verder te reël; verder voorsiening te maak vir die reg van beswaar; verder voorsiening te maak vir die belalling van addisionele belasting, boete of rente waar appel aangetekeen is; die belalling van rente ten opsigte van terugbetalings gedoen nadat 'n appel aangetekeen is, verder te reël; die heffing van rente en boetes verder te reël; verder voorsiening te maak vir die inoerding van belasting na vyf jaar; voorsiening te maak dat 'n eis om 'n terugbelalling binne 'n sekere tydperk deur die Kommissaris ontvang moet word; die belalling van rente op vertraagde terugbetalings verder te reël; assonderwillike

that the tax paid on importation by a foreign principal may be claimed as input tax by the agent; to further regulate the levying of additional tax; to prohibit the registration of imported motor vehicles where tax on importation has not been paid; and to further provide for exemption in respect of the importation of certain goods; to provide for a special exemption in respect of goods or services supplied by the International Telecommunication Union; to amend the Income Tax Act, 1993, so as to further regulate certain unbundling transactions; to amend the Taxation Laws Amendment Act, 1994, so as to further regulate the rationalisation of a group of companies; to amend the Tax on Retirement Funds Act, 1996, so as to insert a definition; and to further regulate the payment of the tax on retirement funds; to provide for the continuation of certain amendments of the Schedules to the Customs and Excise Act, 1964; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 26 June 1997.)*

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

Amendment of section 2 of Act 32 of 1948, as substituted by section 2 of Act 37 of 1996

- 1.(1) Section 2 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the expression "0,5 per cent" of the expression "0,25 per cent". 5
(2) Subsection (1) shall be deemed to have come into operation on 1 April 1997.

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, section 1 of Act 97 of 1993 and section 3 of Act 37 of 1996 10

- 2.(1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of paragraph (e). 15
(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

Amendment of section 18 of Act 40 of 1949

3. Section 18 of the Transfer Duty Act, 1949, is hereby amended—
(a) by the substitution for the words "Supreme Court" in subsections (1) and (2) of the words "High Court"; and 20
(b) by the substitution for subsection (3) of the following subsection:
"(3) Any judgment given or order made by a provincial or local division of the said [Supreme Court] High Court in terms of subsection (2) shall be subject to appeal to the [Appellate Division of the Supreme Court of South Africa] Supreme Court of Appeal in the same manner 25
and on the same conditions as a judgment given or order made in a civil proceeding in that provincial or local division."

persone wat dieselfde onderneming bedryf, onder sekere omstandighede te ag 'n enkele persoon te wees; voorsiening te maak dat die belasting op invoer deur 'n buitelandse prinsipaal betaal deur die agent as insetbelasting geëis kan word; die heffing van addisionele belasting verder te reël; die registrasie van ingevoerde motorvoertuie te verbied waar belasting nie op die invoer betaal is nie; en verder voorsiening te maak vir vrystelling ten opsigte van die invoer van sekere goed; vir 'n spesiale vrystelling ten opsigte van goed of dienste gelewer deur die Internasionale Telekommunikasie Unie voorsiening te maak; tot wysiging van die Inkomstebelastingwet, 1993, ten einde sekere ontbondelingstransaksies verder te reël; tot wysiging van die Wysigingswet op Belastingwette, 1994, ten einde die rasionalisasie van 'n groep maatskappye verder te reël; tot wysiging van die Wet op Belasting op Uittreefondse, 1996, ten einde 'n omskrywing in te voeg; en die betaling van die belasting op uittreefondse verder te reël; voorsiening te maak vir die voortdoring van sekere wysigings van die Bylaes by die Doeane- en Aksynswet, 1964; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 26 Junie 1997.)*

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

Wysiging van artikel 2 van Wet 32 van 1948, soos vervang deur artikel 2 van Wet 37 van 1996

- 5 1. (1) Artikel 2 van die Handelseffektebelastingwet, 1948, word hierby gewysig deur die uitdrukking "0,5 persent" deur die uitdrukking "0,25 persent" te vervang.
(2) Subartikel (1) word geag op 1 April 1997 in werking te getree het.

10 **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, artikel 1 van Wet 97 van 1993 en artikel 3 van Wet 37 van 1996**

- 15 2. (1) Artikel 3 van die Handelseffektebelastingwet, 1948, word hierby gewysig deur paragraaf (e) te skrap.
(2) Subartikel (1) word geag op 1 Julie 1997 in werking te getree het.

Wysiging van artikel 18 van Wet 40 van 1949

- 20 3. Artikel 18 van die Wet op Hereregte, 1949, word hierby gewysig—
(a) deur die woord "Hooggeregshof" in subartikels (1) en (2) deur die woorde "Hoë Hof" te vervang; en
(b) deur subartikel (3) deur die volgende subartikel te vervang:
25 " (3) 'n Uitspraak of bevel deur 'n provinsiale of plaaslike afdeling van genoemde [Hooggeregshof] Hoë Hof ingevolge subartikel (2) gegee, is onderworpe aan appèl na die [Afdeling van Appèl van die Hooggeregshof van Suid-Afrika] Hoogste Hof van Appèl op dieselfde wyse en voorwaardes as 'n uitspraak of bevel wat in 'n siviele geding in daardie provinsiale of plaaslike afdeling gegee is."

Amendment of section 19 of Act 40 of 1949

4. Section 19 of the Transfer Duty Act, 1949, is hereby amended by the substitution for the words "Supreme Court" of the words "High Court".

Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957, section 1 of Act 65 of 1960, section 7 of Act 77 of 1964, section 3 of Act 92 of 1971, section 9 of Act 106 of 1980, section 5 of Act 86 of 1987, section 7 of Act 87 of 1988, section 6 of Act 97 of 1993 and section 2 of Act 140 of 1993 5

5. Section 1 of the Estate Duty Act, 1955, is hereby amended by the substitution for the words "Supreme Court" in the definition of "Master" of the words "High Court".

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988 and section 7 of Act 97 of 1993 10

6. Section 3 of the Estate Duty Act, 1955, is hereby amended by the substitution for the proviso to paragraph (a)bis of subsection (3) of the following proviso: 15

"Provided that—

- (i) this paragraph shall not apply in respect of any annuity [payable] provided by a pension fund, a provident fund or a retirement annuity fund as respectively defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962); 20
- (ii) this paragraph shall apply in respect of the commutation of any annuity which on or after the date of the death of the deceased is [payable] provided or may be [payable] provided by a fund referred to in paragraph (i) of this proviso, and that for the purposes of this paragraph any amount payable by way of such a commutation shall be deemed to be a benefit which is due and payable as aforesaid;" 25

Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987, section 10 of Act 87 of 1988, section 8 of Act 97 of 1993 and section 3 of Act 20 of 1994 30

7. Section 4 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the deletion of the word "or" at the end of subparagraph (iv) of paragraph (h); and 35
- (b) by the deletion of subparagraph (v) of paragraph (h).

Amendment of section 24 of Act 45 of 1955, as substituted by section 15 of Act 77 of 1962 and amended by section 12 of Act 77 of 1964, section 2 of Act 104 of 1976, section 8 of Act 86 of 1987 and section 10 of Act 97 of 1993 40

8. Section 24 of the Estate Duty Act, 1955, is hereby amended by the substitution for the expression "State President" in subsection (4) of the expression "President".

Amendment of section 26 of Act 45 of 1955, as amended by section 13 of Act 77 of 1964 and section 5 of Act 99 of 1981

9. Section 26 of the Estate Duty Act, 1955, is hereby amended— 45

Wysiging van artikel 19 van Wet 40 van 1949

4. Artikel 19 van die Wet op Hereregte, 1949, word hierby gewysig deur die woord "Hooggeregshof" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 1 van Wet 45 van 1955, soos gewysig deur artikel 1 van Wet 59 van 1957, artikel 1 van Wet 65 van 1960, artikel 7 van Wet 77 van 1964, artikel 3 van Wet 92 van 1971, artikel 9 van Wet 106 van 1980, artikel 5 van Wet 86 van 1987, artikel 7 van Wet 87 van 1988, artikel 6 van Wet 97 van 1993 en artikel 2 van Wet 140 van 1993

5. Artikel 1 van die Boedelbelastingwet, 1955, word hierby gewysig deur die woord "Hooggeregshof" in die omskrywing van "Meester" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 3 van Wet 45 van 1955, soos gewysig deur artikel 2 van Wet 65 van 1960, artikel 8 van Wet 77 van 1964, artikel 2 van Wet 81 van 1965, artikel 4 van Wet 92 van 1971, artikel 3 van Wet 89 van 1972, artikel 3 van Wet 102 van 1979, artikel 10 van Wet 106 van 1980, artikel 2 van Wet 92 van 1983, artikel 4 van Wet 81 van 1985, artikel 9 van Wet 87 van 1988 en artikel 7 van Wet 97 van 1993

6. Artikel 3 van die Boedelbelastingwet, 1955, word hierby gewysig deur die voorbehoudsbepaling by paragraaf (a)bis van subartikel (3) deur die volgende voorbehoudsbepaling te vervang:

20 "Met dien verstande dat—

- (i) hierdie paragraaf nie van toepassing is nie ten opsigte van 'n jaargeld [betaalbaar] voorsien deur 'n pensioenfonds, 'n voorsorgsfonds of 'n uitredingannuïteitsfonds soos onderskeidelik omskryf in artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962);
- 25 (ii) hierdie paragraaf van toepassing is ten opsigte van die vervanging van 'n jaargeld wat op of na die datum van dood van die oorledene deur 'n fonds vermeld in paragraaf (i) van hierdie voorbehoudsbepaling [betaalbaar] voorsien is of [betaalbaar] voorsien mag wees, en dat by die toepassing van hierdie paragraaf 'n bedrag betaalbaar by wyse van so 'n vervanging geag
- 30 word 'n voordeel te wees wat soos voormeld verskuldig en betaalbaar is;"

Wysiging van artikel 4 van Wet 45 van 1955, soos gewysig deur artikel 2 van Wet 59 van 1957, artikel 3 van Wet 65 van 1960, artikel 9 van Wet 71 van 1961, artikel 9 van Wet 77 van 1964, artikel 3 van Wet 81 van 1965, artikel 2 van Wet 94 van 1967, artikel 5 van Wet 92 van 1971, artikel 2 van Wet 70 van 1975, artikel 1 van 35 Wet 104 van 1976, artikel 4 van Wet 102 van 1979, artikel 11 van Wet 106 van 1980, artikel 3 van Wet 99 van 1981, artikel 5 van Wet 81 van 1985, artikel 6 van Wet 86 van 1987, artikel 10 van Wet 87 van 1988, artikel 8 van Wet 97 van 1993 en artikel 3 van Wet 20 van 1994

7. Artikel 4 van die Boedelbelastingwet, 1955, word hierby gewysig—

- 40 (a) deur die woord "of" aan die end van subparagraaf (iv) van paragraaf (h) te skrap; en
- (b) deur subparagraaf (v) van paragraaf (h) te skrap.

Wysiging van artikel 24 van Wet 45 van 1955, soos vervang deur artikel 15 van Wet 77 van 1962 en gewysig deur artikel 12 van Wet 77 van 1964, artikel 2 van 45 Wet 104 van 1976, artikel 8 van Wet 86 van 1987 en artikel 10 van Wet 97 van 1993

8. Artikel 24 van die Boedelbelastingwet, 1955, word hierby gewysig deur die uitdrukking "Staatspresident" in subartikel (4) deur die uitdrukking "President" te vervang.

Wysiging van artikel 26 van Wet 45 van 1955, soos gewysig deur artikel 13 van 50 Wet 77 van 1964 en artikel 5 van Wet 99 van 1981

9. Artikel 26 van die Boedelbelastingwet, 1955, word hierby gewysig—

- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The [State President] National Executive may enter into an agreement with the Government of any other country, [or territory] whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and of such other country, [or territory] of estate duty in respect of the same property or to the rendering of reciprocal assistance in the administration of, and in the collection of estate duty under the laws relating to estate duty in force in the Republic and in such other country [or territory].”

(2) As soon as may be after the [conclusion] approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by [proclamation by the State President] publication in the *Gazette* [whereupon until such proclamation is revoked by the State President] and the arrangements so notified [therein shall, so far as they relate to immunity, exemption or relief in respect of estate duties in the Republic] shall thereupon have effect as if enacted in this Act [but only if and for so long as such arrangements, in so far as they relate to immunity, exemption or relief in respect of estate duties levied or leviable in such other country or territory, have the effect of law in such country or territory].”; and

- (b) by the deletion of subsections (3), (4) and (5).

Amendment of section 27 of Act 45 of 1955

10. Section 27 of the Estate Duty Act, 1955, is hereby amended by the substitution for the words “Supreme Court” in subparagraph (ii) of paragraph (b) of subsection (2) of the words “High Court”.

Repeal of section 47B of Act 91 of 1964

11. (1) Section 47B of the Customs and Excise Act, 1964, is hereby repealed.
(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

Substitution of section 49 of Act 91 of 1964, as substituted by section 3 of Act 7 of 1974

12. The following section is hereby substituted for section 49 of the Customs and Excise Act, 1964:

“Agreements in respect of rates of duty lower than the general rates of duty

49. The [State President] National Executive may conclude an agreement with the government of any territory whereby rates of duty lower than the general rates of duty specified in Part 1 of Schedule No. 1 are on importation into the Republic extended to specific goods produced or manufactured in that territory.”

Amendment of section 51 of Act 91 of 1964, as amended by section 7 of Act 57 of 1966, section 1 of Act 89 of 1971, section 5 of Act 103 of 1972 and section 1 of Act 12 of 1977

13. Section 51 of the Customs and Excise Act, 1964, is hereby amended—

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

“The [State President] National Executive may conclude an agreement with the government of any territory in Africa in which it is provided that, notwithstanding anything to the contrary in this Act contained—”; and

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

- (a) deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

5 “(1) Die [Staatspresident] Nasionale Uitvoerende Gesag kan met die regering van enige ander land [of gebied] ’n ooreenkoms aangaan, waarvolgens met daardie regering reëlins getref word ten einde die heffing, ingevolge die wette van die Republiek en van daardie ander land [of gebied], van boedelbelasting ten opsigte van dieselfde eiendom te voorkom, in te kort of op te hef, of ten einde wederkerige hulp te verleen in verband met die uitvoering van en insameling van boedelbelasting kragtens die wette met
10 betrekking tot boedelbelasting van krag in die Republiek en in daardie ander land [of gebied].

(2) Die reëlins ingevolge so ’n ooreenkoms getref, word so spoedig doenlik na die [sluiting] goedkeuring deur die Parlement van die ooreenkoms soos in artikel 231 van die Grondwet beoog deur [die Staatspresident by
15 proklamasie] publikasie in die Staatskoerant [afgekondig] aangekondig, en die aldus [afgekondigde] aangekondigde reëlins is [daarna totdat die proklamasie deur die Staatspresident herroep word, vir sover daardie reëlins op ontheffing, vrystelling of verligting ten opsigte van boedelbelasting in die Republiek betrekking het] daarop van krag asof dit by
20 hierdie Wet verorden was [maar slegs indien en solank as wat bedoelde reëlins, vir sover dit betrekking het op ontheffing, vrystelling of verligting ten opsigte van boedelbelasting in daardie ander land of gebied gehê of hefbaar in daardie land of gebied regskrag het].”; en

- (b) deur subartikels (3), (4) en (5) te skrap.

25 Wysiging van artikel 27 van Wet 45 van 1955

10. Artikel 27 van die Boedelbelastingwet, 1955, word hierby gewysig deur die woord “Hooggeregshof” in subparagraaf (ii) van paragraaf (b) van subartikel (2) deur die woorde “Hoë Hof” te vervang.

Herroeping van artikel 47B van Wet 91 van 1964

- 30 11. (1) Artikel 47B van die Doeane- en Aksynswet, 1964, word hierby herroep.
(2) Subartikel (1) word geag op 1 Julie 1997 in werking te getree het.

Vervanging van artikel 49 van Wet 91 van 1964, soos vervang deur artikel 3 van Wet 7 van 1974

- 35 12. Artikel 49 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

“Ooreenkomste ten opsigte van skale van reg laer as die algemene skale van reg

40 49. Die [Staatspresident] Nasionale Uitvoerende Gesag kan ’n ooreenkoms aangaan met die regering van enige gebied waarvolgens skale van reg wat laer is as die algemene skale van reg in Deel 1 van Bylae No. 1 vermeld op bepaalde goedere in daardie gebied geproduseer of vervaardig by invoer in die Republiek toegepas word.”

45 Wysiging van artikel 51 van Wet 91 van 1964, soos gewysig deur artikel 7 van Wet 57 van 1966, artikel 1 van Wet 89 van 1971, artikel 5 van Wet 103 van 1972 en artikel 1 van Wet 12 van 1977

13. Artikel 51 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

50 “Die [Staatspresident] Nasionale Uitvoerende Gesag kan met die regering van enige gebied in Afrika ’n ooreenkoms aangaan waarin bepaal word dat, ondanks andersluidende bepalings van hierdie Wet—”; en

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

“(2) Betalings wat deur die regering van enige gebied aan die Regering

Act No. 27, 1997

TAXATION LAWS AMENDMENT ACT, 1997

“(2) Payments made by the government of any territory to the Government of the Republic in terms of any agreement concluded under the provisions of subsection (1) shall accrue to the [State] National Revenue Fund and payments by the Government of the Republic to the government of any territory in terms of any such agreement shall be made as a drawback of revenue as a charge to the [State] National Revenue Fund.”

Amendment of section 58 of Act 91 of 1964, as amended by section 19 of Act 33 of 1974, section 1 of Act 64 of 1974, section 10 of Act 86 of 1982, section 21 of Act 84 of 1987 and section 2 of Act 105 of 1992

14. Section 58 of the Customs and Excise Act, 1964, is hereby amended by the substitution for the words “House of Assembly” in subsection (1) of the words “National Assembly”.

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995 and section 8 of Act 44 of 1996.

15. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, this section shall be deemed to have come into operation on 12 March 1997.

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, section 19 of Act 106 of 1980, section 3 of Act 118 of 1984, section 17 of Act 87 of 1988, section 36 of Act 9 of 1989, section 3 of Act 69 of 1989, section 5 of Act 136 of 1991 and section 4 of Act 20 of 1994

16. Section 1 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words “Supreme Court” wherever they occur in paragraph (c) of the definition of “authorised revenue officer” of the words “High Court”.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 4 of Act 69 of 1989, section 5 of Act 136 of 1992 and section 13 of Act 97 of 1993

17. Section 4 of the Stamp Duties Act, 1968, is hereby amended by the substitution for subparagraph (iii) of paragraph (f) of the following subparagraph:

“(iii) any company, society, trust or other association within the Republic which is exempt from tax in terms of section 10(1)(cF), (cI) or (cJ), [or (cL)] as the case may be, of the said Act.”

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, section 6 of Act 136 of 1992 and section 12 of Act 37 of 1996

18. Section 5 of the Stamp Duties Act, 1968, is hereby amended—

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

- van die Republiek gedoen word ingevolge 'n ooreenkoms kragtens die bepalings van subartikel (1) aangegaan, val die [Staatsinkomstefonds] Nasionale Inkomstefonds toe en betalings wat deur die Regering van die Republiek aan die Regering van enige gebied gedoen word ingevolge so 'n ooreenkoms word as 'n terugtrekking van inkomste ten laste van die [Staatsinkomstefonds] Nasionale Inkomstefonds gedoen.”.

Wysiging van artikel 58 van Wet 91 van 1964, soos gewysig deur artikel 19 van Wet 33 van 1974, artikel 1 van Wet 64 van 1974, artikel 10 van Wet 86 van 1982, artikel 21 van Wet 84 van 1987 en artikel 2 van Wet 105 van 1992

- 10 14. Artikel 58 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die woord “Volksraad” in subartikel (1) deur die woorde “Nasionale Vergadering” te vervang.

- Wysiging van Bylae No. 1 by Wet 91 van 1964, soos gewysig deur artikel 19 van Wet 95 van 1965, artikel 15 van Wet 57 van 1966, artikel 2 van Wet 96 van 1967, 15 artikel 22 van Wet 85 van 1968, artikel 37 van Wet 105 van 1969, artikel 9 van Wet 98 van 1970, artikel 2 van Wet 89 van 1971, artikel 12 van Wet 103 van 1972, artikel 6 van Wet 68 van 1973, artikel 3 van Wet 64 van 1974, artikel 13 van Wet 71 van 1975, artikel 13 van Wet 105 van 1976, artikel 38 van Wet 112 van 1977, artikel 3 van Wet 114 van 1981, artikel 27 van Wet 86 van 1982, artikel 10 van Wet 20 89 van 1984, artikel 14 van wet 101 van 1985, artikel 11 van Wet 69 van 1988, artikel 19 van Wet 68 van 1989, artikel 40 van Wet 59 van 1990, artikel 3 van Wet 111 van 1991, artikel 15 van Wet 105 van 1992, artikel 13 van Wet 98 van 1993, artikel 12 van Wet 19 van 1994, artikel 74 van Wet 45 van 1995 en artikel 8 van Wet 44 van 1996

- 25 15. (1) Bylae No. 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig in die mate in die Bylae by hierdie Wet uiteengesit.

(2) Behoudens die bepalings van artikel 58(1) van die Doeane- en Aksynswet, 1964, word hierdie artikel geag op 12 Maart 1997 in werking te getree het.

- Wysiging van artikel 1 van Wet 77 van 1968, soos gewysig deur artikel 16 van Wet 30 103 van 1969, artikel 5 van Wet 66 van 1973, artikel 7 van Wet 88 van 1974, artikel 19 van Wet 106 van 1980, artikel 3 van Wet 118 van 1984, artikel 17 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989, artikel 3 van Wet 69 van 1989, artikel 5 van Wet 136 van 1991 en artikel 4 van Wet 20 van 1994

- 35 16. Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig deur die woord “Hooggeregshof” waar dit ook al voorkom in paragraaf (c) van die omskrywing van “bevoegde belastingbeampte” deur die woorde “Hoë Hof” te vervang.

- Wysiging van artikel 4 van Wet 77 van 1968, soos gewysig deur artikel 17 van Wet 103 van 1969, artikel 5 van Wet 72 van 1970, artikel 6 van Wet 66 van 1973, artikel 8 van Wet 88 van 1974, artikel 4 van Wet 95 van 1978, artikel 7 van Wet 99 van 40 1981, artikel 4 van Wet 87 van 1982, artikel 4 van Wet 118 van 1984, artikel 10 van Wet 81 van 1985, artikel 18 van Wet 87 van 1988, artikel 4 van Wet 69 van 1989, artikel 5 van Wet 136 van 1992 en artikel 13 van Wet 97 van 1993

17. Artikel 4 van die Wet op Seëlregte, 1968, word hierby gewysig deur subparagraaf (iii) van paragraaf (f) deur die volgende subparagraaf te vervang:

- 45 “(iii) 'n maatskappy, genootskap, trust of ander vereniging binne die Republiek wat ingevolge artikel 10(1)(cF), (cI) of (cJ) [of (cL)], na gelang van die geval, van genoemde Wet van belasting vrygestel is.”.

- 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 50 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, artikel 6 van Wet 136 van 1992 en artikel 12 van Wet 37 van 1996

18. Artikel 5 van die Wet op Seëlregte, 1968, word hierby gewysig—

- 55 (a) deur paragraaf (iii) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

- “(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]** any instrument in respect of which stamp duty is payable by means of stamps 5 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]** instrument, he may, 10 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 means of the issue of a special receipt, and any such **[fixed deposit receipt, instalment credit agreement, marketable security or instrument of transfer]** instrument which bears on its 15 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 20 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, section 7 of Act 136 of 1991 and section 13 of Act 37 of 1996

19. (1) Section 23 of the Stamp Duties Act, 1968, is hereby amended—
- (a) by the deletion in subsection (1) of the definition of “arbitrage transaction”; 25
 - (b) by the deletion of subparagraphs (vii) and (viiA) of paragraph (b) of subsection (4);
 - (c) by the substitution for subsection (5) of the following subsection:

“(5) No endorsement shall be made by any broker or bank for the purposes of subsection (4)(b)(ii), (v) or (vi) **[or (vii)]** unless the 30 transferee’s name appears in the relevant instrument of transfer.”; and
 - (d) 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), (viiA)]** or (viiB) which is false or 35 incorrect or fails to comply with the provisions of subsection (5); or”.
- (2) Subsection (1) shall be deemed to have come into operation on 1 July 1997 and shall apply in respect of the registration of transfer of any marketable security on or after that date.

Amendment of section 30 of Act 77 of 1968, as amended by section 15 of Act 97 of 40 1993

20. Section 30 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words “Supreme Court” in paragraph (b) of subsection (1) of the words “High Court”.

- “(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 paalementkredietooreenkomste, of ten opsigte van die oorspronklike uitreiking of die registrasie van enige oordrag van handelseffekte] enige instrument ten opsigte waarvan seëlregte betaalbaar is deur middel van die plakking van seëls op sodanige [vaste deposito-kwitansies of op sodanige paalementkredietooreenkomste 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] instrument aan te dui, hy onderworpe aan die voorwaardes wat hy op lê en onderworpe aan die uitoefening van die 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, paalement-kredietooreenkoms, handelseffek of oordragstuk] instrument 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, artikel 7 van Wet 136 van 1991 en artikel 13 van Wet 37 van 1996

19. (1) Artikel 23 van die Wet op Seëlregte, 1968, word hierby gewysig—
- (a) deur die omskrywing van “arbitrasie-transaksie” in subartikel (1) te skrap;
 - (b) deur subparagrafe (vii) en (viiA) van paragraaf (b) van subartikel (4) te skrap;
 - (c) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Geen endossement word deur ’n makelaar of bank vir die doeleindes van subartikel (4)(b)(ii), (v) of (vi) [of (vii)] aangebring nie tensy die oordragnemer se naam in die betrokke oordragstuk voorkom.”; en
 - (d) 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), (viiA)] of (viiB) aanbring wat vals of onjuis is of versuim om die bepalings van subartikel (5) na te kom; of”.
- (2) Subartikel (1) word geag op 1 Julie 1997 in werking te getree het en is van toepassing ten opsigte van die registrasie van oordrag van enige handelseffek op of na daardie datum.

40 Wysiging van artikel 30 van Wet 77 van 1968, soos gewysig deur artikel 15 van Wet 97 van 1993

20. Artikel 30 van die Wet op Seëlregte, 1968, word hierby gewysig deur die woord “Hooggeregshof” in paragraaf (b) van subartikel (1) deur die woorde “Hoë Hof” te vervang.

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 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, section 8 of Act 20 of 1994 and section 17 of Act 37 of 1996

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

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

“if the marketable security was sold or disposed of (whether conditionally or not) after 31 March 1996 but not later than 31 March 1997 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:

“(h) 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 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

0 025

(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 (h)(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 deletion of subparagraphs (n) and (nA) of the “Exemptions from the duty under paragraph (3)”;

(d) by the substitution in paragraph (4) for the amount “0 05” in the column “Amount of Duty” of the amount “0 025”; and

(e) by the substitution for subparagraphs (vi) and (vii) of paragraph (5) of the following subparagraphs:

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 5 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 10 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993, artikel 17 van Wet 140 van 1993, artikel 8 van Wet 20 van 1994 en artikel 17 van Wet 37 van 1996

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

(a) deur in subparagraaf (g) van paragraaf (3) die woorde wat subparagraaf (i) 15 voorafgaan deur die volgende woorde te vervang:

“indien die handelseffekte verkoop of vervreem is (hetsy voor-
waardelik of nie) na 31 Maart 1996 maar nie later nie as 31 Maart 1997
en die datum van die verkoop of vervreemding op die betrokke
oordragstuk in artikel 23 van hierdie Wet bedoel, aangeteken is deur die
20 oordragnemer of sy verteenwoordiger en daardie aantekening deur die
oordragnemer of sy verteenwoordiger onderteken is.”;

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

“(h) in enige ander geval—

25 (i) indien oordrag—

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

30 (bb) 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:
35 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 han-
delseffek wat oorgedra word.....

40 (ii) indien oordrag—

(aa) na die verstryking van die tydperk van ses
maande bedoel in subparagraaf (i)(aa) gere-
gistreer 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

50 Drie maal die seël-
reg wat ingevolge
(h)(i) betaalbaar sou
gewees het indien
oordrag binne be-
doelde tydperk van
ses of drie maande,
na gelang van die
geval, geregistreer
was.”;

55 (c) deur subparagraawe (n) en (nA) van die “Vrystellings van die seëlreg
ingevolge paragraaf (3)” te skrap;

60 (d) deur in paragraaf (4) die bedrag “0 05” in die kolom “Bedrag van Seëlreg”
deur die bedrag “0 025” te vervang; en

(e) deur subparagraawe (vi) en (vii) van paragraaf (5) deur die volgende
subparagraawe te vervang:

- “(vi) if the date of acquisition of such marketable security falls on or after 1 April 1996 but not later than 31 March 1997 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 5
- (vii) if the date of acquisition of such marketable security falls on or after 1 April 1997 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 0 025 15
- [(vii)] (viii) if the relevant deed or declaration is not duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), (iv), (v), [or] (vi) or (vii), as the case may be Three times the duty which would have been payable under (i), (ii), (iii), (iv), (v), [or] (vi) or (vii) (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), (v), [or] (vi) or (vii), as the case may be.”. 25 30 35 40

(2) (a) Subsection (1)(a), (b), (d) and (e) shall be deemed to have come into operation on 1 April 1997;

(b) Subsection (1)(c) shall be deemed to have come into operation on 1 July 1997.

Repeal of section 44 of Act 59 of 1990

45

22. (1) Section 44 of the Customs and Excise Amendment Act, 1990, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 10 July 1990.

- 5 “(vi) indien die datum van verkryging van bedoelde
handelseffek op of na 1 April 1996, maar nie later
10 nie as 31 Maart 1997, 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
15 vergoeding gegee minder is as die waarde van die
handelseffek wat oorgedra word, van die waarde
van die handelseffek 0 05
- 20 (vii) indien die datum van verkryging van bedoelde
handelseffek op of na 1 April 1997 val en die
15 betrokke akte of verklaring bedoel in artikel 23(15)
van hierdie Wet behoortlik geseël word voor die
verstryking van 'n tydperk van ses maande vanaf
die datum van sodanige verkryging: vir elke R10,
20 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 oorge-
dra word, van die waarde van die handels-
25 effek 0 025
- 30 [(vii)] (viii) indien die betrokke akte of verklaring nie binne
die tydperk van ses maande bedoel in subpara-
graaf (i), (ii), (iii), (iv), (v), [of] (vi), of (vii), na
gelang van die geval, behoortlik geseël word
35 nie Drie maal die seël-
reg wat ingevolge
(i), (ii), (iii), (iv),
(v), [of] (vi) of (vii)
betaalbaar sou
gewees het (watter
ook al van toepas-
sing is), indien die
akte of verklaring
binne die tydperk
40 van ses maande be-
doel in subparagraaf
(i), (ii), (iii), (iv),
(v), [of] (vi) of (vii),
na gelang van die
geval, behoortlik
45 geseël was.”.
- (2)(a) Subartikel (1)(a), (b), (d) en (e) word geag op 1 April 1997 in werking te
getree het.
- (b) Subartikel (1)(c) word geag op 1 Julie 1997 in werking te getree het.

Herroeping van artikel 44 van Wet 59 van 1990

- 50 22. (1) Artikel 44 van die Doeane- en Aksynswysigingswet, 1990, word hierby
herroep.
- (2) Subartikel (1) word geag op 10 Julie 1990 in werking te getree het.

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 22 of Act 97 of 1993, section 9 of Act 20 of 1994 and section 18 of Act 37 of 1996

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

(a) by the substitution for paragraph (b) of the definition of “association not for gain” of the following paragraph:

“(b) any other society, association or organization, whether incorporated or not (other than an educational institution in respect of which the provisions of paragraph (c) apply), which—

(i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and

(ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that society, association or organisation—

(aa) required to utilize any property or income solely in the furtherance of its aims and objects; and [is]

(bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the society, association or organization for any services actually rendered to such society, association or organization; and

(cc) upon the winding-up or liquidation of such society, association or organization, [it will be] obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other society, association or organization with objects similar to those of the said society, association or organization; or”;

(b) by the addition of the following paragraph to the said definition of “association not for gain”:

“(c) any educational institution of a public character, whether incorporated or not, which—

(i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and

(ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that educational institution—

(aa) required to utilize any property or income solely in the furtherance of its aims and objects; and

(bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the educational institution for any services actually rendered to such institution;”;

(c) by the addition of the word “or” at the end of paragraph (f) of the definition of “connected persons”;

(d) by the addition of the following paragraph to the definition of “connected persons”:

“(g) any person and any superannuation scheme referred to in section 2(2)(vii), the members of which are mainly the employees or office holders or former employees or office holders of that person;”;

(e) by the insertion after subparagraph (iii) of paragraph (b) of the definition of “enterprise” of the following subparagraph:

“(iv) the activities of any person who continuously or regularly supplies telecommunication services to any person who utilizes such services in the Republic;”;

(f) by the substitution in the definition of “input tax” for the words preceding the proviso to paragraph (b) of the following words:

“an amount equal to the tax fraction (being the tax fraction applicable at the time [of payment] the supply is deemed to have taken place) of the lesser of

Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, artikel 1 van Goewermenskennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994 en artikel 18 van Wet 37 van 1996

- 5 23. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur in die omskrywing van “insetbelasting” die woorde wat die voorbehoudsbepaling by paragraaf (b) voorafgaan deur die volgende woorde te vervang:
- 10 “ ’n bedrag gelyk aan die belastingbreukdeel (synde die belastingbreukdeel van toepassing op die tydstop [van betaling] waarop die lewering geag word plaas te gevind het) van die minste van enige vergoeding in geld gegee deur die ondernemer vir of die ope markwaarde van die lewering (behalwe ’n belasbare lewering) aan hom by wyse van ’n verkoop op of na die
- 15 aanvangsdatum deur ’n inwoner van die Republiek van tweedehandse goed in die Republiek geleë.”;
- (b) deur die voorbehoudsbepaling by die omskrywing van “ondernemer” deur die volgende voorbehoudsbepaling te vervang:
- 20 “Met dien verstande dat waar die Kommissaris ingevolge artikel 23 of 50A die datum vasgestel het van wanneer af ’n persoon ’n ondernemer is, daardie persoon geag word vanaf daardie datum ’n ondernemer te wees.”;
- (c) deur die volgende subparagraaf na subparagraaf (iii) van paragraaf (b) van die omskrywing van “onderneming” in te voeg:
- 25 “(iv) die bedrywighede van enige persoon wat voortdurend of gereeld telekommunikasiedienste lewer aan ’n persoon wat daardie dienste in die Republiek gebruik;”;
- (d) deur die omskrywing van “oordragbetaling” deur die volgende omskrywing te vervang:
- 30 “ ‘oordragbetaling’ ’n oordragbetaling soos beoog in paragraaf [A2.9] 1.2.9.3 van die Handleiding oor die Staat se Finansiële Beplanning- en Begrotingstelsel wat ingevolge artikel 39 van die Skatkiswet, 1975 (Wet No. 66 van 1975), gepubliseer is;”;
- (e) deur die woord “of” aan die end van paragraaf (f) van die omskrywing van “verbonde persone” by te voeg;
- 35 (f) deur die volgende paragraaf by die omskrywing van “verbonde persone” te voeg:
- “(g) ’n persoon en ’n aftreeskema in artikel 2(2)(i) bedoel, waarvan die lede hoofsaaklik die werknemers of ampsbekleërs of voormalige werknemers of ampsbekleërs van daardie persoon is;”;
- 40 (g) deur paragraaf (b) van die omskrywing van “vereniging sonder winsoogmerk” deur die volgende paragraaf te vervang:
- “(b) ’n ander vereniging, genootskap of organisasie, hetsy ingelyf al dan nie (behalwe ’n opvoedkundige instelling ten opsigte waarvan die bepalings van paragraaf (c) van toepassing is), wat—
- 45 (i) bedryf word andersins as met die doel van profyt of wins vir ’n eienaar, lid of aandeelhouer; en
- (ii) ingevolge sy akte van oprigting, statute, skriftelike reëls of ander dokument wat die bedrywighede van daardie vereniging, genootskap of organisasie daarstel of reël—
- 50 (aa) enige eiendom of inkomste uitsluitlik vir die bevordering van sy doelstellings en oogmerke moet gebruik; en
- (bb) [hy] belet word om enige gedeelte daarvan regstreeks of onregstreeks op enige wyse hoegenaamd oor te dra ten einde enige persoon te bevoordeel behalwe by wyse van betaling in goeie trou van redelike besoldiging aan ’n beampte of werknemer van die vereniging, genootskap of organisasie vir dienste werklik gelewer aan daardie vereniging, genootskap of organisasie; en
- 55 (cc) by die likwidasië of ontbinding van daardie vereniging, genootskap of organisasie, [hy] verplig sal wees om sy bates wat na voldoening van sy verpligtinge oorbly, te gee of oor te maak aan ’n ander vereniging, genootskap of organisasie met
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any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic of any second-hand goods situated in the Republic:";

- (g) by the substitution for the definition of "transfer payment" of the following definition: 5

" 'transfer payment' means a transfer payment as contemplated in paragraph [A2.9] 1.2.9.3 of the Manual on the Financial Planning and Budgeting System of the State published in terms of section 39 of the Exchequer Act, 1975 (Act No. 66 of 1975);"; and 10

- (h) by the substitution for the proviso to the definition of "vendor" of the following proviso: 15

"Provided that where the Commissioner has under section 23 or 50A determined the date from which a person is a vendor that person shall be deemed to be a vendor from that date;". 15

(2) The provisions of subsection (1)(e) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

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, section 10 of Act 20 of 1994 and section 19 of Act 37 of 1996 20

24. Section 2 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) the cession, assignment, [or other] transfer or other supply of any right to receive payment in relation to any taxable supply where, as a result of any such cession, assignment, [or] transfer or supply, output tax in relation to that taxable supply would not be or become attributable to any tax period for the purposes of section 16(3); or". 25

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, section 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994 and section 20 of Act 46 of 1996 30

25. Section 8 of the principal Act is hereby amended by the addition of the following subsection:

"(20) For the purposes of this Act, where an importation of goods is deemed to have been made by an agent in the circumstances contemplated in section 54(2A)(b), such agent shall be deemed to make a supply of goods to the recipient of the supply by the principal, as contemplated in subparagraph (iii) of that section." 35

Amendment of section 9 of Act 89 of 1991, as amended by section 25 of Act 136 of 1991, section 25 of Act 97 of 1993 and section 21 of Act 46 of 1996 40

26. Section 9 of the principal Act is hereby amended by the addition of the following subsection:

"(9) Where any supply of goods is deemed to be made as contemplated in section 8(20), that supply shall be deemed to take place at the time the tax payable on importation of the goods is paid by the agent." 45

oogmerke soortgelyk aan dié van bedoelde vereniging, genootskap of organisasie; of"; en

- (h) deur die volgende paragraaf by genoemde omskrywing van "vereniging sonder winsoogmerk" te voeg:

- 5 “(c) enige opvoedkundige instelling van ’n openbare aard, hetsy ingelyf al dan nie wat—
- (i) bedryf word andersins as met die doel van profyt of wins vir ’n eienaar, lid of aandeelhouer; en
- 10 (ii) ingevolge sy akte van oprigting, statute, skriftelike reëls of ander dokument wat die bedrywighede van daardie opvoedkundige instelling daarstel of reël—
- (aa) enige eiendom of inkomste uitsluitlik vir die bevordering van sy doelstellings en oogmerke moet gebruik; en
- 15 (bb) belet word om enige gedeelte daarvan regstreeks of onregstreeks op enige wyse hoegenaamd oor te dra ten einde enige persoon te bevoordeel behalwe by wyse van betaling in goeie trou van redelike besoldiging aan ’n beampte of werknemer van die opvoedkundige instelling vir dienste werklik gelewer aan daardie instelling.”

- 20 (2) Die bepalings van subartikel (1)(c) tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet 136 van 1991, artikel 2 van Goewermmentskennisgewing 2695 van 8 November 1991, artikel 13 van Wet 136 van 1992, artikel 10 van Wet 20 van 1994 en artikel 25 19 van Wet 37 van 1996

24. Artikel 2 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

- 30 “(a) die sessie, toewysing, [of ander] oordrag of ander lewering van ’n reg om ’n betaling met betrekking tot ’n belasbare lewering te ontvang waar, as gevolg van daardie sessie, toewysing, [of] oordrag of lewering, uitsetbelasting met betrekking tot daardie belasbare lewering nie by die toepassing van artikel 16(3) aan ’n belastingtydperk toeskryfbaar sou wees of word nie; of”.

Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 1991, artikel 4 van Goewermmentskennisgewing 2695 van 8 November 1991, artikel 15 van Wet 136 van 1992, artikel 24 van Wet 97 van 1993, artikel 11 35 van Wet 20 van 1994 en artikel 20 van Wet 46 van 1996

25. Artikel 8 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- 40 “(20) By die toepassing van hierdie Wet, waar ’n invoer van goed geag word deur ’n agent gedoen te gewees het in die omstandighede beoog in artikel 54(2A)(b), word daardie agent geag ’n lewering van goed te doen aan die ontvanger van die lewering deur die prinsipaal, soos beoog in subparagraaf (iii) van daardie artikel.”.

Wysiging van artikel 9 van Wet 89 van 1991, soos gewysig deur artikel 25 van Wet 136 van 1991, artikel 25 van Wet 97 van 1993 en artikel 21 van Wet 46 van 1996 45

26. Artikel 9 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- 50 “(9) Waar ’n lewering van goed geag word gedoen te word soos in artikel 8(20) beoog, word daardie lewering geag plaas te vind op die tydstip waarop die belasting betaalbaar op die invoer van die goed deur die agent betaal word.”.

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, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996 and section 22 of Act 46 of 1996

27. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (9) for the words preceding the proviso to the paragraph defining the meaning of the symbol "C" of the following words:
 "represents the percentage that, during the 12 month period during which the decrease in use or application of the goods or services is deemed to take place, the use or application of the goods or services for the purposes of making taxable supplies (in respect of which, if such goods or services had been acquired at the time of such use or application, a deduction of input tax would not have been denied in terms of section 17(2)(a)), was of the total use or application of the goods:"; and
- (b) by the insertion after subsection (22A) of the following subsection:
 "(22B) Where any supply of goods is deemed to be made as contemplated in section 8(20), the consideration in money for such supply shall be deemed to be the total amount of the value placed on the importation of the goods in terms of section 13(2) and the amount of tax levied on the importation in terms of section 7(1)(b)."

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, section 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993 and section 13 of Act 20 of 1994

28. Section 11 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 "Where, but for [the provisions of] this section, a supply of goods would be charged with tax [under section 7(1)(a)] at the rate referred to in section 7(1), such supply of goods shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—";
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 "Where, but for this section, a supply of services would be charged with tax [under section 7(1)(a)] at the rate referred to in section 7(1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—";
- (c) by the substitution for paragraph (k) of the said subsection (2) of the following paragraph:
 "(k) the services are physically rendered elsewhere than in the Republic, not being telecommunication services supplied to any person who utilizes such services in the Republic; or"; and
- (d) by the substitution in paragraph (l) of the said subsection (2) for the words preceding subparagraph (i) of the following words:
 "the services are supplied for the benefit of and contractually to a person who is not a resident of the Republic and who is outside the Republic at the time the services are rendered, not being services which are supplied directly in connection with—".

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, section 14 of Act 20 of 1994 and section 22 of Act 37 of 1996

29. Section 12 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, artikel 5 van Goewermenskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993, artikel 12 van Wet 20 van 1994, artikel 21 van Wet 37 van 1996 en artikel 22 van Wet 46 van 5 1996

27. Artikel 10 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (9) die woorde wat die voorbehoudsbepaling by die paragraaf wat die betekenis van die simbool "C" omskryf, voorafgaan deur die volgende woorde te vervang:
- 10 "die persentasie voorstel wat, gedurende die tydperk van 12 maande waarin die vermindering in gebruik of aanwending van die goed of dienste geag word plaas te vind, die gebruik of aanwending van die goed of dienste met die doel om belasbare lewerings te doen (ten opsigte waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie gebruik of aanwending,
- 15 'n aftrekking van insetbelasting nie ingevolge artikel 17(2)(a) ontsê sou gewees het nie) van die totale gebruik of aanwending van die goed was."; en
- (b) deur die volgende subartikel na subartikel (22A) in te voeg:
- 20 "(22B) Waar 'n lewering van goed geag word gedoen te word soos beoog in artikel 8(20), word die vergoeding in geld vir daardie lewering geag die totale bedrag van die waarde wat ingevolge artikel 13(2) op die invoer van die goed geplaas is en die bedrag belasting op die invoer gehef ingevolge artikel 7(1)(b) te wees."

Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, artikel 6 van Goewermenskennisgewing 2695 van 8 November 25 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993 en artikel 13 van Wet 20 van 1994

28. Artikel 11 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- 30 "Waar, by ontstentenis van hierdie artikel, 'n lewering van goed aan belasting [ingevolge artikel 7(1)(a)] teen die koers bedoel in artikel 7(1) onderworpe sou wees, is, mits subartikel (3) van hierdie artikel nagekom word, daardie lewering van goed aan belasting teen die koers van nul persent onderworpe, waar—";
- 35 (b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- "Waar, by ontstentenis van hierdie artikel, 'n lewering van dienste aan belasting [ingevolge artikel 7(1)(a)] teen die koers bedoel in artikel 7(1) onderworpe sou wees, is, mits subartikel (3) van hierdie artikel nagekom word, daardie lewering van dienste aan belasting teen die koers van nul persent onderworpe, waar—";
- 40 (c) deur paragraaf (k) van genoemde subartikel (2) deur die volgende paragraaf te vervang:
- 45 "(k) die dienste fisies elders as in die Republiek gelever word, behalwe telekommunikasiedienste gelever aan 'n persoon wat daardie dienste in die Republiek gebruik; of"; en
- (d) deur in paragraaf (l) van genoemde subartikel (2) die woorde wat subpara-
graaf (i) voorafgaan deur die volgende woorde te vervang:
- 50 "die dienste gelever word [vir] tot die voordeel van en kontraktueel aan 'n persoon wat nie 'n inwoner van die Republiek is nie en wat buite die Republiek is op die tydstip waarop die dienste gelever word, behalwe dienste gelever regstreeks in verband met—".

Wysiging van artikel 12 van Wet 89 van 1991, soos gewysig deur artikel 28 van Wet 136 van 1991, artikel 7 van Goewermenskennisgewing 2695 van 8 November 55 1991, artikel 18 van Wet 136 van 1992, artikel 28 van Wet 97 van 1993, artikel 14 van Wet 20 van 1994 en artikel 22 van Wet 37 van 1996

29. Artikel 12 van die Hoofwet word hierby gewysig deur paragraaf (g) deur die volgende paragraaf te vervang:

“(g) the supply by any person in the course of a transport business of any service comprising the transport by that person in a vehicle operated by him of fare-paying passengers and their personal effects by road or railway (excluding a funicular railway), not being a supply of any such service which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11(2)(a);”.

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 29 of Act 97 of 1993 and section 15 of Act 20 of 1994

30. Section 13 of the principal Act is hereby amended—

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

“(1) For the purposes of this Act goods shall be deemed to be imported into the Republic on the date on which the goods are in terms of section 10 of the Customs and Excise Act deemed to be imported: Provided that—

(i) goods which are entered for home consumption in terms of the Customs and Excise Act, shall be deemed to have been imported on the date on which they are so entered;

(ii) [Provided further that] where any goods have been imported and entered into a licensed Customs and Excise warehouse but have not been entered for home consumption, any supply of such goods before they are entered for home consumption shall be disregarded for the purposes of this Act;

(iii) [Provided further that] goods imported from Botswana, Lesotho, Swaziland and Namibia shall be declared and tax paid to an officer designated by the Commissioner for Customs and Excise on entry into the Republic in accordance with such procedures and at such place as the said Commissioner may prescribe by rule.”;

(b) by the addition of the following proviso to subsection (2):

“Provided that where the Minister has made a regulation determining the value of such goods for the purposes of this section, the greater of such determined value or the value declared on importation shall be used instead of the value for customs purposes.”;

(c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“Where tax is payable in respect of the importation of goods into the Republic and such goods are [not entered and will] not [require] required to be entered [for home consumption] in terms of the Customs and Excise Act and tax has not been paid to the Commissioner for Customs and Excise when the goods were imported the importer shall within 30 days after the importation of the goods—”;

(d) by the substitution for the proviso to the said subsection (4) of the following proviso:

“Provided that this subsection shall not apply in respect of the importation (other than the importation of any motor vehicle) by a vendor in the circumstances contemplated in this subsection, if the tax payable would be allowable as a deduction in terms of section 16(3)(a)(iii) or section 16(3)(b)(ii) [except if provided otherwise in any regulation made by the Minister under section 74].”; and

(e) by the substitution for subsection (6) of the following subsection:

“(6) Subject to the provisions of [this Act] section 7(1)(b) and this section, the provisions of the Customs and Excise Act [relating to the importation, transit, coastwise carriage and clearance of goods and the payment and recovery of duty] shall *mutatis mutandis* apply as if enacted in this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs and Excise Act.”.

- “(g) die lewering deur ’n persoon in die loop van ’n vervoeronderneming van ’n diens bestaande uit die vervoer deur daardie persoon in ’n voertuig deur hom in bedryf gestel van reisgeldbetalende passasiers en hul persoonlike bagasie per pad of spoorweg (uitgesonderd ’n kabelspoor), behalwe die lewering van ’n bedoelde diens wat, by ontstentenis van hierdie paragraaf, aan belasting teen die koers van nul persent ingevolge artikel 11(2)(a) onderworpe sou wees;”.

Wysiging van artikel 13 van Wet 89 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1991, artikel 19 van Wet 136 van 1992, artikel 29 van Wet 97 van 10 1993 en artikel 15 van Wet 20 van 1994

30. Artikel 13 van die Hoofwet word hierby gewysig—

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

“(1) By die toepassing van hierdie Wet word goed geag in die Republiek ingevoer te wees op die datum waarop die goed ingevolge artikel 10 van die Doeane- en Aksynswet geag word ingevoer te word: Met dien verstande dat—

(i) goed wat vir binnelandse verbruik ingevolge die Doeane- en Aksynswet geklaar word, geag word ingevoer te gewees het op die datum waarop dit aldus geklaar word;

(ii) **[Met dien verstande voorts dat]** waar enige goed ingevoer is en geklaar is in ’n gelisensieerde Doeane- en Aksynspakhuis, maar nie vir binnelandse verbruik geklaar is nie, ’n lewering van bedoelde goed voordat dit vir binnelandse verbruik geklaar word, by die toepassing van hierdie Wet verontagsaam word;

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

- (b) deur die volgende voorbehoudsbepaling by subartikel (2) te voeg:

“Met dien verstande dat waar die Minister ’n regulasie uitgevaardig het wat die waarde van bedoelde goed by die toepassing van hierdie artikel vasstel, die grootste van daardie vasgestelde waarde of die waarde wat by invoer verklaar is, gebruik word in plaas van die waarde vir doeaneregdoeleindes.”;

- (c) deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Waar belasting betaalbaar is ten opsigte van die invoer van goed in die Republiek en daardie goed nie ingevolge die Doeane- en Aksynswet [**vir binnelandse verbruik in die Republiek geklaar is nie en nie**] geklaar [**sal**] moet word nie en belasting nie aan die Kommissaris van Doeane en Aksyns betaal is toe die goed ingevoer is nie, moet die invoerder binne 30 dae na die invoer van die goed—”;

- (d) deur die voorbehoudsbepaling by genoemde subartikel (4) deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat hierdie subartikel nie van toepassing is nie ten opsigte van die invoer (behalwe die invoer van ’n motorvoertuig) deur ’n ondernemer in die omstandighede in hierdie subartikel beoog indien die belasting wat betaalbaar sou wees as ’n aftrekking ingevolge artikel 16(3)(a)(iii) of artikel 16(3)(b)(ii) toelaatbaar sou wees [**behalwe indien anders bepaal word in enige regulasie deur die Minister uitgevaardig kragtens artikel 74**].”; en

- (e) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Die bepalinge van die Doeane- en Aksynswet [**met betrekking tot die invoer, deurvoer, kusvervoer en klaring van goed en die betaling en vehaling van enige reg**] is, behoudens die bepalinge van [**hierdie Wet**] artikel 7(1)(b) en hierdie artikel, *mutatis mutandis* van toepassing asof dit in hierdie Wet verorden is, ongeag of bedoelde bepalinge vir die doeleindes van enige reg wat ingevolge die Doeane- en Aksynswet gehef word van toepassing is al dan nie.”.

Amendment of section 15 of Act 89 of 1991, as amended by section 8 of Government Notice 2695 of 8 November 1991 and section 20 of Act 136 of 1992

31. Section 15 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 5
 “Subject to the provisions of [subsection] subsections (2A) and (3), the Commissioner may, on application in writing by a vendor, direct that the vendor account for the tax payable on a payments basis for the purposes of section 16 with effect from the vendor’s registration in terms of this Act or, where he has accounted for tax payable on an invoice basis prior to making an application under this subsection, from the commencement of the tax period immediately following the tax period during which that direction is made by the Commissioner (hereinafter referred to as the changeover period), if—”;
- (b) by the insertion after the said subsection (2) of the following subsection: 15
 “(2A) Any vendor (other than a public authority or local authority) who in terms of subsection (2) accounts for tax payable on a payments basis shall, in respect of any supply made on or after 5 June 1997 of goods (other than fixed property) or services in respect of which the consideration in money is R100 000 or more, account for the tax payable on an invoice basis.”;
- (c) by the substitution in subsection (3) for the words following upon paragraph (b) and preceding the proviso of the following words: 20
 “the Commissioner shall direct that the vendor account for the tax payable on an invoice basis with effect from the commencement of a future tax period [approved] or, where the vendor has failed to notify the Commissioner that he has ceased to satisfy the conditions of subsection (2), as required by the said section 25(c), any tax period directed by the Commissioner [(hereinafter referred to as the changeover period)]:”;
- (d) by the substitution for subsection (5) of the following subsection: 25
 “(5) Any vendor to whom subsection (4) applies shall, within the time allowed under this Act for the payment of tax in respect of the tax period immediately preceding the changeover period, pay to the Commissioner the tax payable as calculated in accordance with this section.”. 30

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, section 16 of Act 20 of 1994 and section 23 of Act 37 of 1996 35

32. Section 16 of the principal Act is hereby amended—

- (a) by the substitution for subparagraphs (ii) and (iiA) of paragraph (a) of subsection (3) of the following subparagraphs, respectively:
- “(ii) (aa) in respect of supplies of second-hand goods to which paragraph (b) of the definition of ‘input tax’ in section 1 applies (other than supplies in respect of which the provisions of subparagraph (bb) 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; [Provided that where such] 40
- (bb) in respect of supplies of second-hand goods to which paragraph (b) of the definition of ‘input tax’ in section 1 applies which consist of— 45
- [(aa)](A) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or 50
- [(bb)](B) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable, 55

Wysiging van artikel 15 van Wet 89 van 1991, soos gewysig deur artikel 8 van Goewermentskennisgewing 2695 van 8 November 1991 en artikel 20 van Wet 136 van 1992

31. Artikel 15 van die Hoofwet word hierby gewysig—

- 5 (a) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Behoudens die bepalings van [subartikel] subartikels (2A) en (3) kan die Kommissaris, op skriftelike aansoek deur 'n ondernemer, opdrag gee dat vir die doeleindes van artikel 16 die ondernemer met ingang van die ondernemer se registrasie ingevolge hierdie Wet op 'n betalingsbasis rekenskap gee van die belasting wat betaalbaar is of, waar hy die belasting wat betaalbaar is op 'n faktuurbasis bereken het voordat hy 'n aansoek ingevolge hierdie subartikel gedoen het, van die begin van die belastingtydperk wat onmiddellik volg op die belastingtydperk waarin bedoelde opdrag deur die Kommissaris gegee word (hieronder die oorgangstydperk genoem), in dien—”;
- 10 (b) deur die volgende subartikel na genoemde subartikel (2) in te voeg:
- “(2A) 'n Ondernemer (behalwe 'n openbare bestuur of 'n plaaslike bestuur) wat ingevolge subartikel (2) op 'n betalingsbasis rekenskap gee van belasting wat betaalbaar is, moet ten opsigte van enige lewering gedoen op of na 5 Junie 1997 van goed (behalwe vasgoed) of dienste ten opsigte waarvan die vergoeding in geld R100 000 of meer is, op 'n faktuurbasis rekenskap gee van die belasting wat betaalbaar is.”;
- 15 (c) deur in subartikel (3) die woorde wat op paragraaf (b) volg en die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “moet die Kommissaris opdrag gee dat die ondernemer op 'n faktuurbasis rekenskap gee van die belasting wat betaalbaar is met ingang van die begin van 'n toekomstige belastingtydperk of, waar die ondernemer versuim het om die Kommissaris in kennis te stel dat hy opgehou het om aan die vereistes van subartikel (2) te voldoen, soos deur genoemde artikel 25(c) vereis, enige belastingtydperk deur die Kommissaris [goedgekeur (hieronder die oorgangstydperk genoem)] beveel.”; en
- 20 (d) deur subartikel (5) deur die volgende subartikel te vervang:
- “(5) 'n Ondernemer op wie subartikel (4) van toepassing is, moet, binne die tyd toegelaat kragtens hierdie Wet vir die betaling van belasting ten opsigte van die belastingtydperk wat die oorgangstydperk onmiddellik voorafgaan, die belasting aan die Kommissaris betaal wat volgens hierdie artikel betaalbaar is.”.
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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, artikel 16 van Wet 20 van 1994 en artikel 23 van Wet 37 van 1996

32. Artikel 16 van die Hoofwet word hierby gewysig—

- (a) deur subparagrafe (ii) en (iiA) van paragraaf (a) van subartikel (3) deur onderskeidelik die volgende subparagrafe te vervang:
- 45 “(ii) (aa) ten opsigte van lewerings van tweedehandse goed waarop paragraaf (b) van die omskrywing van ‘insetbelasting’ in artikel 1 van toepassing is (behalwe lewerings ten opsigte waarvan die bepalings van subparagraaf (bb) 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: [Met dien verstande dat waar daardie]
- 50 (bb) ten opsigte van lewerings van tweedehandse goed waarop paragraaf (b) van die omskrywing van ‘insetbelasting’ in artikel 1 van toepassing is wat bestaan uit—
- 55 [(aa)](A) vasgoed ten opsigte van die verkryging waarvan hereregte ingevolge die Wet op Hereregte betaalbaar is; of
- [(bb)](B) 'n aandeel in 'n aandeelblokmaatskappy ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is,
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[such input tax shall be deducted only after] if the full or final amount of such transfer duty or stamp duty, as the case may be, has been paid during that tax period;

- (iiA) in respect of taxable 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 (other than supplies in respect of which the provisions of section 10(4) 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;”;
- (b) 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), 22(1A) or 22(4), as applicable to the vendor;”;
- (c) by the insertion after paragraph (i) of the said subsection (3) of the following paragraph:
“(j) (i) in the case of a vendor who has, during the tax period, supplied a property in possession in the course or furtherance of his enterprise under a sale, an amount equal to the tax fraction of the lesser of—
(aa) the amount (excluding any amount of tax) received in respect of the sale of such property in possession less any amount paid by the vendor in respect of the acquisition of such property in possession; and
(bb) the amount of the unrecovered loan balance less any amount paid by the vendor in respect of the acquisition of such property in possession:
Provided that no deduction shall be made in terms of this paragraph where the person in default is or will be held liable for payment of such lesser amount;
(ii) for the purposes of this paragraph—
(aa) ‘property in possession’ means fixed property acquired by any vendor—
(A) at a sale in execution as a result of default by any person (other than a person who held or applied such fixed property for the purpose of making taxable supplies in the course or furtherance of his enterprise immediately before such sale in execution) in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement; or
(B) as a result of an abandonment authorised by the Master of the High Court where such person has defaulted in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement or gone insolvent;
(bb) ‘unrecovered loan balance’ means the amount of capital, interest and administrative holding costs outstanding in terms of a credit agreement at the date of sale in execution or the date of authorisation of abandonment by the Master of the High Court.”; and
- (d) by the substitution for subparagraph (ii) of paragraph (a) of subsection (4) of the following subparagraph:
“(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 (other than a supply in respect of which the provisions of section 10(4) 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”.

[daardie insetbelasting afgetrek word slegs nadat] indien die volle of finale bedrag van daardie hereregte of seëlreg, na gelang van die geval, gedurende daardie belastingtydperk betaal is;

- (iiA) ten opsigte van belasbare lewerings aan die ondernemer gedoen ingevolge verkope aangegaan op of na 6 Junie 1996 ten opsigte waarvan die bepalinge van artikel 9(3)(d) van toepassing is (behalwe lewerings ten opsigte waarvan die bepalinge van artikel 10(4) 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;";
- (b) 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), 22(1A) of 22(4), soos van toepassing op die ondernemer;”;
- (c) deur die volgende paragraaf na paragraaf (i) van genoemde subartikel (3) in te voeg:
- “(j) (i) in die geval van 'n ondernemer wat gedurende die belastingtydperk 'n eiendom in besit in die loop of ter bevordering van sy onderneming kragtens 'n verkoop gelewer het, 'n bedrag gelyk aan die belastingbreukdeel van die minste van—
- (aa) die bedrag (uitgesonderd enige bedrag belasting) ontvang ten opsigte van die verkoop van daardie eiendom in besit min enige bedrag deur die ondernemer betaal ten opsigte van die verkryging van daardie eiendom in besit; en
- (bb) die bedrag van die onverhaalde leningsbalans min enige bedrag deur die ondernemer betaal ten opsigte van die verkryging van daardie eiendom in besit:
- Met dien verstande dat geen aftrekking ingevolge hierdie paragraaf gedoen word nie waar die persoon wat in versuim is, aanspreeklik gehou word of gehou sal word vir die betaling van bedoelde kleinste bedrag;
- (ii) by die toepassing van hierdie paragraaf beteken—
- (aa) 'eiendom in besit' vasgoed deur 'n ondernemer verkry—
- (A) by 'n eksekusieverkoping as gevolg van versuim deur 'n persoon (behalwe 'n persoon wat daardie vasgoed gehou of aangewend het vir die doeleindes van die doen van belasbare lewerings in die loop of ter bevordering van sy onderneming onmiddellik voor daardie eksekusieverkoping) ten opsigte van 'n onverhaalde leningsbalans aan daardie ondernemer ingevolge 'n kredietooreenkoms verskuldig; of
- (B) as gevolg van 'n afstanddoening deur die Meester van die Hoë Hof gemagtig waar daardie persoon in versuim is ten opsigte van 'n onverhaalde leningsbalans verskuldig aan daardie ondernemer ingevolge 'n kredietooreenkoms of insolvent geraak het;
- (bb) 'onverhaalde leningsbalans' die bedrag kapitaal, rente en administratiewe besitkoste uitstaande ingevolge 'n kredietooreenkoms op die datum van eksekusieverkoping of die datum van magtiging van afstanddoening deur die Meester van die Hoë Hof;”; en
- (d) deur subparagraaf (ii) van paragraaf (a) van subartikel (4) deur die volgende subparagraaf te vervang:
- “(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 (behalwe 'n lewering ten opsigte waarvan die bepalinge van artikel 10(4) 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”.

Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, section 9 of Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993 and section 17 of Act 20 of 1994

33. Section 17 of the principal Act is hereby amended—

(a) by the substitution for paragraphs (i) and (ii) of the proviso to paragraph (a) of subsection (2) of the following paragraphs, respectively:

“(i) such goods or services are acquired by the vendor [**wholly or mainly**] for making taxable supplies of entertainment in the ordinary course of an enterprise which—

(aa) continuously or regularly supplies entertainment to clients or customers (other than in the circumstances contemplated in subparagraph (bb)) for a consideration [**and for which supply of entertainment a charge which covers the cost of such entertainment is made by such vendor to the recipient**] to the extent that such taxable supplies of entertainment are made for a charge which—

(A) covers all direct and indirect costs of such entertainment; or
(B) is equal to the open market value of such supply of entertainment,

unless—

(i) such costs or open market value is for *bona fide* promotion purposes not charged by the vendor in respect of the supply to recipients who are clients or customers in the ordinary course of the enterprise, of entertainment which is in all respects similar to the entertainment continuously or regularly supplied to clients or customers for consideration; or

(ii) the goods or services were acquired by the vendor for purposes of making taxable supplies to such clients or customers of entertainment which consists of the provision of any food and a supply of any portion of such food is subsequently made to any employee of the vendor or to any welfare organization as all such food was not consumed in the course of making such taxable supplies;

(bb) supplies entertainment to any employee or office holder of the vendor or any connected person in relation to the vendor, to the extent that such taxable supplies of entertainment are made for a charge which covers all direct and indirect costs of such entertainment;

(ii) such goods or services are acquired by the vendor for the consumption or enjoyment by that vendor (including, where the vendor is a partnership, a member of such partnership) or an employee or office holder of such vendor in respect of personal subsistence in respect of any night that such vendor or member is by reason of the vendor's enterprise or, in the case of such employee or office holder, he is by reason of the duties of his employment or office, obliged to spend away from his usual place of residence and, in respect of an absence on or after [**the date of promulgation of the Taxation Laws Amendment Act, 1992**] 15 July 1992, from his usual working-place;”;

(b) by the addition of the following subsection:

“(4) Where, but for the provisions of this subsection, an amount qualifies or has qualified for a deduction under more than one provision of this Act, a deduction of such amount, or any portion thereof, shall not be made more than once in the calculation of the amount of tax payable by any person.”

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993 and section 18 of Act 20 of 1994

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

Wysiging van artikel 17 van Wet 89 van 1991, soos gewysig deur artikel 31 van Wet 136 van 1991, artikel 9 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 22 van Wet 136 van 1992, artikel 31 van Wet 97 van 1993 en artikel 17 van Wet 20 van 1994

- 5 33. Artikel 17 van die Hoofwet word hierby gewysig—
- (a) deur paragrawe (i) en (ii) van die voorbehoudsbepaling by paragraaf (a) van subartikel (2) deur onderskeidelik die volgende paragrawe te vervang:
- “(i) genoemde goed of dienste deur die ondernemer verkry word [geheel en
10 al of hoofsaaklik] om belasbare lewerings van onthaal te doen in die gewone loop van ’n onderneming wat—
- (aa) voortdurend of gereeld onthaal aan kliënte of klante (behalwe in die omstandighede beoog in subparagraaf (bb)) teen vergoeding lewer [en vir welke lewering van onthaal daardie ondernemer
15 ’n bedrag van die ontvanger vorder wat die koste van daardie onthaal dek] in die mate wat daardie belasbare lewerings van onthaal gedoen word vir ’n vordering wat—
- (A) alle regstreekse en onregstreekse koste van daardie onthaal dek; of
- (B) gelyk is aan die ope markwaarde van daardie lewering van
20 onthaal,
- tensy—
- (i) daardie koste of ope markwaarde vir *bona fide*-promosiedoel-eindes nie deur die ondernemer gevorder word nie ten opsigte van die lewering aan ontvangers wat kliënte of klante in die
25 gewone loop van die onderneming is, van onthaal wat in alle opsigte soortgelyk is aan die onthaal wat voortdurend of gereeld aan kliënte of klante vir vergoeding gelewer word; of
- (ii) die goed of dienste deur die ondernemer verkry is vir die doeleindes van die doen van belasbare lewerings aan bedoelde
30 kliënte of klante van onthaal wat bestaan uit die voorsiening van enige kos en ’n lewering van enige gedeelte van daardie kos daarna aan ’n werknemer van die ondernemer of aan ’n welsynsorganisasie gedoen word aangesien al daardie kos nie in die loop van die doen van daardie belasbare lewerings
35 verbruik is nie; of
- (bb) onthaal lewer aan ’n werknemer of ampsbeker van die ondernemer of ’n verbonde persoon met betrekking tot die ondernemer, in die mate wat daardie belasbare lewerings van onthaal gedoen word vir ’n vordering wat alle direkte en indirekte koste van
40 daardie onthaal dek;
- (ii) genoemde goed of dienste deur die ondernemer verkry word vir die verbruik of genot deur daardie ondernemer (met inbegrip, waar die ondernemer ’n vennootskap is, van ’n lid van daardie vennootskap) of
45 ’n werknemer of ampsbeker van daardie ondernemer met betrekking tot persoonlike verblyf ten opsigte van enige nag wat bedoelde ondernemer of lid vanweë die ondernemer se onderneming of, in die geval van bedoelde werknemer of ampsbeker, hy vanweë die pligte van sy diens of amp verplig is om weg van sy gewone verblyfplek en, ten opsigte van ’n afwesigheid op of na [die datum van afkondiging
50 van die Wysigingswet op Belastingwette, 1992] 15 Julie 1992, van sy gewone werkplek deur te bring;” en
- (b) deur die volgende subartikel by te voeg:
- “(4) Waar, by ontstentenis van die bepalings van hierdie subartikel, ’n
55 bedrag vir ’n aftrekking ingevolge meer as een bepaling van hierdie Wet kwalifiseer of gekwalifiseer het, word ’n aftrekking ten opsigte van bedoelde bedrag, of enige gedeelte daarvan, nie meer as een keer by die berekening van die bedrag belasting deur ’n persoon betaalbaar, gedoen nie.”

Wysiging van artikel 18 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1991, artikel 23 van Wet 136 van 1992, artikel 32 van Wet 97 van
60 1993 en artikel 18 van Wet 20 van 1994

34. Artikel 18 van die Hoofwet word hierby gewysig—

- (a) by the substitution in subsection (1) for the words following upon paragraph (c) of the following words:
 “**[(not being) excluding goods or services to the extent that, in respect of the acquisition of which by the vendor, a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall—** 5
 (i) if they are subsequently applied by him (otherwise than in the circumstances contemplated in section 8(9)) wholly for a purpose other than the said purpose; or
 (ii) **if they are subsequently applied by him wholly for a purpose in respect of which, if such goods or services had been acquired by him at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)(a) or (c),** 10
 be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise.”;
- (b) by the substitution in subsection (2) for the words following upon paragraph (c) and preceding the proviso of the following words: 20
 “**[(not being) excluding goods or services to the extent that, in respect of the acquisition of which by the vendor, a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall, if the extent of the application or use of such goods or services in the course of making taxable supplies (in respect of which, if such goods or services had been acquired at the time of such application or use, a deduction of input tax would not have been denied in terms of section 17(2)(a)) is subsequently reduced in relation to their total application or use, be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise at the time at which such reduction is deemed by subsection (6) to take place:]** 25
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- (c) by the substitution in subsection (4) for the words in paragraph (a) following upon subparagraph (ii) of the following words:
 “**[(not being goods or services in respect of the acquisition of which by a person a deduction of input tax would have been denied by section 17(2) if that section had been applicable prior to the commencement date)]** 40
 and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such person wholly for purposes other than that of consumption, use or supply in the course of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act or for a purpose in respect of which a deduction of input tax in respect of such goods or services would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date; or”; 45
- (d) by the substitution in the said subsection (4) for the words in paragraph (b) following upon subparagraph (iii) of the following words: 50
 “**[(not being goods or services in respect of the acquisition of which by a person a deduction of input tax was denied by section 17(2) or would have been denied by that section if that person had been a vendor)]** and no deduction has been made in terms of section 16(3) in respect of or in relation to such goods or services; or” 55
- (e) by the substitution in subsection (4) for the words following upon paragraph (c) and preceding the formula of the following words:
 “such goods or services are subsequent to the commencement date applied in

- (a) deur in subartikel (1) die woorde wat op paragraaf (c) volg deur die volgende woorde te vervang:
 “[(behalwe] uitgesonderd goed of dienste in die mate wat, ten opsigte van die verkryging waarvan deur die ondernemer, ’n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê is of ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was) en bedoelde goed of dienste deur bedoelde ondernemer verkry, vervaardig, gemonteer, opgerig of geproduseer is geheel en al of gedeeltelik vir die doeleindes van verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings of bedoelde goed vir daardie doeleindes gehou of aangewend is, word bedoelde goed of dienste—
 (i) indien hulle daarna deur hom aangewend word (op ’n ander wyse as in die omstandighede beoog in artikel 8(9)) geheel en al vir ’n ander doel as genoemde doel; of
 (ii) indien hulle daarna deur hom aangewend word geheel en al vir ’n doel ten opsigte waarvan, indien bedoelde goed of dienste deur hom verkry was op die tydstip van daardie aanwending, ’n aftrekking van insetbelasting ingevolge artikel 17(2)(a) of (c) ontsê sou gewees het,
 geag deur hom gelewer te gewees het by wyse van ’n belasbare lewering deur hom in die loop van sy onderneming.”;
- (b) deur in subartikel (2) die woorde wat op paragraaf (c) volg en die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
 “[(behalwe] uitgesonderd goed of dienste in die mate wat, ten opsigte van die verkryging waarvan deur die ondernemer, ’n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê is of ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was) en bedoelde goed of dienste deur bedoelde ondernemer verkry, vervaardig, gemonteer, opgerig of geproduseer is geheel en al of gedeeltelik vir die doeleindes van verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings of bedoelde goed vir daardie doeleindes gehou of aangewend is, word bedoelde goed of dienste, indien die mate van die aanwending of gebruik van bedoelde goed of dienste in die loop van die doen van belasbare lewerings (ten opsigte waarvan, indien bedoelde goed of dienste deur hom verkry was op die tydstip van daardie aanwending, ’n aftrekking van insetbelasting nie ingevolge artikel 17(2)(a) ontsê sou gewees het nie) daarna verminder word in verhouding tot hulle totale aanwending of gebruik, geag deur hom gelewer te gewees het by wyse van ’n belasbare lewering deur hom in die loop van sy onderneming op die tydstip waarop bedoelde vermindering ingevolge subartikel (6) geag word plaas te vind.”;
- (c) deur in subartikel (4) die woorde in paragraaf (a) wat volg op subparagraaf (ii) deur die volgende woorde te vervang:
 “[(behalwe goed of dienste ten opsigte van die verkryging waarvan deur ’n persoon ’n aftrekking van insetbelasting deur artikel 17(2) ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was)] en daardie goed of dienste deur genoemde persoon verkry, vervaardig, gemonteer, opgerig of geproduseer of aangewend is geheel en al vir ’n ander doel as verbruik, gebruik of lewering in die loop van die doen van lewerings in die loop van ’n bedrywigheid wat ’n onderneming was of ’n onderneming sou gewees het indien artikel 1 voor die datum van afkondiging van hierdie Wet van toepassing was of vir ’n doel ten opsigte waarvan ’n aftrekking van insetbelasting ten opsigte van bedoelde goed of dienste ingevolge artikel 17(2) ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was; of”;
- (d) deur in genoemde subartikel (4) die woorde in paragraaf (b) wat volg op subparagraaf (iii) deur die volgende woorde te vervang:
 “[(behalwe goed of dienste ten opsigte van die verkryging deur ’n persoon ’n aftrekking van insetbelasting deur artikel 17(2) ontsê is of deur daardie artikel ontsê sou gewees het indien daardie persoon ’n ondernemer was)] en geen aftrekking ingevolge artikel 16(3) gedoen is nie ten opsigte van of in verband met daardie goed of dienste; of”;
- (e) deur in genoemde subartikel (4) die woorde wat op paragraaf (c) volg en die formule voorafgaan deur die volgende woorde te vervang:
 “genoemde goed of dienste na die aanvangsdatum in enige belastingtydperk

- any tax period by that person or, where he is a member of a partnership, by the partnership, wholly or partly for consumption, use or supply in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)), those goods or services shall be deemed to be supplied in that tax period to that person or the partnership, as the case may be, and the Commissioner shall allow that person or the partnership, as the case may be, to make a deduction in terms of section 16(3) of an amount determined in accordance with the formula";
- (f) by the substitution for the paragraph in the said subsection (4) defining the meaning of the symbol "C" of the following paragraph:
- " 'C' represents the ratio that, immediately after the supply so deemed to be made, the intended use of the goods or services (as contemplated in section 17(1)) in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) bears to the total intended use of those goods or services, expressed as a percentage: Provided that where the intended use of goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is equal to not less than 90 per cent of the total intended use of such goods or services, such percentage shall be deemed to be 100 per cent; and";
- (g) by the substitution for the words following upon paragraph (c) of subsection (5) and preceding the formula of the following words:
- "[(not being goods or services in respect of the acquisition of which by the vendor a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date)] and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such vendor partly for the purpose of consumption, use or supply in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) or of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act (other than supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date) such goods or services shall, if the extent of the application or the use of such goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is subsequent to the commencement date increased in relation to their total application or use, be deemed to be supplied to him, and the Commissioner shall allow the vendor to make a deduction in terms of section 16(3), in the tax period during which such increase is deemed by subsection (6) to take place, of an amount determined in accordance with the formula";**
- (h) by the substitution in the said subsection (5) for the words preceding the proviso to the paragraph defining the meaning of the symbol "C" of the following words:
- "represents the percentage that, during the 12 month period during which the increase in use or application of the goods or services is deemed to take place,**

- 5 deur daardie persoon of, waar hy 'n lid van 'n vennootskap is, deur die vennootskap aangewend word geheel en al of gedeeltelik vir verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings (behalwe belasbare lewerings ten opsigte waarvan, indien daardie goed of
- 10 dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het), word daardie goed of dienste geag in genoemde belastingtydperk aan daardie persoon of die vennootskap, na gelang van die geval, gelewer te wees, en word daardie
- 15 persoon of die vennootskap, na gelang van die geval, deur die Kommissaris toegelaat om 'n aftrekking ingevolge artikel 16(3) te doen van 'n bedrag vasgestel ooreenkomstig die formule";
- (f) deur die paragraaf in genoemde subartikel (4) wat die betekenis van die simbool "C" omskryf deur die volgende paragraaf te vervang:
- 20 " 'C' die verhouding voorstel waarin, onmiddellik na die lewering aldus geag gemaak te wees, die voorgenome gebruik van die goed of dienste (soos beoog in artikel 17(1)) in die loop van die doen van belasbare lewerings (behalwe belasbare lewerings ten opsigte waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie
- 25 aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) tot die totale voorgenome gebruik van daardie goed of dienste staan, uitgedruk as 'n persentasie: Met dien verstande dat waar die voorgenome gebruik van goed of dienste in die loop van die doen van belasbare lewerings (behalwe belasbare lewerings ten opsigte waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) gelyk is aan nie minder
- 30 nie as 90 persent van die totale voorgenome gebruik van genoemde goed of dienste, genoemde persentasie geag word 100 persent te wees; en";
- (g) deur in subartikel (5) die woorde wat volg op paragraaf (c) en die formule voorafgaan deur die volgende woorde te vervang:
- 35 "[(behalwe goed of dienste ten opsigte van die verkryging waarvan deur die ondernemer 'n aftrekking van insetbelasting deur artikel 17(2) ontsê is of ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was)] en daardie goed of dienste deur genoemde ondernemer verkry, vervaardig, gemonteer, opgerig of geproduseer of aangewend is gedeeltelik vir doeleindes van verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings (behalwe belasbare lewerings ten opsigte
- 40 waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) of die doen van lewerings in die loop van 'n bedrywigheid wat 'n onderneming was of 'n onderneming sou gewees het indien artikel 1 voor die datum van afkondiging van hierdie Wet van toepassing was (behalwe lewerings ten opsigte waarvan, indien daardie goed
- 45 of dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het indien daardie artikel voor die aanvangsdatum van toepassing was) word genoemde goed of dienste, indien die mate van die aanwending of gebruik van bedoelde goed of dienste in die loop van die doen van belasbare lewerings (behalwe lewerings ten opsigte waarvan, indien daardie goed of dienste verkry was op
- 50 die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) na die aanvangsdatum vermeerder word in verhouding tot hulle totale aanwending of gebruik, geag aan hom gelewer te wees en word die ondernemer deur die Kommissaris toegelaat om 'n aftrekking ingevolge artikel 16(3) te maak, in die belastingtydperk waarin bedoelde vermeerdering ingevolge subartikel (6) geag word plaas te vind, van 'n bedrag vasgestel ooreenkomstig die formule";
- 55 (h) deur in genoemde subartikel (5) die woorde wat die voorbehoudsbepaling by die paragraaf wat die betekenis van die simbool "C" omskryf, voorafgaan deur die volgende woorde te vervang:
- 60 "die persentasie voorstel wat, gedurende die tydperk van 12 maande waarin die vermeerdering in die gebruik of aanwending van die goed of dienste geag word plaas te vind, die gebruik of aanwending van die goed of dienste met

the use or application of the goods or services for the purposes of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) was of the total use or application of the goods:";

- (i) by the substitution for the paragraph in the said subsection (5) defining the meaning of the symbol "D" of the following paragraph:

" 'D' represents the percentage that the use or application of the goods or services for the purposes of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) was of the total use or application of such goods or services determined in terms of section 17(1), section 10(9) or subsection (4) of this section or this subsection, whichever was applicable in the period immediately preceding the 12 month period contemplated in 'C':"; and

- (j) by the addition to the said subsection (5) of the following proviso:

"Provided further that where such goods or services consist of second-hand goods contemplated in the proviso to paragraph (b) of the definition of 'input tax' in section 1, the amount determined in terms of this subsection shall not exceed the amount of transfer duty or stamp duty, as the case may be, which is or would have been payable, less any amount which has previously been deducted in terms of the provisions of section 16(3)(a)(ii) or (b)(i), or subsection (4) of this section, in respect of such acquisition, original issue or registration of transfer, as the case may be."

Amendment of section 20 of Act 89 of 1991, as amended by section 11 of Government Notice 2695 of 8 November 1991, section 25 of Act 136 of 1992 and section 33 of Act 97 of 1993

35. Section 20 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (8) of the following paragraph:

"(a) (i) The name of the supplier and—

- (aa) where the supplier is a natural person, his identity number; or
(bb) where the supplier is not a natural person, the name and identity number of the natural person representing the supplier in respect of the supply and any legally allocated registration number of the supplier:

Provided that the recipient—

- (A) shall verify such name and identity number of any such natural person with reference to his identity document, as contemplated in section 1 of the Identification Act, 1986 (Act No. 72 of 1986), and, where the value of the supply is R1 000 or more, retain a photocopy of such name and identity number appearing in such identity document; or
(B) shall verify such name and registration number of any supplier other than a natural person with reference to its business letterhead or other similar document and, where the value of the supply is R1 000 or more, retain a photocopy of such name and registration number appearing on such letterhead or document; and

(ii) the address of the supplier;"

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, section 27 of Act 136 of 1992 and section 25 of Act 37 of 1996

36. Section 22 of the principal Act is hereby amended—

- die doel om belasbare lewerings te doen (behalwe lewerings ten opsigte waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) van die totale gebruik of aanwending van die goed was:";
- (i) deur die paragraaf in genoemde subartikel (5) wat die betekenis van die simbool "D" omskryf deur die volgende paragraaf te vervang:
- "'D' die persentasie voorstel wat die gebruik of aanwending van die goed of dienste met die doel om belasbare lewerings te doen, (behalwe lewerings ten opsigte waarvan, indien daardie goed of dienste verkry was op die tydstip van daardie aanwending, 'n aftrekking van insetbelasting ingevolge artikel 17(2) ontsê sou gewees het) te doen van die totale gebruik of aanwending van genoemde goed of dienste was soos vasgestel ingevolge artikel 17(1), artikel 10(9) of subartikel (4) van hierdie artikel of hierdie subartikel, watter een ook al van toepassing was in die tydperk wat die tydperk van 12 maande beoog in 'C' onmiddellik voorafgaan:"; en
- (j) deur die volgende voorbehoudsbepaling by genoemde subartikel (5) by te voeg:
- "Met dien verstande voorts dat waar bedoelde goed of dienste bestaan uit tweedehandse goed beoog in die voorbehoudsbepaling by paragraaf (b) van die omskrywing van 'insetbelasting' in artikel 1, die bedrag vasgestel ingevolge hierdie subartikel nie die bedrag hereregte of seëlreg, na gelang van die geval, wat betaalbaar is of sou gewees het, min enige bedrag wat voorheen ingevolge die bepalinge van artikel 16(3)(a)(ii) of (b)(i), of subartikel (4) van hierdie artikel afgetrek is ten opsigte van daardie verkryging, oorspronklike uitreiking of registrasie van oordrag, na gelang van die geval, oorskry nie."

30 Wysiging van artikel 20 van Wet 89 van 1991, soos gewysig deur artikel 11 van Goewermmentskennisgewing 2695 van 8 November 1991, artikel 25 van Wet 136 van 1992 en artikel 33 van Wet 97 van 1993

35 35. Artikel 20 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (8) deur die volgende paragraaf te vervang:

- "(a) (i) Die naam van die leweraar en—
- (aa) waar die leweraar 'n natuurlike persoon is, sy identiteitsnommer; of
- (bb) waar die leweraar nie 'n natuurlike persoon is nie, die naam en identiteitsnommer van die natuurlike persoon wat die leweraar ten opsigte van die lewering verteenwoordig en enige regtens toegekende registrasienommer van die leweraar:
- Met dien verstande dat die ontvanger—
- (A) daardie naam en identiteitsnommer van 'n natuurlike persoon moet verifieer met verwysing na sy identiteitsdokument, soos beoog in artikel 1 van die Wet op Identifikasie, 1986 (Wet No. 72 van 1986), en, waar die waarde van die lewering R1 000 of meer is, 'n fotostaat van daardie naam en identiteitsnommer wat in bedoelde identiteitsdokument verskyn, moet behou; of
- (B) daardie naam en registrasienommer van enige leweraar behalwe 'n natuurlike persoon moet verifieer met verwysing na sy besigheidsbriefhoof of ander soortgelyke dokument en, waar die waarde van die lewering R1 000 of meer is, 'n fotostaat van daardie naam en registrasienommer wat op bedoelde briefhoof of dokument verskyn, moet behou; en
- (ii) die adres van die leweraar;"

55 Wysiging van artikel 22 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1991, artikel 13 van Goewermmentskennisgewing 2695 van 8 November 1991, artikel 27 van Wet 136 van 1992 en artikel 25 van Wet 37 van 1996

36. Artikel 22 van die Hoofwet word hierby gewysig—

- (a) by the addition to the first proviso to subsection (1) of the following paragraph:

“(iv) a vendor who has transferred an account receivable at face value on a—

(aa) non-recourse basis to any other person, shall not make any deduction in respect of such transfer in terms of this subsection; or

(bb) recourse basis to any other person, may make a deduction in terms of this subsection only when such account receivable is transferred back to him and he has written off so much of the consideration as has become irrecoverable.”;

- (b) by the insertion after the said subsection (1) of the following subsection:

“(1A) Where a vendor—

(a) has made a taxable supply for consideration in money; and

(b) has furnished a return in respect of the tax period for which the output tax on the supply was payable (at the rate of tax referred to in section 7(1)) and has properly accounted for the output tax on that supply as required in terms of this Act; and

(c) has transferred the account receivable relating to such taxable supply at face value to another vendor (hereinafter referred to as the recipient) on a non-recourse basis on or after the date of promulgation of the Taxation Laws Amendment Act, 1997,

and any amount of the face value (excluding any amount of finance charges or collection costs) of such account receivable has been written off as irrecoverable by such recipient, such recipient may make a deduction in terms of section 16(3) of an amount equal to the tax fraction (being the tax fraction applicable at the time such taxable supply is deemed to have been made) of such face value (limited to the amount paid by the recipient in respect of such face value) written off by him, the deduction so made being deemed for the purposes of the said section to be input tax.”; and

- (c) by the substitution in subsection (3) for the words following upon paragraph (b) of the following words:

“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] 12 months: Provided that the period of [36] 12 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.”.

Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994

37. Section 23 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Every person who, in terms of subsection (1) or section 50A, becomes liable to be registered shall not later than 21 days after becoming so liable apply to the Commissioner for registration in such application form as the Commissioner may [approve] direct and provide the Commissioner with such further particulars and any documentation as the Commissioner may require in such application form for the purpose of registering that person: Provided that where—

- (i) a person who applies for registration under this subsection has not provided all particulars and documentation as required by the Commissioner, that person

- (a) deur die volgende paragraaf by die eerste voorbehoudsbepaling by subartikel (1) te voeg:
- “(iv) ’n ondernemer wat ’n handelsdebiteur teen sigwaarde oorgedra het op ’n—
- 5 (aa) sonder verhaalsregbasis aan ’n ander persoon, doen geen aftrekking ten opsigte van daardie oordrag ingevolge hierdie subartikel nie; of
- (bb) verhaalsregbasis aan ’n ander persoon, mag ’n aftrekking ingevolge hierdie subartikel doen slegs wanneer daardie handelsdebiteur aan hom terug oorgedra word en hy soveel van die vergoeding
- 10 as wat onverhaalbaar geword het, afgeskryf het.”;
- (b) deur die volgende subartikel na genoemde subartikel (1) in te voeg:
- “(1A) Waar ’n ondernemer—
- (a) ’n belasbare lewering teen ’n vergoeding in geld gedoen het; en
- 15 (b) ’n opgawe verstrek het ten opsigte van die belastingtydperk waarvoor die uitsetbelasting op die lewering betaalbaar was (teen die belastingkoers bedoel in artikel 7(1)) en die uitsetbelasting op daardie lewering behoorlik in berekening gebring het soos ingevolge hierdie Wet vereis; en
- 20 (c) die handelsdebiteur met betrekking tot daardie belasbare lewering teen sigwaarde aan ’n ander ondernemer (hieronder die ontvanger genoem) oorgedra het op ’n sonder verhaalsregbasis op of na die datum van afkondiging van die Wysigingswet op Belastingwette, 1997, en enige bedrag van die sigwaarde (uitgesonderd enige bedrag finansieringskoste of invorderingskoste) van daardie handelsdebiteur deur daardie ontvanger as onverhaalbaar afgeskryf is, kan daardie ontvanger ’n aftrekking ingevolge artikel 16(3) doen van ’n bedrag gelyk aan die belastingbreukdeel (synde die belastingbreukdeel van toepassing op die tydstop waarop daardie
- 25 belasbare lewering geag word plaas te gevind het) van daardie sigwaarde (beperk tot die bedrag deur die ontvanger betaal ten opsigte van daardie sigwaarde) deur hom afgeskryf, terwyl die aftrekking wat aldus gedoen word by die toepassing van genoemde artikel geag word insetbelasting te wees.”;
- 30 en
- (c) deur in subartikel (3) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:
- 35 “word ’n bedrag gelyk aan die belastingbreukdeel, soos van toepassing op die tydstop 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] 12 maande gedoen is: Met dien verstande dat die tydperk van [36] 12 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
- 40 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.”.
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Wysiging van artikel 23 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 20 van 1994

- 50 37. Artikel 23 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Elke persoon wat ingevolge subartikel (1) of artikel 50A aanspreeklik word om geregistreer te wees, moet nie later nie as 21 dae nadat hy aldus aanspreeklik word by die Kommissaris aansoek doen om registrasie in die [vorm] aansoekvorm wat die Kommissaris [goedkeur] beveel en aan die Kommissaris die [verdere] nadere besonderhede en enige dokumentasie verstrek wat die Kommissaris in daardie aansoekvorm vereis ten einde daardie persoon te registreer: Met dien verstande dat waar—
- 55 (i) ’n persoon wat ingevolge hierdie subartikel om registrasie aansoek doen, nie alle besonderhede en dokumentasie verstrek het wat deur die Kommissaris vereis word nie, daardie persoon geag word nie om registrasie aansoek te
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- shall be deemed not to have applied for registration until he has provided all such particulars and documentation to the Commissioner;
- (ii) such person is not a resident of the Republic, such person shall be deemed not to have applied for registration until he has—
- (aa) appointed a representative vendor as contemplated in section 48(1) in the Republic and furnished the Commissioner with the particulars of such representative vendor; 5
- (bb) opened a banking account with any bank, mutual bank or other similar institution for the purposes of his enterprise carried on in the Republic and furnished the Commissioner with the particulars of such banking account.”. 10

Amendment of section 32 of Act 89 of 1991

38. Section 32 of the principal Act is hereby amended—

- (a) by the addition of the word “or” at the end of paragraph (b) of subsection (1); and 15
- (b) by the insertion after paragraph (b) of the said subsection (1) of the following paragraph:
- “(c) any direction or supplementary direction made by the Commissioner and served on that person in terms of section 50A(3) or (4).”.

Amendment of section 36 of Act 89 of 1991, as substituted by section 2 of Act 61 of 1993 and amended by section 18 of Act 140 of 1993 and section 22 of Act 20 of 1994 20

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

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

Amendment of section 39 of Act 89 of 1991, as amended by section 37 of Act 136 of 1991, section 16 of Government Notice 2695 of 8 November 1991, section 30 of Act 136 of 1992, section 3 of Act 61 of 1993 and section 23 of Act 20 of 1994 35

40. Section 39 of the principal Act is hereby amended—

- (a) by the deletion of subsection (4); and
- (b) by the substitution for subsection (7) of the following subsection: 40
- “(7) [Where] To the extent that the Commissioner is satisfied that the failure on the part of [any] the person concerned or any other person under the control or acting on behalf of that person to make payment of the tax within the period for payment contemplated in subsection (1)(a), (2), (3), (6) or (6A) or on the date referred to in subsection [(4) or] (5), as the case may be— 45
- (a) (i) did, having regard to the output tax and input tax relating to the supply in respect of which interest is payable, not result in any financial loss (including any loss of interest) to the State; or
- (ii) such person did not benefit financially (taking interest into account) by not making such payment within the said period or on the said date, 50
- he may remit the interest payable in terms of this section; or

- gedoen het nie totdat hy alle sodanige besonderhede en dokumentasie aan die Kommissaris verstrek het;
- (ii) bedoelde persoon nie 'n inwoner van die Republiek is nie, bedoelde persoon geag word nie om registrasie aansoek te doen het nie totdat hy—
- 5 (aa) 'n verteenwoordigende ondernemer soos beoog in artikel 48(1) in die Republiek aangestel het en die Kommissaris van die besonderhede van bedoelde verteenwoordigende ondernemer voorsien het;
- (bb) 'n bankrekening by 'n bank, onderlinge bank of ander soortgelyke instelling geopen het vir die doeleindes van die onderneming deur hom
- 10 in die Republiek bedryf en die besonderhede van bedoelde bankrekening aan die Kommissaris voorsien het.”.

Wysiging van artikel 32 van Wet 89 van 1991

38. Artikel 32 van die Hoofwet word hierby gewysig—
- (a) deur die woord “of” aan die end van paragraaf (b) van subartikel (1) by te
- 15 voeg; en
- (b) deur die volgende paragraaf na paragraaf (b) van genoemde subartikel (1) in te voeg:
- “(c) enige bevel of aanvullende bevel deur die Kommissaris gegee en aan daardie persoon beteken ingevolge artikel 50A(3) of (4).”.

20 Wysiging van artikel 36 van Wet 89 van 1991, soos vervang deur artikel 2 van Wet 61 van 1993 en gewysig deur artikel 18 van Wet 140 van 1993 en artikel 22 van Wet 20 van 1994

39. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
- 25 “(1) Die verpligting om 'n belasting, addisionele belasting, boete of rente hefbaar ingevolge hierdie Wet te betaal, en die reg om dit te ontvang en te verhaal, word nie, tensy die Kommissaris aldus beveel, deur 'n appèl of hangende die beslissing van 'n geregshof opgeskort nie, maar indien 'n aanslag op appèl of ooreenkomstig so 'n beslissing of 'n beslissing van die Kommissaris om die appèl
- 30 na die spesiale raad of die spesiale hof of bedoelde geregshof toe te gee, verander word, vind 'n behoorlike aansuiwering plaas waarby bedrae wat te veel betaal is, terugbetaal word met rente teen die voorgeskrewe koers (maar behoudens die bepalinge van [artikel] artikels 45(1) en 45A) bereken vanaf die datum wat, na ten genoeë van die Kommissaris bewys word, die datum is waarop die bedrae wat te
- 35 veel betaal is, ontvang is, en bedrae wat te min betaal is met boete en rente, bereken volgens voorskrif van artikel 39(1), verhaal kan word.”.

40 Wysiging van artikel 39 van Wet 89 van 1991, soos gewysig deur artikel 37 van Wet 136 van 1991, artikel 16 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 30 van Wet 136 van 1992, artikel 3 van Wet 61 van 1993 en artikel 23 van Wet 20 van 1994

40. Artikel 39 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (4) te skrap; en
- (b) deur subartikel (7) deur die volgende subartikel te vervang:
- 45 “(7) [Waar] In die mate wat die Kommissaris oortuig is dat die versuim aan die kant van [iemand] die betrokke persoon of enige ander persoon onder die beheer van of wat namens daardie persoon optree om betaling van die belasting binne die tydperk vir betaling beoog in subartikel (1)(a), (2), (3), (6) of (6A) of op die datum in subartikel [(4) of] (5) bedoel, na gelang van die geval, te doen—
- 50 (a) (i) met inagneming van die uitsetbelasting en insetbelasting met betrekking tot die lewering ten opsigte waarvan rente betaalbaar is, nie enige finansiële verlies (met inbegrip van rente) vir die Staat tot gevolg gehad het nie; of
- (ii) daardie persoon nie finansiël bevoordeel is (met inagneming van rente) deur nie bedoelde betaling binne genoemde tydperk of op
- 55 genoemde datum te doen nie,
- kan hy die rente betaalbaar ingevolge hierdie artikel kwytskeld; of

- (b) was not due to an intent [to avoid] not to make payment or to postpone liability for the payment of the tax [or the Commissioner is partly so satisfied], he may remit [in whole or in part] any penalty [or interest] payable in terms of this section."

Amendment of section 41 of Act 89 of 1991, as amended by section 32 of Act 136 of 1992 and section 36 of Act 97 of 1993 5

41. Section 41 of the principal Act is hereby amended—

- (a) by the deletion of item (A) of subparagraph (ii) of paragraph (d); and
(b) by the substitution for subparagraph (aa) of paragraph (d) of the following paragraph: 10

"(aa) that the failure to pay the amount which should have been paid was not due to an intent of the person concerned or any other person under the control or acting on behalf of that person not to [avoid the] make payment of tax; and"

Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993 and section 27 of Act 37 of 1996 15

42. Section 44 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) the claim for the refund of such excess amount of tax, additional tax, penalty or interest is [made] received by the Commissioner within five years after the date upon which payment of the amount claimed to be refundable was made: Provided that if the Commissioner is satisfied that such payment was made in accordance with the practice generally prevailing at the said date, no refund shall be made unless the claim for any refund is [made] received by the Commissioner within six months after that date; or"; and 20 25

- (b) by the substitution for subsection (8) of the following subsection:
"(8) If the Commissioner refuses to make or authorize a refund in terms of this section he shall [at the request of the vendor concerned], give [the vendor] written notice of such refusal." 30

Amendment of section 45 of Act 89 of 1991, as amended by section 33 of Act 136 of 1992, section 4 of Act 61 of 1993 and section 24 of Act 20 of 1994

43. Section 45 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (i) of the proviso to subsection (1) of the following paragraphs: 35

"(i) [this subsection shall not apply where—

(aa) where such return made by the vendor is incomplete or defective in any material respect [or] the said period of 21 business days shall be reckoned from the date on which— 40

(aa) the vendor rectifies the return and satisfies the Commissioner that the incompleteness or defectiveness of the return does not affect the amount refundable; or

(bb) the Commissioner makes an assessment upon the vendor reflecting the amount properly refundable to the vendor, whichever date is earlier; 45

[(bb)](ia) where the vendor is in default in respect of any of his obligations under this Act to furnish a return for any tax period preceding the said tax period as required by this Act, the said period of 21 business days shall be reckoned from the date on which any such outstanding return or returns furnished by the vendor as required by this Act are received by such a Receiver of Revenue;"; and 50

- (b) nie te wyte was aan 'n bedoeling om nie te betaal nie of om die aanspreeklikheid vir die betaling van die belasting [te vermy of] uit te stel nie, [of die Kommissaris gedeeltelik aldus oortuig is] kan hy enige boete [of rente] wat ingevolge hierdie artikel betaalbaar is, [geheel of gedeeltelik] kwytgeld."

Wysiging van artikel 41 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1992 en artikel 36 van Wet 97 van 1993

41. Artikel 41 van die Hoofwet word hierby gewysig—

- (a) deur item (A) van subparagraaf (ii) van paragraaf (d) te skrap; en
 (b) deur subparagraaf (aa) van paragraaf (d) deur die volgende subparagraaf te vervang:
 "(aa) dat die versuim om die bedrag te betaal wat betaal moes gewees het nie te wyte was aan 'n bedoeling van die betrokke persoon of enige ander persoon onder die beheer van of wat namens daardie persoon optree om nie betaling van die belasting te doen [vermy] nie; en".

Wysiging van artikel 44 van Wet 89 van 1991, soos gewysig deur artikel 37 van Wet 97 van 1993 en artikel 27 van Wet 37 van 1996

42. Artikel 44 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
 "(a) die eis om die terugbetaling van die bedrag aan belasting, addisionele belasting, boete of rente wat te veel betaal is, [gedoen] deur die Kommissaris ontvang word binne vyf jaar na die datum waarop betaling van die bedrag wat volgens die eis terugbetaalbaar is, gedoen is: Met dien verstande dat indien die Kommissaris oortuig is dat bedoelde betaling ooreenkomstig die algemeen heersende praktyk op genoemde datum betaalbaar was, geen terugbetaling gedoen kan word nie tensy die eis om 'n terugbetaling binne ses maande na daardie datum [gemaak] deur die Kommissaris ontvang is; of"; en
 (b) deur subartikel (8) deur die volgende subartikel te vervang:
 "(8) Indien die Kommissaris weier om 'n terugbetaling ingevolge hierdie artikel te maak of te magtig, moet hy [op versoek van die betrokke ondernemer] skriftelike kennis [aan die ondernemer] van sy weiering gee."

Wysiging van artikel 45 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1992, artikel 4 van Wet 61 van 1993 en artikel 24 van Wet 20 van 1994

43. Artikel 45 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (i) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragrawe te vervang:
 "(i) [hierdie subartikel nie van toepassing is nie waar—
 (aa)] waar genoemde opgawe wat deur die ondernemer verstrekkend is, in enige wesentlike opsig onvolledig of gebrekkig is, [of] bedoelde tydperk van 21 besigheidsdae bereken word vanaf die datum waarop—
 (aa) die ondernemer die opgawe regstel en die Kommissaris oortuig dat die onvolledigheid of gebrekkigheid van die opgawe nie die bedrag terugbetaalbaar beïnvloed nie; of
 (bb) die Kommissaris 'n aanslag op die ondernemer doen wat die bedrag regmatig terugbetaalbaar aan die ondernemer weergee, watter datum ook al die vroegste is;
 [(bb)](ia) waar die ondernemer in gebreke is ten opsigte van enige van sy verpligtinge ingevolge hierdie Wet om 'n opgawe vir 'n belastingtydperk wat bedoelde belastingtydperk voorafgaan volgens die voorskrifte van hierdie Wet te verstrek, bedoelde tydperk van 21 besigheidsdae bereken word vanaf die datum waarop enige bedoelde opgawe of opgawes wat deur die ondernemer verstrekkend word volgens die voorskrifte van hierdie Wet, deur 'n bedoelde Ontvanger van Inkomste ontvang word"; en

(b) by the addition to the proviso to the said subsection (1) of the following paragraph:

“(iii) where the vendor is not a resident of the Republic and—

(aa) has not appointed a representative vendor as contemplated in section 48(1) in the Republic or has not furnished the Commissioner with the particulars of such representative vendor; or

(bb) has not opened a banking account in the Republic as required by paragraph (ii)(bb) of the proviso to section 23(2) or has not furnished the Commissioner with the particulars of such banking account,

the said period of 21 business days shall be reckoned from the date the vendor furnishes the Commissioner with the particulars of such representative vendor or banking account, as the case may be.”

Insertion of section 50A in Act 89 of 1991

44. The following section is hereby inserted in the principal Act after section 50:

“Separate persons carrying on same enterprise under certain circumstances deemed to be single person

50A. (1) Notwithstanding the provisions of section 23, if the Commissioner makes a direction under this section, the persons named in the direction shall be deemed to be a single person carrying on the activities of an enterprise described in the direction and that person shall be liable to be registered in terms of section 23 with effect from the date of the direction or, if the direction so provides, from such date as may be specified therein.

(2) The Commissioner shall not make a direction under this section naming any person unless he is satisfied—

(a) that such person is making or has made taxable supplies; and

(b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities which should properly be regarded as those of the enterprise described in the direction, the other activities of that enterprise being carried on at that time or previously by one or more other persons; and

(c) that, if all the taxable supplies of that enterprise were taken into account, a person carrying on that enterprise should at that time be liable to be registered in terms of subsection (1); and

(d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in subparagraph (b) in the way he does is the avoidance of a liability to be so registered (whether that liability would be his, another person's or that of two or more persons jointly).

(3) A direction made under this section shall be served on each of the persons named in it.

(4) Where, after a direction has been given under this section specifying a description of the enterprise, it appears to the Commissioner that a person who was not named in that direction is making taxable supplies in the course or furtherance of activities which should properly be regarded as part of the activities of that enterprise, the Commissioner may make and serve on him a supplementary direction referring to the earlier direction and the description of the enterprise specified in it and adding that person's name to those of the persons named in the earlier direction with effect from—

(a) the date on which he began to make those taxable supplies; or

(b) deur die volgende paragraaf by die voorbehoudsbepaling by genoemde subartikel (1) te voeg:

“(iii) waar die ondernemer nie ’n inwoner van die Republiek is nie en—

5 (aa) nie ’n verteenwoordigende ondernemer, soos beoog in artikel 48(1), in die Republiek aangestel het nie of nie die Kommissaris van die besonderhede van daardie verteenwoordigende ondernemer voorsien het nie; of

10 (bb) nie ’n bankrekening in die Republiek geopen het soos vereis deur paragraaf (ii)(bb) van die voorbehoudsbepaling by artikel 23(2) of nie die besonderhede van bedoelde bankrekening aan die Kommissaris verstrek het nie,

15 bedoelde tydperk van 21 besigheidsdae bereken word vanaf die datum waarop die ondernemer die Kommissaris van die besonderhede van bedoelde verteenwoordigende ondernemer of bankrekening, na gelang van die geval, voorsien.”.

Invoeging van artikel 50A in Wet 89 van 1991

44. Die volgende artikel word hierby na artikel 50 in die Hoofwet ingevoeg:

“Afsonderlike persone wat dieselfde onderneming bedryf onder sekere omstandighede geag enkele persoon te wees

20 **50A.** (1) Ondanks die bepalings van artikel 23, indien ’n bevel deur die Kommissaris kragtens hierdie artikel gegee word, word die persone in die bevel genoem, geag ’n enkele persoon te wees wat die bedrywighede van ’n onderneming beoefen soos in die bevel beskryf en is bedoelde persoon aanspreeklik om geregistreer te wees ingevolge artikel 23 met ingang van

25 die datum van die bevel of, indien die bevel aldus bepaal, vanaf die datum daarin vermeld.

(2) Die Kommissaris gee nie ’n bevel waarin ’n persoon genoem word kragtens hierdie artikel nie, tensy hy oortuig is—

30 (a) dat bedoelde persoon belasbare lewerings doen of gedoen het; en

(b) dat die bedrywighede in die loop waarvan hy daardie belasbare lewerings doen of gedoen het slegs ’n deel uitmaak van sekere bedrywighede wat behoorlik as dié van die onderneming wat in die bevel beskryf word, beskou moet word, terwyl die ander bedrywighede van daardie onderneming op daardie tydstip of voorheen

35 deur een of meer ander persone bedryf word of is; en

(c) dat, indien alle belasbare lewerings van daardie onderneming in ag geneem word, ’n persoon wat daardie onderneming bedryf op daardie tydstip aanspreeklik behoort te wees om ingevolge subartikel (1) geregistreer te wees; en

40 (d) dat die hoofrede of een van die hoofredes waarom die betrokke persoon die bedrywighede eerste in subparagraaf (b) bedoel, beoefen op die wyse waarop hy dit doen, die vermyding van ’n aanspreeklikheid aldus geregistreer te wees (hetsy dit sy of ’n ander persoon se aanspreeklikheid sou gewees het, of dié van twee of meer persone

45 gesamentlik).

(3) ’n Bevel kragtens hierdie artikel gegee, word aan elkeen van die persone daarin genoem, beteken.

(4) Waar, nadat ’n bevel kragtens hierdie artikel gegee is wat ’n beskrywing van die onderneming vermeld, dit vir die Kommissaris blyk

50 dat ’n persoon wat nie in die bevel genoem is nie belasbare lewerings doen in die loop of ter bevordering van bedrywighede wat behoorlik as deel van die bedrywighede van daardie onderneming beskou moet word, kan die Kommissaris ’n aanvullende bevel gee wat verwys na die vroeëre bevel en

55 die beskrywing van die onderneming daarin vermeld, en daardie persoon se naam by dié van die persone genoem in die vroeëre bevel byvoeg, en aan hom beteken met ingang van—

(a) die datum waarop hy begin het om daardie belasbare lewerings te doen;

- (b) if it was later, the date with effect from which the single person referred to in the earlier direction became liable to be registered in terms of this section.
- (5) If, immediately before a direction (including a supplementary direction) is made under this section, any person named in the direction is registered in respect of the taxable supplies made by him as contemplated in subsection (2) or (4), he shall cease to be liable to be so registered with effect from—
- (a) the date with effect from which the single person concerned became liable to be registered; or
- (b) the date of the direction, whichever date is the later.
- (6) In relation to an enterprise specified in a direction (including a supplementary direction) under this section, the persons named in such direction, who together are deemed to be the liable person, are in subsections (7) and (8) referred to as the members.
- (7) For the purposes of this Act, where a direction is made under this section—
- (a) the person carrying on the enterprise specified in the direction shall be registrable in such name as the members may jointly nominate upon compliance with the provisions of section 23(2);
- (b) any supply of goods or services by or to one of the members in the course of the activities of such single person shall be deemed to be a supply by or to such single person;
- (c) each of the members shall be jointly and severally liable for any tax due by such single person;
- (d) notwithstanding the provisions of paragraph (c), any failure by such single person to comply with any requirement imposed upon him by or under this Act shall be deemed to be a failure by each of the members severally; and
- (e) subject to paragraphs (a) to (d) of this subsection, the members shall be deemed to be a body of persons carrying on the enterprise of such single person and any question as to the scope of the activities of that enterprise at any time shall be determined accordingly.
- (8) If the Commissioner is of the opinion that any person who is one of the members should no longer be regarded as such for the purposes of subsection (7)(c) and (d) and the Commissioner gives notice to that effect, that person shall no longer be liable in terms of that subsection for anything done after the date specified in that notice and shall be deemed to have ceased to be a member of the body of persons referred to in subsection (7)(e)."

Amendment of section 52 of Act 89 of 1991, as substituted by section 39 of Act 136 of 1991

45. Section 52 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the first proviso of the following words:
- "Any pool managed by any board or body for the sale of agricultural, pastoral or other farming products, being a pool contemplated in [section 57 of the Marketing Act, 1968 (Act No. 59 of 1968)] section 17 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), may, on written application by such board or body, for the purposes of this Act be deemed to be an enterprise or part of an enterprise carried on by that board or body separately from the members of such board or body:"

(b) indien dit later was, die datum met ingang waarvan die enkele persoon in die vroeëre bevel bedoel, aanspreeklik geword het om ingevolge hierdie artikel geregistreer te wees.

(5) Indien, onmiddellik voordat 'n bevel (met inbegrip van 'n aanvullende bevel) kragtens hierdie artikel gegee word, 'n persoon wat in die bevel genoem word, geregistreer word ten opsigte van die belasbare lewerings deur hom gedoen soos in subartikel (2) of (4) beoog, hou hy op om aanspreeklik te wees om aldus geregistreer te wees met ingang vanaf—

(a) die datum met ingang waarvan die betrokke enkele persoon aanspreeklik geword het om geregistreer te wees; of

(b) die datum van die bevel, watter datum ook al die laatste is.

(6) Met betrekking tot 'n onderneming vermeld in 'n bevel (met inbegrip van 'n aanvullende bevel) kragtens hierdie artikel, word in subartikels (7) en (8) na die persone wat in die bevel genoem word, wat gesamentlik geag word die aanspreeklike persoon te wees, verwys as die lede.

(7) By die toepassing van hierdie Wet, waar 'n bevel kragtens hierdie artikel gegee is—

(a) is die persoon wat die onderneming bedryf wat in die bevel vermeld word, registreerbaar in die naam wat die lede gesamentlik kan nomineer by die nakoming van die bepalings van artikel 23(2);

(b) word 'n lewering van goed of dienste deur of aan een van die lede in die loop van die bedrywighede van daardie enkele persoon geag 'n lewering deur of aan daardie enkele persoon te wees;

(c) is elkeen van die lede gesamentlik en afsonderlik aanspreeklik vir enige belasting deur daardie enkele persoon verskuldig;

(d) word, ondanks die bepalings van paragraaf (c), enige versuim deur daardie enkele persoon om aan enige vereiste by of kragtens hierdie Wet op hom geplaas, te voldoen, geag 'n versuim deur elkeen van die lede afsonderlik te wees;

(e) word, behoudens die bepalings van paragrafe (a) tot (d) van hierdie subartikel, die lede geag 'n liggaam van persone te wees wat die onderneming van daardie enkele persoon bedryf en 'n vraag na die omvang van die bedrywighede van daardie onderneming op enige tydstop word dienooreenkomstig bepaal.

(8) Indien die Kommissaris van oordeel is dat 'n persoon wat 'n lid is nie meer as sodanig beskou moet word by die toepassing van subartikel (7)(c) en (d) nie en die Kommissaris kennis te dien effekte gee, is daardie persoon nie langer ingevolge daardie subartikel aanspreeklik vir enigiets gedoen na die datum in daardie kennisgewing vermeld nie en word geag op te gehou het om 'n lid van die liggaam van persone in subartikel (7)(e) bedoel, te wees."

Wysiging van artikel 52 van Wet 89 van 1991, soos vervang deur artikel 39 van Wet 136 van 1991

45. Artikel 52 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat die eerste voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"'n Poel wat deur 'n raad of liggaam vir die verkoop van landbou-, veeboerdery- of ander plaasprodukte bestuur word en wat 'n poel beoog in [artikel 57 van die Bemarkingswet, 1968 (Wet No. 59 van 1968)] artikel 17 van die Wet op Bemarking van Landbouprodukte, 1996 (Wet No. 47 van 1996) is, kan, op skriftelike aansoek deur daardie raad of liggaam, by die toepassing van hierdie Wet geag word 'n onderneming of deel van 'n onderneming te wees wat deur daardie raad of liggaam afsonderlik van die lede van daardie raad of liggaam bedryf word."

Amendment of section 54 of Act 89 of 1991, as amended by section 40 of Act 136 of 1991, section 34 of Act 136 of 1992 and section 25 of Act 20 of 1994

46. Section 54 of the principal Act is hereby amended by the addition to subsection (2A) of the following paragraph, the existing subsection becoming paragraph (a):

- “(b) Notwithstanding the provisions of paragraph (a), where any goods are imported into the Republic by an agent who is acting on behalf of another person who is the principal for the purposes of that importation, and—
- (i) the agent is a registered vendor; and
 - (ii) the principal is not a resident of the Republic and is not a registered vendor; and
 - (iii) the goods are imported by the principal for the purposes of a supply made or to be made by him to a person in the Republic; and
 - (iv) the agent obtains and retains documentary proof, as is acceptable to the Commissioner, that—
 - (aa) he paid the tax on importation on behalf of that principal; and
 - (bb) such agent and that principal agree in writing that the said tax has not and will not be reimbursed to such agent by that principal, that importation shall for the purposes of this Act be deemed to be made by such agent and not by that principal.”

Amendment of section 57 of Act 89 of 1991, as substituted by section 24 of Act 46 of 1996

47. Section 57 of the principal Act is hereby amended by the substitution in subsection (1) for the definition of “judge” of the following definition:

- “ ‘judge’ means a judge of the [Supreme Court] High Court and includes a judge in chambers.”

Amendment of section 57C of Act 89 of 1991, as inserted by section 24 of Act 46 of 1996

48. Section 57C of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) A judge may, on [*ex parte*] application by the Commissioner or any officer contemplated in section 57(4), grant an order in terms of which a person contemplated in subsection (7) is designated to act as presiding officer at the inquiry contemplated in this section.”

Amendment of section 57D of Act 89 of 1991, as inserted by section 24 of Act 46 of 1996

49. Section 57D of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

- “For the purposes of the administration of this Act, a judge may, on [*ex parte*] application by the Commissioner or any officer contemplated in section 57(4), issue a warrant, authorising the officer named therein to, without prior notice and at any time—”

Amendment of section 60 of Act 89 of 1991, as amended by section 42 of Act 136 of 1991

50. Section 60 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

- “Where any vendor or any person under the control or acting on behalf of the vendor fails to perform any duty imposed upon him by this Act or does or omits to do anything, with intent—”

Wysiging van artikel 54 van Wet 89 van 1991, soos gewysig deur artikel 40 van Wet 136 van 1991, artikel 34 van Wet 136 van 1992 en artikel 25 van Wet 20 van 1994

46. Artikel 54 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (2A) te voeg terwyl die bestaande subartikel paragraaf (a) word:

“(b) Ondanks die bepaling van paragraaf (a), waar enige goed in die Republiek ingevoer word deur ’n agent wat namens ’n ander persoon optree wat vir die doeleindes van daardie invoer die prinsipaal is, en—

(i) die agent ’n geregistreerde ondernemer is; en

(ii) die prinsipaal nie ’n inwoner van die Republiek is nie en nie ’n geregistreerde ondernemer is nie; en

(iii) die goed deur die prinsipaal ingevoer word vir die doeleindes van ’n lewering wat deur hom gedoen is of gedoen staan te word aan ’n persoon in die Republiek; en

(iv) die agent dokumentêre bewys verkry en behou, wat vir die Kommissaris aanvaarbaar is, dat—

(aa) hy die belasting op invoer namens daardie prinsipaal betaal het; en

(bb) bedoelde agent en daardie prinsipaal skriftelik ooreenkom dat bedoelde belasting nie deur daardie prinsipaal aan bedoelde agent terugbetaal is of sal word nie,

word daardie invoer by die toepassing van hierdie Wet geag deur bedoelde agent en nie deur daardie prinsipaal nie, gedoen te wees.”.

Wysiging van artikel 57 van Wet 89 van 1991, soos vervang deur artikel 24 van Wet 46 van 1996

47. Artikel 57 van die Hoofwet word hierby gewysig deur die omskrywing van “regter” in subartikel (1) deur die volgende omskrywing te vervang:
- “ ‘regter’ ’n regter van die [Hooggeregshof] Hoë Hof en ook ’n regter [op kamerhof] in kamers.”.

Wysiging van artikel 57C van Wet 89 van 1991, soos ingevoeg deur artikel 24 van Wet 46 van 1996

48. Artikel 57C van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) ’n Regter kan, op [ex parte] aansoek deur die Kommissaris of ’n beampte beoog in artikel 57(4), ’n bevel toestaan ingevolge waarvan ’n persoon in subartikel (7) beoog, aangewys word om as voorsittende beampte op te tree by die ondervraging in hierdie artikel beoog.”.

Wysiging van artikel 57D van Wet 89 van 1991, soos ingevoeg deur artikel 24 van Wet 46 van 1996

49. Artikel 57D van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Vir die doeleindes van die administrasie van hierdie Wet kan ’n regter, op [ex parte] aansoek deur die Kommissaris of ’n beampte beoog in artikel 57(4), ’n lasbrief uitreik waarin die beampte daarin genoem, gemagtig word om sonder vooraf kennisgewing en te eniger tyd—”.

Wysiging van artikel 60 van Wet 89 van 1991, soos gewysig deur artikel 42 van Wet 136 van 1991

50. Artikel 60 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Waar ’n ondernemer of ’n persoon onder die beheer van of wat namens die ondernemer optree versuim om enige plig te verrig wat deur hierdie Wet op hom geplaas word of iets doen of nalaat om dit te doen, met die opset—”.

Insertion of section 67B in Act 89 of 1991

51. (1) The following section is hereby inserted in the principal Act after section 67A:

“Registration of motor vehicles prohibited in certain circumstances

67B. Any motor vehicle registering authority in the Republic shall not register any imported motor vehicle unless the person applying for registration produces to such registering authority—

- (a) in the case of a motor vehicle which is imported into the Republic and is not required to be entered in terms of the Customs and Excise Act, a document, receipt or certificate showing that any tax which may be payable in terms of this Act has been paid in respect of such importation into the Republic; or
- (b) in the case of a motor vehicle which is imported into the Republic and is required to be entered in terms of the said Customs and Excise Act, a customs document showing that any tax which may be payable under this Act has been paid in respect of such importation into the Republic; or
- (c) an exemption certificate issued by the Commissioner to the effect that no tax is payable in terms of this Act in respect of the importation of the motor vehicle.”

(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 75 of Act 89 of 1991, as amended by section 45 of Act 136 of 1991 and section 41 of Act 136 of 1992 and substituted by section 29 of Act 20 of 1994

52. Section 75 of the principal Act is hereby amended—

- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The [President] National Executive may enter into an agreement with the government of any other country [or territory] whereby arrangements are made with that government with a view to—

- (a) the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and such other country [or territory], of value-added tax or any similar tax where the supply of goods or services is subject to such tax in either the Republic or such other country [or territory] and such supply or the importation of such goods or services is also subject to such tax in the other country [or territory] which is a party to the agreement;
- (b) the refunding of value-added tax or any similar tax, or any portion of such value-added tax or similar tax, levied under the laws of the Republic and such other country [or territory] in respect of the supply of goods or services in the Republic or such other country [or territory], as the case may be, where such goods or services are imported into such other country [or territory] or the Republic, as the case may be;
- (c) regulating or co-ordinating any matter with regard to the levying and collection, under the laws of the Republic and such other country [or territory], of value-added tax or any similar tax; or
- (d) the rendering of reciprocal assistance in the administration of and the collection of value-added tax or any similar tax under the laws of the Republic and such other country [or territory], or in respect of the execution of the arrangements provided for in any agreement entered into in terms of this section.

Invoeging van artikel 67B in Wet 89 van 1991

51. (1) Die volgende artikel word hierby in die Hoofwet na artikel 67A ingevoeg:

“Registrasie van motorvoertuie in sekere omstandighede verbode

5 **67B.** 'n Motorvoertuigregistrasie-owerheid in die Republiek registreer nie 'n ingevoerde motorvoertuig nie tensy die persoon wat om registrasie aansoek doen aan bedoelde registrasie-owerheid—

10 (a) in die geval van 'n motorvoertuig wat in die Republiek ingevoer word en nie ingevolge die Doeane- en Aksynswet geklaar moet word nie, 'n dokument, kwitansie of sertifikaat wat aantoon dat enige belasting wat ingevolge hierdie Wet betaalbaar mag wees ten opsigte van bedoelde invoer in die Republiek, betaal is; of

15 (b) in die geval van 'n motorvoertuig wat in die Republiek ingevoer word en ingevolge genoemde Doeane- en Aksynswet geklaar moet word, 'n doeanestuk wat aantoon dat enige belasting wat ingevolge hierdie Wet betaalbaar mag wees, ten opsigte van bedoelde invoer in die Republiek betaal is; of

20 (c) 'n vrystellingsbewys deur die Kommissaris uitgereik ten effekte dat geen belasting ingevolge hierdie Wet betaalbaar is ten opsigte van die invoer van die motorvoertuig, voorlê nie.”

(2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

25 **Wysiging van artikel 75 van Wet 89 van 1991, soos gewysig deur artikel 45 van Wet 136 van 1991 en artikel 41 van Wet 136 van 1992 en vervang deur artikel 29 van Wet 20 van 1994**

52. Artikel 75 van die Hoofwet word hierby gewysig—

(a) deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

30 “(1) Die [President] Nasionale Uitvoerende Gesag kan 'n ooreenkoms met die regering van 'n ander land [of gebied] aangaan waarvolgens reëlins met daardie regering getref word wat ten doel het om—

35 (a) die heffing, ingevolge die wette van die Republiek en daardie ander land [of gebied], van belasting op toegevoegde waarde of 'n soortgelyke belasting waar die lewering van goed of dienste aan daardie belasting onderworpe is of in die Republiek of in daardie ander land [of gebied] en daardie lewering of die invoer van daardie goed of dienste ook onderworpe is aan sodanige belasting in die ander land [of gebied] wat 'n party by die ooreenkoms is, te voorkom, te verminder of op te hef;

40 (b) belasting op toegevoegde waarde of 'n soortgelyke belasting, of 'n gedeelte van daardie belasting op toegevoegde waarde of soortgelyke belasting, gehef ingevolge die wette van die Republiek en daardie ander land [of gebied], ten opsigte van die lewering van goed of dienste in die Republiek of daardie ander land [of gebied], na gelang van die geval, terug te betaal waar daardie goed of dienste in daardie ander land [of gebied] of die Republiek, na gelang van die geval, ingevoer word;

45 (c) enige aangeleentheid met betrekking tot die heffing en invordering ingevolge die wette van die Republiek en daardie ander land [of gebied], van belasting op toegevoegde waarde of enige soortgelyke belasting te reël of te koördineer; of

50 (d) wederkerige hulp te verleen by die administrasie van en die invordering van belasting op toegevoegde waarde of 'n soortgelyke belasting ingevolge die wette van die Republiek en daardie ander land [of gebied], of ten opsigte van die uitvoering van die reëlins waarvoor in 'n ooreenkoms wat ingevolge hierdie artikel aangegaan is, voorsiening gemaak is.

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(2) As soon as may be possible after the [conclusion] approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by [the President by notice] publication in the Gazette [whereupon until such notice is withdrawn by the President] and thereupon the arrangements so notified [therein shall, in relation to value-added tax in the Republic] shall have effect as if enacted by this Act.”;

- (b) by the deletion of subsection (3);
- (c) by the deletion of subsection (4); and
- (d) by the substitution for subsection (5) of the following subsection:

“(5) The duty imposed by this Act to preserve secrecy with regard to such tax shall not prevent the disclosure to any authorized officer of the country [or territory mentioned in any notice issued in terms of subsection (2)] contemplated in subsection (1) of any information necessary for the proper execution of the agreement notified in [such notice] terms of subsection (2).”.

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 1555 of 7 October 1993, section 32 of Act 20 of 1994 and section 32 of Act 37 of 1994

53. PART A of Schedule 1 to the principal Act is hereby amended by the substitution for subparagraph (a) of paragraph 5 of the following subparagraph:

“(a) a public authority or a local authority; or”.

Special exemption in respect of goods or services supplied by International Telecommunication Union

54. The supply of any goods or services by the International Telecommunication Union in connection with “Africa Telecom 98” shall be exempt from value-added tax imposed in terms of section 7(1)(a) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

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, section 6 of Act 37 of 1995 and section 34 of Act 37 of 1996

55. (1) Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution in subsection (1) for paragraphs (a), (b) and (c) of the definition of “distributable shares” of the following paragraphs:

- “(a) 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) on the date of the approval of the proposed transaction in terms of subsection (2) for its own benefit, whether directly or indirectly through one or more intermediate companies, if—
 - (i) that holder’s interest, on such date [and at the time of the approval of the proposed transaction in terms of subsection (2)] in at least one of such listed companies constitutes at least 10 per cent of the equity share capital of such listed company; or
 - (ii) such shares so held on such date [and time] represent at least 70 per cent of the market value of the assets of such holder; and
- (b) [any further shares (if any) in listed companies acquired by such holder for its own benefit after that date in addition to the shares referred to in paragraph (a), if—

(2) Die reëlings deur so 'n ooreenkoms getref, word so spoedig doenlik na die **[sluiting]** goedkeuring van die ooreenkoms deur die Parlement, soos beoog in artikel 231 van die Grondwet, deur **[die President by kennisgewing]** publikasie in die *Staatskoerant* aangekondig en **[daarna]** daarop is die **[daarby]** aldus aangekondigde reëlings **[totdat die kennisgewing deur die President ingetrek word, met betrekking tot belasting op toegevoegde waarde in die Republiek]** van krag asof dit by hierdie Wet verorden was.”;

- (b) deur subartikel (3) te skrap;
 (c) deur subartikel (4) te skrap; en
 (d) deur subartikel (5) deur die volgende subartikel te vervang:
 “(5) Die plig opgelê deur hierdie Wet om geheimhouding te bewaar met betrekking tot belasting, belet nie die bekendmaking aan 'n gemagtigde beampte van die land **[of gebied vermeld in 'n ooreenkomstig subartikel (2) uitgevaardigde kennisgewing]** in subartikel (1) beoog van inligting wat nodig is vir die behoorlike uitvoering van die ooreenkoms **[in daardie kennisgewing]** ingevolge subartikel (2) aangekondig nie.”.

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, artikel 32 van Wet 20 van 1994 en artikel 32 van Wet 37 van 1994

53. DEEL A van Bylae 1 by die Hoofwet word hierby gewysig deur subparagraaf (a) van paragraaf 5 deur die volgende subparagraaf te vervang:

“(a) 'n openbare bestuur of 'n plaaslike bestuur; of”.

25 Spesiale vrystelling ten opsigte van goed of dienste gelewer deur Internasionale Telekommunikasie Unie

54. Die lewering van goed of dienste deur die Internasionale Telekommunikasie Unie in verband met “Afrika Telekom 98” is van die belasting op toegevoegde waarde wat ingevolge artikel 7(1)(a) van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), gehef word, vrygestel.

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, artikel 6 van Wet 37 van 1995 en artikel 34 van Wet 37 van 1996

55. (1) Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig deur in subartikel (1) paragrafe (a), (b) en (c) van die omskrywing van “uitkeerbare aandeel” deur die volgende paragrafe te vervang:

“(a) 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) **[op die datum van goedkeuring van die beoogde transaksie ingevolge subartikel (2)]** vir sy eie voordeel gehou, hetsy regstreeks of onregstreeks deur een of meer tussenmaatskappye, indien—

(i) daardie houer se belang, op bedoelde datum **[en ten tyde van die goedkeuring van die beoogde transaksie ingevolge subartikel (2)]** in ten minste een van bedoelde genoteerde maatskappye uit ten minste 10 persent van die ekwiteitsaandelekapitaal van so 'n genoteerde maatskappy bestaan; of

(ii) bedoelde aandeel aldus gehou **[op bedoelde datum [en tydstip]]** ten minste 70 persent van die markwaarde van die bates van daardie houer verteenwoordig; en

(b) **[enige verdere aandeel (as daar is) in genoteerde maatskappye deur bedoelde houer vir sy eie voordeel na daardie datum bykomend by die aandeel bedoel in paragraaf (a) verkry, indien—**

- (i) such further shares so acquired and the shares referred to in paragraph (a) are to be distributed *in specie* in the course of an unbundling transaction and the Commissioner is satisfied that such distribution will be effected in the course of or in anticipation of the winding-up or liquidation of such holder, subject to such conditions as the Commissioner may deem necessary; and 5
- (ii) such further shares so acquired are registered in the name of such holder and stamp duty is duly paid on the registration of transfer of such shares in the name of such holder; and
- (c) 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*] such date by an unbundling company for its own benefit if— 10
 - (i) such unbundling company's interest in such unlisted company on [the] such date [and time referred to in paragraph (a)] constitutes at least 30 per cent of the equity share capital of such unlisted company; or 15
 - (ii) such shares so held on [the] that date [and time referred to in paragraph (a)] represent at least 70 per cent of the market value of the assets of such unbundling company;".
- (2) Subsection (1) shall be deemed to have come into operation on 1 May 1997. 20

Amendment of section 39 of Act 20 of 1994, as amended by section 7 of Act 37 of 1995 and section 35 of Act 37 of 1996

56. (1) Section 39 of the Taxation Laws Amendment Act, 1994, is hereby amended—
- (a) by the substitution in subsection (1) for the definition of "controlled company" of the following definition: 25

" 'controlled company' means a company in relation to which another company is at the date [and time] referred to in the definition of 'controlling company' the controlling company;";
 - (b) by the substitution in subsection (1) for paragraphs (a) and (b) of the definition of "controlling company" of the following words: 30

"[(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 35

(b) at] the [time] date of any agreement referred to in the definition of 'rationalisation scheme' to which such other company is a party;";
 - (c) by the substitution in subsection (1) for the definition of "group of companies" of the following definition: 40

" 'group of companies' means a controlling company and one or more other companies which are controlled in relation to the controlling company at the date [and time] referred to in the definition of 'controlling company';";
 - (d) by the substitution in subsection (1) for the words preceding paragraph (a) of the definition of "rationalisation scheme" of the following words: 45

" 'rationalisation scheme' means any scheme effected in terms of 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 50
 - (e) by the substitution for the words preceding paragraph (a) of subsection (6) of the following words: 55

"For the purposes of 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 date of the

- (i) bedoelde verdere aandele aldus verkry en die aandele bedoel in paragraaf (a), in *specie* uitgekeer staan te word ooreenkomstig 'n ontbondelingstransaksie en die Kommissaris oortuig is dat bedoelde uitkering in die loop of in afwagting van die likwidasië van bedoelde houer bewerkstellig sal word, behoudens die voorwaardes wat die Kommissaris mag nodig ag; en
- (ii) bedoelde verdere aandele aldus verkry, geregistreer word in die naam van bedoelde houer en seëlreg behoorlik betaal word op die registrasie van oordrag van bedoelde aandele in die naam van bedoelde houer; en
- (c) 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] bedoelde datum deur 'n ontbondelingsmaatskappy vir sy eie voordeel gehou indien—
- (i) daardie ontbondelingsmaatskappy se belang in bedoelde ongenoteerde maatskappy op [die] bedoelde datum [en tyd in paragraaf (a) bedoel] uit ten minste 30 persent van die ekwiteitsaandelekapitaal van bedoelde ongenoteerde maatskappy bestaan; of
- (ii) bedoelde aandele aldus gehou op [die] bedoelde datum [en tyd in paragraaf (a) bedoel] ten minste 70 persent van die markwaarde van die bates van daardie ontbondelingsmaatskappy verteenwoordig.”
- (2) Subartikel (1) word geag op 1 Mei 1997 in werking te getree het.

Wysiging van artikel 39 van Wet 20 van 1994, soos gewysig deur artikel 7 van Wet 37 van 1995 en artikel 35 van Wet 37 van 1996

56. (1) Artikel 39 van die Wysigingswet op Belastingwette, 1994, word hierby gewysig—
- (a) deur in subartikel (1) die omskrywing van “beheerde maatskappy” deur die volgende omskrywing te vervang:
- “‘beheerde maatskappy’ ’n maatskappy met betrekking waartoe ’n ander maatskappy op die datum [en tyd] bedoel in die omskrywing van ‘beherende maatskappy’ die beherende maatskappy is;”;
- (b) deur in subartikel (1) paragrawe (a) en (b) van die omskrywing van “beherende maatskappy” deur die volgende woorde 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
- (b) ten tyde] die datum van ’n ooreenkoms bedoel in die omskrywing van ‘rasionalisasieskema’ waartoe bedoelde ander maatskappy ’n party is;”;
- (c) deur in subartikel (1) die omskrywing van “groep maatskappye” deur die volgende omskrywing te vervang:
- “‘groep maatskappye’ ’n beherende maatskappy en een of meer ander maatskappye wat beheerde maatskappye is met betrekking tot die beherende maatskappy op die datum [en tyd] bedoel in die omskrywing van ‘beherende maatskappy’;”;
- (d) deur in subartikel (1) die woorde wat paragraaf (a) van die omskrywing van “rasionalisasieskema” voorafgaan deur die volgende woorde te vervang:
- “‘rasionalisasieskema’ ’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
- (e) deur die woorde wat paragraaf (a) van subartikel (6) voorafgaan deur die volgende woorde te vervang:
- “Vir die doeleindes van belasting hefing ingevolge die Inkomstebelastingwet en ondanks andersluidende bepalings 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] die datum van die

agreement referred to in the definition of 'rationalisation scheme', 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—".

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1997.

Amendment of section 1 of Act 38 of 1996

57. (1) Section 1 of the Tax on Retirement Funds Act, 1996, is hereby amended—

- (a) by the deletion of the word "and" at the end of paragraph (a) of the definition of "interest";
- (b) by the addition of the word "and" at the end of paragraph (b) of the definition of "interest";
- (c) by the addition to the definition of "interest" of the following paragraph:
"(c) any amount contemplated in section 24K of the Income Tax Act;"; and
- (d) by the insertion after the definition of "pensioner" of the following definition:
" 'rental income' includes—

- (a) any royalty;
- (b) any premium or like consideration contemplated in paragraph (g) of the definition of 'gross income' in section 1 of the Income Tax Act;
- (c) any dividend (other than those distributed out of profits of a capital nature) distributed by a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981); and
- (d) any consideration payable by a borrower to the lender in respect of any 'lending arrangement' as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968), as consideration for the use of any marketable security, in so far as such amount is not included in paragraph (a) of the definition of 'interest';"

(2) (a) Subsection (1)(c) shall come into operation on the date of promulgation of this Act and shall apply in respect of agreements entered into on or after that date.

(b) Subsection (1)(d) shall be deemed to have come into operation on 1 March 1997.

Amendment of section 3 of Act 38 of 1996

58. (1) Section 3 of the Tax on Retirement Funds Act, 1996, is hereby amended by the substitution for paragraphs (b) and (c) of the following paragraphs, respectively:

- "(b) 'I' represents the gross amount of any interest received by or accrued to such fund during such tax period from a source within the Republic or deemed to be within the Republic as contemplated in [section] sections 9 and 9C of the Income Tax Act;
- (c) 'R' represents the gross amount of any rental income [(including any royalty and any premium or like consideration contemplated in paragraph (g) of the definition of 'gross income' in section 1 of the Income Tax Act)] received by or accrued to such fund during such tax period from a source within the Republic or deemed to be within the Republic as contemplated in the last-mentioned [section] sections 9 and 9C; and"

(2) Subsection (1) shall in so far as it relates to—

- (a) the deletion of the inclusion in rental income, be deemed to have come into operation on 1 March 1997;
- (b) the insertion of a reference to section 9C of the Income Tax Act, 1962, be deemed to have come into operation on 1 July 1997.

- ooreenkoms in die omskrywing van 'rasionalisasieskema' bedoel, '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 oordragneme-
 5 mende maatskappy genoem) en albei bedoelde maatskappye ten tyde van bedoelde vervreemding lede van dieselfde groep maatskappye is, kan die beherende maatskappy wat by so 'n skema betrokke is en die Kommissaris ooreenkom dat—".
- 10 (2) Subartikel (1) word geag op 1 Mei 1997 in werking te getree het.

Wysiging van artikel 1 van Wet 38 van 1996

57. (1) Artikel 1 van die Wet op Belasting op Uittreefondse, 1996, word hierby gewysig—

- (a) deur die volgende omskrywing na die omskrywing van "gewaarborgde annuïteit" in te voeg:
 15 " 'huurinkomste' ook—
- (a) enige tantième;
 (b) enige premie of soortgelyke vergoeding beoog in paragraaf (g) van die omskrywing van 'bruto inkomste' in artikel 1 van die Inkomstebelastingwet;
 20 (c) enige dividend (behalwe dié uit winste van 'n kapitale aard uitgekeer) deur 'n vaste-eiendomsmaatskappy soos omskryf in artikel 1 van die Wet op Beheer van Effekte-trustskemas, 1981 (Wet No. 54 van 1981), uitgekeer; en
 25 (d) enige vergoeding betaalbaar deur 'n lener aan die uitlener ten opsigte van enige 'leningsreëling' soos omskryf in artikel 23(1) van die Wet op Seëlregte, 1968 (Wet No. 77 van 1968), as vergoeding vir die gebruik van 'n handelseffek, vir sover bedoelde bedrag nie in paragraaf (a) van die omskrywing van 'rente' ingesluit is nie;"
- 30 (b) deur die woord "en" aan die end van paragraaf (a) van die omskrywing van "rente" te skrap;
 (c) deur die woord "en" aan die end van paragraaf (b) van die omskrywing van "rente" by te voeg; en
 (d) deur die volgende paragraaf by die omskrywing van "rente" te voeg:
 35 "(c) 'n bedrag in artikel 24K van die Inkomstebelastingwet beoog;"
- (2)(a) Subartikel (1)(a) word geag op 1 Maart 1997 in werking te getree het.
 (b) Subartikel (1)(d) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van ooreenkomste aangegaan op of na daardie datum.

Wysiging van artikel 3 van Wet 38 van 1996

- 40 58. (1) Artikel 3 van die Wet op Belasting op Uittreefondse, 1996, word hierby gewysig deur paragrawe (b) en (c) deur onderskeidelik die volgende paragrawe te vervang:
- (b) " 'T' die bruto bedrag voorstel van enige rente ontvang deur of toegeval aan bedoelde fonds gedurende bedoelde belastingtydperk uit 'n bron in die
 45 Republiek of geag in die Republiek te wees soos beoog in [artikel] artikels 9 en 9C van die Inkomstebelastingwet;
- (c) 'R' die bruto bedrag voorstel van enige huurinkomste [(met inbegrip van 'n tantième en 'n premie of soortgelyke vergoeding beoog in paragraaf (g) van die omskrywing van 'bruto inkomste' in artikel 1 van die Inkomstebelastingwet)] ontvang deur of toegeval aan bedoelde fonds gedurende
 50 bedoelde belastingtydperk uit 'n bron in die Republiek of geag in die Republiek te wees soos beoog in laasgenoemde [artikel] artikels 9 en 9C; en".
- (2) Subartikel (1) word vir sover dit betrekking het op—
- 55 (a) die skapping van die insluiting by huurinkomste, geag op 1 Maart 1997 in werking te getree het;
 (b) die invoeging van 'n verwysing na artikel 9C van die Inkomstebelastingwet, 1962, geag op 1 Julie 1997 in werking te getree het.

Amendment of section 16 of Act 38 of 1996

59. Section 16 of the Tax on Retirement Funds Act, 1996, is hereby amended—

- (a) by the deletion of the word “and” at the end of paragraph (h);
- (b) by the addition of the following paragraphs:
 - “(j) rebate in respect of foreign taxes on income; and 5
 - “(k) income of controlled foreign entities and investment income arising from any donation, settlement or other disposition,”;
- (c) by the deletion of the word “and” at the end of paragraph (v); and
- (d) by the addition of the following paragraphs:
 - “(vii) the granting of any rebate of any foreign taxes on income as a deduction 10
 - from any tax payable by a fund; and
 - “(viii) in respect of the inclusion of any investment income in the income of any fund.”.

Continuation of certain amendments of Schedules Nos. 1 to 6 to Act 91 of 1964

60. (1) Every amendment of Schedules Nos. 1 to 6 to the Customs and Excise Act, 15
1964, made under section 48, section 56 or section 75(15) of that Act on or before
31 December 1996 shall not lapse by virtue of the provisions of section 48(6), 56(3) or
75(16) of that Act.

(2) The amendments of Schedule No. 5 and Schedule No. 6 to the Customs and Excise
Act, 1964, made under section 75(15) of that Act by Government Notices No. R.433 and 20
No. R.432, respectively, of 13 March 1997, shall not lapse by virtue of the provisions of
section 75 (16) of that Act.

(3) The amendment of Part 2B of Schedule No. 1 to the Customs and Excise Act,
1964, made under section 48 of that Act by Government Notice No. R.434 of
13 March 1997, shall not lapse by virtue of the provisions of section 48(6) of that Act. 25

Short title

61. This Act shall be called the Taxation Laws Amendment Act, 1997.

Wysiging van artikel 16 van Wet 38 van 1996

59. Artikel 16 van die Wet op Belasting op Uittreefondse, 1996, word hierby gewysig—

- (a) deur die woord "en" aan die end van paragraaf (h) te skrap;
- 5 (b) deur die volgende paragrawe by te voeg:
- "(j) korting ten opsigte van buitelandse belastinge op inkomste; en
- (k) inkomste van beheerde buitelandse entiteite en beleggingsinkomste wat ontstaan uit enige skenking, oormaking of ander beskikking,";
- (c) deur die woord "en" aan die end van paragraaf (v) te skrap; en
- 10 (d) deur die volgende paragrawe by te voeg:
- "(vii) die toestaan van 'n korting ten opsigte van buitelandse belastinge op inkomste as 'n aftrekking van enige belasting betaalbaar deur 'n fonds;
- en
- (viii) ten opsigte van die insluiting van enige beleggingsinkomste in die inkomste van 'n fonds."
- 15

Voortdoring van sekere wysigings van Bylaes Nos. 1 tot 6 by Wet 91 van 1964

60. (1) Elke wysiging van Bylaes Nos. 1 tot 6 by die Doeane- en Aksynswet, 1964, wat voor of op 31 Desember 1996 kragtens artikel 48, artikel 56 of artikel 75(15) van daardie Wet aangebring is, verval nie uit hoofde van die bepalings van artikel 48(6),

20 56(3) of 75(16) van daardie Wet nie.

(2) Die wysigings van Bylae No. 5 en Bylae No. 6 by die Doeane- en Aksynswet, 1964, wat kragtens artikel 75(15) van daardie Wet by onderskeidelik Goewermentskennisgewings No. R.433 en No. R.432 van 13 Maart 1997 aangebring is, verval nie uit hoofde van die bepalings van artikel 75(16) van daardie Wet nie.

25 (3) Die wysiging van Deel 2B van Bylae No. 1 by die Doeane- en Aksynswet, 1964, wat kragtens artikel 48 van daardie Wet by Goewermentskennisgewing No. R.434 van 13 Maart 1997 aangebring is, verval nie uit hoofde van die bepalings van artikel 48(6) van daardie Wet nie.

Kort titel

30 61. Hierdie Wet heet die Wysigingswet op Belastingwette, 1997.

SCHEDULE**(Section 15)****AMENDMENTS TO SCHEDULE NO. 1 TO THE
CUSTOMS AND EXCISE ACT, 1964**

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.00		By the substitution for tariff item 104.00 of the following:		
"104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR;		
		TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
	.10	Preparations based on sorghum flour, put up for making beverages	33c/kg	33c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		
	.10	Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/l	15,98c/l

BYLAE

(Artikel 15)

WYSIGINGS VAN BYLAE NO. 1 BY DIE
DOEANE- EN AKSYNSWET, 1964

TARIEF- ITEM	TARIEF- POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
104.00		Deur tariefitem 104.00 deur die volgende te vervang:		
"104.00		BEREIDE VOEDSELS; DRANKE, SPIRITUS EN ASYN; TABAK		
104.01	19.01	MOUTEKSTRAK; VOEDSELBEREIDINGE VAN MEELBLOM, MEEL, STYSEL OF MOUTEKSTRAK, WAT NIE KAKAPOEIER BEVAT NIE OF WAT KAKAPOEIER MET 'N VERHOUDING, VOLGENS MASSA, VAN MINDER AS 50 PERSENT, BEVAT, NIE ELDERS VERMELD OF INGESLUIT NIE; VOEDSELBEREIDINGE VAN GOEDERE VAN POSTE NOS. 04.01 TOT 04.04, WAT NIE KAKAPOEIER BEVAT NIE OF WAT KAKAPOEIER MET 'N VERHOUDING, VOLGENS MASSA, VAN MINDER AS 10 PERSENT, BEVAT, NIE ELDERS VERMELD OF INGESLUIT NIE:		
.10		Preparate op sorghummeelblom gebaseer, vir die maak van drankie bemark	33c/kg	33c/kg
104.05	22.01	WATER, MET INBEGRIIP VAN NATUURLIKE OF KUNSMATIGE MINERAALWATER EN SPUITWATER, WAT NIE BYGEVOEGDE SUIKER OF ANDER VERSOETINGSMIDDELS OF GEURMIDDELS BEVAT NIE; YS EN SNEEU		
	22.02	WATER, MET INBEGRIIP VAN MINERAALWATER EN SPUITWATER, WAT BYGEVOEGDE SUIKER OF ANDER VERSOETINGSMIDDELS OF GEURMIDDELS BEVAT, EN ANDER NIE-ALKOHOLIESE DRANKE (UITGESONDERD VRUGTE- OF GROENTESAPPE WAT IN POS NO. 20.09 VERMELD WORD):		
.10		Mineraalwater, met inbegrip van mineraalbad- en spuitwater, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drankie wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/l	15,98c/l

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TAXATION LAWS AMENDMENT ACT, 1997

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/ℓ	15,98c/ℓ
.30		Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/ℓ	15,98c/ℓ
104.10	22.03	BEER MADE FROM MALT WITH AN ALCOHOL CONTENT BY VOLUME:		
.10		Exceeding 0,5% but not exceeding 1,5%	7 249c/100ℓ	7 249c/100ℓ
.20		Exceeding 1,5% but not exceeding 2,5%	7 903c/100ℓ	7 903c/100ℓ
.30		Exceeding 2,5% but not exceeding 3,5%	8 557c/100ℓ	8 557c/100ℓ
.40		Exceeding 3,5% but not exceeding 4,5%	9 211c/100ℓ	9 211c/100ℓ
.50		Exceeding 4,5% but not exceeding 5,5%	9 865c/100ℓ	9 865c/100ℓ
.60		Exceeding 5,5% but not exceeding 6,5%	10 519c/100ℓ	10 519c/100ℓ
.70		Exceeding 6,5% but not exceeding 7,5%	11 173c/100ℓ	11 173c/100ℓ
.80		Exceeding 7,5%	11 827c/100ℓ	11 827c/100ℓ
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST, OTHER THAN THAT OF HEADING NO. 20.09		
	22.05	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		
.05		Sorghum beer (excluding beer made from preparations based on sorghum flour)	745c/100ℓ	745c/100ℓ
.10		Unfortified still wine	5 315c/100ℓ	5 315c/100ℓ
.40		Fortified still wine	11 500c/100ℓ	11 500c/100ℓ
.50		Other still fermented beverages, unfortified	7 350c/100ℓ	7 350c/100ℓ
.60		Other still fermented beverages, fortified	13 353c/100ℓ	13 353c/100ℓ
.70		Sparkling wine	14 750c/100ℓ	14 750c/100ℓ
.80		Other fermented beverages (excluding sorghum beer)	15 906c/100ℓ	15 906c/100ℓ

WYSIGINGSWET OP BELASTINGWETTE, 1997

Wet No. 27, 1997

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
.20		Limonade en gekeurde mineraalwater, met inbegrip van gekeurde mineraalbad- en spuitwater, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drank wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/ℓ	15,98c/ℓ
.30		Nie-alkoholiese drank nie elders in hierdie tariefitem vermeld of ingesluit nie, bemark in toegemaakte bottels of ander toegemaakte houers gereed om sonder verdunning gedrink te word (uitgesonderd drank wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	14,83c/ℓ	15,98c/ℓ
104.10	22.03	BIER VAN MOUT GEMAAK MET 'N ALKOHOLINHOUD VOLGENS VOLUME VAN:		
.10		Meer as 0,5% maar hoogstens 1,5%	7 249c/100ℓ	7 249c/100ℓ
.20		Meer as 1,5% maar hoogstens 2,5%	7 903c/100ℓ	7 903c/100ℓ
.30		Meer as 2,5% maar hoogstens 3,5%	8 557c/100ℓ	8 557c/100ℓ
.40		Meer as 3,5% maar hoogstens 4,5%	9 211c/100ℓ	9 211c/100ℓ
.50		Meer as 4,5% maar hoogstens 5,5%	9 865c/100ℓ	9 865c/100ℓ
.60		Meer as 5,5% maar hoogstens 6,5%	10 519c/100ℓ	10 519c/100ℓ
.70		Meer as 6,5% maar hoogstens 7,5%	11 173c/100ℓ	11 173c/100ℓ
.80		Meer as 7,5%	11 827c/100ℓ	11 827c/100ℓ
104.15	22.04	WYN VAN VARS DRUIWE, MET INBEGRIIP VAN GEFORTIFISEERDE WYN; DRUIWEMOS, ANDER DAN DIÉ WAT IN POS NO. 20.09 VERMELD WORD		
	22.05	VERMOET EN ANDER WYN VAN VARS DRUIWE MET PLANTE OF ANDER AROMATIESE STOWWE GEGEUR		
	22.06	ANDER GEGISTE DRANKE (BYVOORBEELD, APPELSIDER, PEER-SIDER EN MEE):		
.05		Sorghumbier (uitgesonderd bier wat van preparate wat op sorghummeelblom gebaseer is, gemaak is)	745c/100ℓ	745c/100ℓ
.10		Ongefortifiseerde nie-vonkelende wyn	5 315c/100ℓ	5 315c/100ℓ
.40		Gefortifiseerde nie-vonkelende wyn	11 500c/100ℓ	11 500c/100ℓ
.50		Ander nie-vonkelende gegiste drank, ongefortifiseerd	7 350c/100ℓ	7 350c/100ℓ
.60		Ander nie-vonkelende gegiste drank, gefortifiseerd	13 353c/100ℓ	13 353c/100ℓ
.70		Vonkelwyn	14 750c/100ℓ	14 750c/100ℓ
.80		Ander gegiste drank (uitgesonderd sorghumbier)	15 906c/100ℓ	15 906c/100ℓ

Act No. 27, 1997

TAXATION LAWS AMENDMENT ACT, 1997

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	237 687c/100ℓ of absolute alcohol	—
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	249 633c/100ℓ of absolute alcohol	—
.25		Spirits, manufactured in the Republic by the distillation of any grain product	255 037c/100ℓ of absolute alcohol	—
.29		Other spirits, manufactured in the Republic	243 008c/100ℓ of absolute alcohol	—
.60		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	—	228 074c/100ℓ of absolute alcohol or 98 072c/100ℓ
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	—	228 074c/100ℓ of absolute alcohol
104.30	24.02	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigars	672,5c/kg net	706,0c/kg net
.20		Cigarettes	79c/10 cigarettes	79c/10 cigarettes
		Plus, in respect of cigarettes the mass of the tobacco content of which exceeds 1,5 kg/1 000 cigarettes	2 944c/kg tobacco content	2 944c/kg tobacco content
.30		Cigarette tobacco	99c/50g or fraction thereof plus 382c/kg tobacco	99c/50g or fraction thereof plus 382c/kg tobacco

WYSIGINGSWET OP BELASTINGWETTE, 1997

Wet No. 27, 1997

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
104.20	22.07	ONGEDENATUREERDE ETIELALKOHOL MET 'N STERKTE VAN MINSTENS 80 PERSENT ALKOHOL VOLGENS VOLUME; ETIELALKOHOL EN ANDER SPIRITUS, GEDENATUREER, VAN ENIGE STERKTE		
	22.08	ONGEDENATUREERDE ETIELALKOHOL MET 'N STERKTE VAN MINDER AS 80 PERSENT ALKOHOL VOLGENS VOLUME; SPIRITUS, LIKEURE EN ANDER SPIRITUSDRANKE; SAAMGESTELDE ALKOHOLIESE PREPARATE VAN 'N SOORT WAT GEBRUIK WORD BY DIE VERVAARDIGING VAN DRANKE:		
.10		Wynspiritus, in die Republiek vervaardig deur die destillering van wyn	237 687c/100ℓ absolute alkohol	—
.15		Spiritus, in die Republiek vervaardig deur die destillering van enige suikerrietproduk	249 633c/100ℓ absolute alkohol	—
.25		Spiritus, in die Republiek vervaardig deur die destillering van enige graanproduk	255 037c/100ℓ absolute alkohol	—
.29		Ander spiritus, in die Republiek vervaardig	243 008c/100ℓ absolute alkohol	—
.60		Ingevoerde spiritus van enige aard, met inbegrip van spiritus in ingevoerde spiritusdranke (uitgesonderd likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat) en in saamgestelde alkoholiese preparate met 'n alkoholsterkte van meer as 1,713 persent alkohol volgens volume	—	228 074c/100ℓ absolute alkohol of 98 072c/100ℓ
.70		Spiritus van enige aard in ingevoerde likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat, met of sonder geurende bestanddele	—	228 074c/100ℓ absolute alkohol
104.30	24.02	SIGARE, SEROETE, SIGARILLOS EN SIGARETTE, VAN TABAK OF TABAK-SURROGATE		
	24.03	ANDER BEWERKTE TABAK EN BEWERKTE TABAKSURROGATE, "GEHOMOGENISEERDE" OF "HERSAAMGESTELDE" TABAK-EKSTRAKTE EN ESSENSE:		
.10		Sigare	672,5c/kg netto	706,0c/kg netto
.20		Sigarette	79c/10 sigarette	79c/10 sigarette
		Plus, ten opsigte van sigarette waarvan die massa van die tabakinhoud 1,5 kg/1 000 sigarette oorskry	2 944c/kg tabakinhoud	2 944c/kg tabakinhoud
.30		Sigarettabak	99c/50g of gedeelte daarvan plus 382c/kg tabak	99c/50g of gedeelte daarvan plus 382c/kg tabak

Act No. 27, 1997

TAXATION LAWS AMENDMENT ACT, 1997

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	131c/kg tobacco	131c/kg tobacco
.40		Pipe tobacco in immediate packings of a content of less than 5 kg	727c/kg net	727c/kg net
.50		Pipe tobacco in immediate packings of a content of not less than 5 kg	699c/kg net	699c/kg net"

TARIEF-ITEM	TARIEF-POS	BESKRYWING	SKAAL VAN REG	
			AKSYNS	DOEANE
		Plus 'n opgeskorte reg van:		
		(i) In werking	Nul	Nul
		(ii) Maksimum skaal	131c/kg tabak	131c/kg tabak
.40		Pyptabak in onmiddellike verpakings met 'n inhoud van minder as 5 kg	727c/kg netto	727c/kg netto
.50		Pyptabak in onmiddellike verpakings met 'n inhoud van nie minder as 5 kg nie	699c/kg netto	699c/kg netto"

