



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuisblad by die Poskantoor Geregistreer

Vol. 421

CAPE TOWN, 19 JULY 2000

KAAPSTAD, 19 JULIE 2000

No. 21390

THE PRESIDENCY

No. 744.

19 July 2000

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

No. 30 of 2000: Taxation Laws Amendment Act, 2000.

DIE PRESIDENSIE

No. 744.

19 Julie 2000

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

No. 30 van 2000: Wysigingswet op Belastingwette, 2000.

GENERAL EXPLANATORY NOTE:

- [Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
-
-

(English text signed by the President.)
(Assented to 16 July 2000.)

ACT

To amend the Marketable Securities Tax Act, 1948, so as to withdraw an exemption; and to further regulate the procedures relating to inquiries; to amend the Transfer Duty Act, 1949, so as to withdraw certain exemptions; to further regulate an exemption; to provide for a further exemption; to further regulate the procedures relating to inquiries; and to effect certain textual amendments; to amend the Estate Duty Act, 1955, so as to insert a definition; to effect certain textual amendments; to further regulate a deduction; to withdraw certain deductions; to further regulate the procedures relating to inquiries; and to further regulate penalties which may be imposed in respect of offences; to amend the Income Tax Act, 1962, so as to fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 2001 and 30 June 2001, and by companies in respect of taxable incomes for the years of assessment ending during the period of 12 months ending on 31 March 2001; to delete certain obsolete provisions; to further define certain expressions; to further regulate the secrecy provisions; to increase certain tax rebates; to further regulate the rebate in respect of foreign taxes on income; to effect certain consequential amendments; to further regulate the provisions in respect of the recoupment of deductions and allowances; to further regulate the taxation of investment income from foreign sources; to further regulate the taxation of investment income of controlled foreign entities; to provide for the taxation of foreign dividends; to further regulate the tax exemption of public benefit organisations; to withdraw certain exemptions; to further regulate the exemption in respect of dividend income; to provide for a deduction in respect of restraint of trade payments; to further regulate the deductions in respect of assets which have been scrapped; to provide for a deduction in respect of the depreciation of certain pipelines, transmission lines and railway lines; to further regulate the deduction of donations to certain public benefit organisations; to repeal obsolete sections; to further regulate the provisions relating to the set-off of assessed losses; to withdraw the basis of valuation of trading stock consisting of marketable securities whereunder the last item of trading stock acquired is deemed to be the first item disposed of; to further regulate the provisions in respect of deductions not allowed in the determination of taxable income; to further regulate the provisions prohibiting double deductions; to further regulate the deduction relating to the acquisition and disposal of trading stock; to provide for a limitation of certain deductions so as to match expenditure to the income, goods or benefit received relating to such expenditure; to provide for the manner of taxation of public benefit organisations; to further regulate certain exemptions relating to donations tax; to further regulate the levy of Secondary Tax on Companies in consequence of the taxation of foreign dividends; to further define a definition relating to amounts

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 16 Julie 2000.)*

WET

Tot wysiging van die Handelseffektebelastingwet, 1948, ten einde 'n vrystelling in te trek; en die prosedures met betrekking tot ondervragings verder te reël; tot wysiging van die Wet op Hereregte, 1949, ten einde sekere vrystellings in te trek; 'n vrystelling verder te reël; vir 'n verdere vrystelling voorsiening te maak; die prosedures met betrekking tot ondervragings verder te reël; en sekere tekstuele wysigings aan te bring; tot wysiging van die Boedelbelastingwet, 1955, ten einde 'n omskrywing in te voeg; sekere tekstuele wysigings aan te bring; 'n aftrekking verder te reël; sekere aftrekkings in te trek; die prosedures met betrekking tot ondervragings verder te reël; en strawwe wat opgelê kan word ten opsigte van misdrywe verder te reël; tot wysiging van die Inkomstebelastingwet, 1962, ten einde die skale van normale belasting betaalbaar deur ander persone as maatskappye ten opsigte van belasbare inkomste vir die jare van aanslag eindigende op 28 Februarie 2001 en 30 Junie 2001, en deur maatskappye ten opsigte van belasbare inkomste vir die jare van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 2001, vas te stel; sekere bepalinge wat in onbruik verval het, te skrap; sekere uitdrukkings nader te omskryf; die geheimhoudingsbepalinge verder te reël; sekere belastingkortings te verhoog; die korting ten opsigte van buitelandse belastinge op inkomste verder te reël; sekere gevolglike wysigings aan te bring; die bepalinge met betrekking tot die verhalings van aftrekkings en verminderinge verder te reël; die belasting van beleggingsinkomste uit buitelandse bronne verder te reël; die belasting van beleggingsinkomste van beheerde buitelandse entiteite verder te reël; voorsiening te maak vir die belasting van buitelandse dividende; die belastingvrystelling van openbare weldaadsorganisasies te reël; sekere vrystellings in te trek; die vrystelling ten opsigte van dividendinkomste verder te reël; voorsiening te maak vir 'n aftrekking met betrekking tot betalings ten opsigte van handelsbeperkings; die aftrekkings ten opsigte van bates wat as uitgedien onttrek is verder te reël; voorsiening te maak vir 'n aftrekking ten opsigte van die waardevermindering van sekere pyplyne, transmissiepylyne en spoorlyne; die aftrekking van skenkings aan sekere openbare weldaadsorganisasies verder te reël; artikels wat in onbruik verval het, te skrap; die bepalinge met betrekking tot die verrekening van aangeslane verliese verder te reël; die grondslag van waardasie van handelsvoorraad wat handelseffekte uitmaak ingevolge waarvan die laaste item van handelsvoorraad verkry, geag word die eerste item te wees wat van die hand gesit is, in te trek; die bepalinge ten opsigte van aftrekkings wat nie in die berekening van belasbare inkomste toelaatbaar is nie, verder te reël; die bepalinge wat dubbele aftrekkings verbied, verder te reël; die aftrekking met betrekking tot die verkryging en vandiehandsetting van handelsvoorraad verder te reël; voorsiening te maak vir 'n beperking op sekere aftrekkings ten einde uitgawes tot die inkomste, goed of voordeel ontvang met betrekking tot die uitgawe te koppel; voorsiening te maak vir die wyse van belasting van openbare weldaadsorganisa-

distributed that are deemed to be dividends for the purposes of Secondary Tax on Companies; to further regulate the provisions relating to the furnishing of returns; to further regulate the duty of companies to furnish returns in consequence of the taxation of foreign dividends; to further regulate the procedures relating to inquiries; to further regulate the publication of judgments or decisions of the Special Court for hearing of income tax appeals; to further regulate the power to appoint agents so as to also require the payment of interest and penalties from moneys held by such agents; to provide that employees' tax be deducted from remuneration paid to personal service companies and personal service trusts; to further define expressions for the purposes of the Fourth Schedule; to further regulate the issuing of certificates of exemption for employees' tax purposes; to further define an expression for the purposes of the Seventh Schedule; and to further regulate the determination of the value of any fringe benefit relating to holiday accommodation; to amend the Customs and Excise Act, 1964, so as to further define an expression in consequence of the introduction of an air passenger tax; to provide for the introduction of an air passenger tax; to provide that the Minister of Finance may publish in a notice certain agreements or protocols which shall be enacted into law; to make provision for a rebate of fuel levy on imported goods; to make provision for a refund of duty in respect of imported goods entitled to a preferential rate of duty; to further regulate the payment of interest; to amend Schedule No. 1 to the said Act and the effective date thereof; to provide for the continuation of amendments to the Schedules; and to amend the long title of the said Act; to amend the Stamp Duties Act, 1968, so as to withdraw certain exemptions; to further regulate certain exemptions relating to public benefit organisations; to provide for an exemption; to provide that any amount of stamp duty or penalty which does not exceed R400 may be denoted by way of adhesive stamps; to further regulate penalties which may be imposed in respect of offences; to further regulate the procedures relating to inquiries; to amend Schedule 1 to the said Act to withdraw certain exemptions; to delete the reference to obsolete provisions; and to effect certain textual amendments; to amend the Eskom Act, 1987, so as to provide for the taxation of the receipts and accruals of Eskom and its subsidiaries; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to include certain services in the zero-rating provisions; to create a new category of vendors for the purposes of accounting for tax; to further regulate the period within which a return has to be submitted; to provide for agreed assessments; to extend the circumstances in which the Commissioner may call for security; and to further regulate the procedures relating to inquiries; to provide for a special exemption from value-added tax; to amend the Income Tax Act, 1993, so as to delete a reference to an obsolete provision; to amend the Tax on Retirement Funds Act, 1996, so as to effect certain consequential amendments; and to amend the formula for determining the income of a fund to make provision for the taxation of foreign dividends; to amend the Uncertificated Securities Tax Act, 1998, so as to withdraw certain exemptions; and to further regulate the procedures relating to inquiries; to amend the Demutualisation Levy Act, 1998, so as to provide for exemption of the Umsobomvu Fund from income tax; to amend the Eskom Amendment Act, 1998, so as to regulate the provisions relating to the income tax exemption of Eskom; to amend the Skills Development Levies Act, 1999, so as to further regulate the exemption of certain public benefit organisations carrying on a public benefit activity of a religious or charitable nature; to effect certain consequential amendments; and to further regulate certain matters relating to representative taxpayers; and to provide for matters connected therewith.

sies; sekere vrystellings met betrekking tot belasting op geskenke verder te reël; die heffing van Sekondêre Belasting op Maatskappye as gevolg van die belasting van buitelandse dividende verder te reël; 'n uitdrukking nader te omskryf met betrekking tot bedrae uitgekeer wat by die toepassing van Sekondêre Belasting op Maatskappye geag word dividende te wees; die bepalings met betrekking tot die verstrekking van opgawes verder te reël; die plig van maatskappye om opgawes te verstrek as gevolg van die belasting van buitelandse dividende verder te reël; die prosedures met betrekking tot ondervragings verder te reël; die publikasie van uitsprake of beslissings van die Speciale Hof vir die verhoor van inkomstebelastingappelle verder te reël; die bevoegdheid om agente aan te stel, verder te reël ten einde ook die betaling van rente en boetes van gelde gehou deur bedoelde agente te vereis; voorsiening te maak vir die aftrekking van werknemersbelasting van vergoeding aan persoonlike diensmaatskappye en persoonlike dienstruists betaal; uitdrukkings by die toepassing van die Vierde Bylae nader te omskryf; die uitreiking van vrystellingsertifikate vir die doeleindes van werknemersbelasting verder te reël; 'n uitdrukking by die toepassing van die Sewende Bylae nader te omskryf; en om die bepaling van die waarde van 'n byvoordeel met betrekking tot vakansiehuisvesting verder te reël; tot wysiging van die Doeane- en Aksynswet, 1964, ten einde 'n uitdrukking nader te omskryf as gevolg van die instelling van 'n lugpassassiersbelasting; voorsiening te maak vir die instelling van 'n lugpassassiersbelasting; voorsiening te maak dat die Minister van Finansies sekere ooreenkomste of protokolle in 'n kennisgewing kan publiseer wat as wet verorden word; voorsiening te maak vir 'n korting van die brandstofheffing op ingevoerde goedere; voorsiening te maak vir 'n terugbetaling van reg ten opsigte van ingevoerde goedere wat vir 'n voorkeurskaal van reg kwalifiseer; die betaling van rente verder te reël; Bylae No. 1 by genoemde Wet en die inwerkingtredingdatum daarvan te wysig; vir die voortdurende van wysigings van die Bylaes voorsiening te maak; en die lang titel van genoemde Wet te wysig; tot wysiging van die Wet op Seëlregte, 1968, ten einde sekere vrystellings in te trek; sekere vrystellings met betrekking tot openbare weldaadsorganisasies verder te reël; vir 'n vrystelling voorsiening te maak; voorsiening te maak dat enige bedrag van seëlreg of boete wat nie R400 te bowe gaan nie by wyse van plakseëls aangebring kan word; strawwe wat ten opsigte van misdrywe opgelê kan word verder te reël; die prosedures met betrekking tot ondervragings verder te reël; Bylae 1 by genoemde Wet te wysig om sekere vrystellings in te trek; die verwysing na bepalings wat in onbruik verval het, te skrap; en sekere tekstuele wysigings aan te bring; tot wysiging van die Eskomwet, 1987, ten einde vir die belasting van die ontvangste en toevallings van Eskom en sy filiale voorsiening te maak; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings nader te omskryf; sekere dienste by die nulkloersbepalings in te sluit; 'n nuwe kategorie vir ondernemers te skep om vir belasting te verantwoord; die tydperk waarin 'n opgaue verstrek moet word, verder te reël; voorsiening te maak vir ooreengekome aanslae; die omstandighede waaronder die Kommissaris sekuriteit kan vereis, uit te brei; en die prosedures met betrekking tot ondervragings verder te reël; voorsiening te maak vir 'n spesiale vrystelling van belasting op toegevoegde waarde; tot wysiging van die Inkomstebelastingwet, 1993, ten einde 'n verwysing na 'n bepaling wat in onbruik verval het, te skrap; tot wysiging van die Wet op Belasting op Uitreefondse, 1996, ten einde sekere gevolglike wysigings aan te bring; en die formule vir die berekening van die inkomste van 'n fonds te wysig om voorsiening te maak vir die belasting van buitelandse dividende; tot wysiging van die Wet op Belasting op Sertifikaatlose Aandele, 1998, ten einde sekere vrystellings in te trek; en die prosedures met betrekking tot ondervragings verder te reël; tot wysiging van die Demutualiseringsheffingswet, 1998, ten einde voorsiening te maak vir vrystelling van die Umsobomvufonds van inkomstebelasting; tot wysiging van die Eskomwysigingswet, 1998, ten einde die bepalings met betrekking tot die inkomstebelastingvrystelling van Eskom te reël; tot wysiging van die "uMthetho we Zibizontela woku Thuthukisa aMakhono, 1999", ten einde die vrystelling van sekere openbare weldaadsorganisasies wat 'n openbare weldaadsaktiwiteit van 'n godsdienstige of liefdadigheidsaard beoefen, verder te reël; sekere gevolglike wysigings aan te bring; en sekere aangeleenthede met betrekking tot verteenwoordigende belastingpligtiges verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

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, section 3 of Act 37 of 1996, section 2 of Act 27 of 1997, section 1 of Act 30 of 1998, section 1 of Act 32 of 1999 and section 2 of Act 53 of 1999

1. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of subparagraph (vii) of paragraph (c) of subsection (3).

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2000.

Amendment of section 9C of Act 32 of 1948, as inserted by section 2 of Act 46 of 1996

2. Section 9C of the Marketable Securities Tax Act, 1948, is hereby amended—

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

“(b) have the same powers—

(i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and

(ii) relating to contempt committed during the proceedings, as are vested in a President of the Special Court contemplated in section 83 of the Income Tax Act, 1962, and for those purposes sections 84 and 85 of that Act shall apply *mutatis mutandis*; and”;

(b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to [a representative of his choice] have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall [not be public] be private and confidential and the presiding officer shall at any time on application [of] by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”;

(c) by the addition of the following subsections:

“(15) Subject to subsection (16), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(16) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers.

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

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, artikel 3 van Wet 37 van 1996, artikel 2 van Wet 27 van 1997, artikel 1 van Wet 30 van 1998, artikel 1 van Wet 32 van 1999 en artikel 2 van Wet 53 van 1999

1. (1) Artikel 3 van die Handelseffektebelastingwet, 1948, word hierby gewysig deur subparagraaf (vii) van paragraaf (c) van subartikel (3) te skrap.

(2) Subartikel (1) word geag op 1 Januarie 2000 in werking te getree het.

Wysiging van artikel 9C van Wet 32 van 1948, soos ingevoeg deur artikel 2 van Wet 46 van 1996

2. Artikel 9C van die Handelseffektebelastingwet, 1948, word hierby gewysig—

(a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

“(b) is met dieselfde bevoegdhede bekleed—

(i) om getuies te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en
(ii) met betrekking tot minagting tydens die verrigtinge gepleeg, as wat in ’n Voorsitter van die Spesiale Hof beoog in artikel 83 van die Inkomstebelastingwet, 1962, vestig, en vir daardie doeleindes is artikels 84 en 85 van daardie Wet *mutatis mutandis* van toepassing; en”;

(b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

“(11) Enige persoon wie se sake ondersoek word gedurende ’n ondervraging in hierdie artikel beoog, is geregtig om [deurgaans] by die ondervraging teenwoordig te wees gedurende die tyd wat sy sake ondersoek word, tensy die voorsittende beampte op aansoek deur die persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

(12) ’n Persoon in subartikel (9) beoog, het die reg [op ’n verteenwoordiger van sy keuse] om ’n regsverteenwoordiger teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

(13) ’n Ondervraging in hierdie artikel beoog, is [nie vir die publiek toeganklik nie] privaat en vertroulik en die voorsittende beampte moet te eniger tyd op aansoek [van] deur die persoon wie se sake ondersoek word of enige ander persoon wat getuienis lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so ’n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”;

(c) deur die volgende subartikels by te voeg:

“(15) Behoudens subartikel (16) kan die getuienis onder eed of bevestigende verklaring afgelê by ’n ondervraging, deur die Kommissaris gebruik word, in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word ’n party is of waarby ’n persoon wat met daardie persoon gehandel het ’n party is.

(16) (a) Geen persoon mag weier om tydens ’n ondervraging enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

(b) Geen inkriminerende getuienis aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuienis aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op ’n aanklag betreffende die oplê of aflê van ’n eed of die oplê of doen van ’n bevestiging of die aflê van valse getuienis of ’n vals verklaring in verband met daardie vrae en antwoorde.

(17) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of such inquiry.”

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995 and section 3 of Act 32 of 1999

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

- (a) by the deletion of paragraph (bA) of subsection (1);
- (b) by the substitution for the words preceding the proviso to paragraph (c) of subsection (1) of the following words:

“a [religious, charitable or educational institution of a public character] public benefit organisation which is exempt from tax in terms of section [10(1)(f)] 10(1)(cN) of the Income Tax Act, 1962 (Act No. 58 of 1962), in respect of property acquired [for religious, charitable or educational purposes exclusively] by such public benefit organisation the whole, or substantially the whole, of which will be used for the purposes of one or more public benefit activity carried on by such public benefit organisation:”;

- (c) by the deletion of paragraph (j) of subsection (1);

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

“(1A) No duty shall be payable in respect of the registration of any property transferred by any public benefit organisation which is exempt from tax in terms of the provisions of section 10(1)(cN) of the Income Tax Act, 1962, to any other entity which is controlled by that public benefit organisation in order to comply with the provisions of the proviso to subsection (3) of section 30 of that Act;”;

- (e) by the deletion of subsection (13); and

- (f) by the deletion of subsection (14).

(2) (a) Subsection (1)(a) shall be deemed to have come into operation on 1 January 2000.

(b) Subsection (1)(b), (c), (d) and (e) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 11D of Act 40 of 1949, as inserted by section 5 of Act 46 of 1996

4. Section 11D of the Transfer Duty Act, 1949, is hereby amended—

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

“(b) have the same powers—

- (i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and

- (ii) relating to contempt committed during the proceedings, as are vested in a President of the Special Court contemplated in section 83 of the Income Tax Act, 1962, and for those purposes sections 84 and 85 of that Act shall apply *mutatis mutandis*; and”;

- (b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in

- (17) 'n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

Wysiging van artikel 9 van Wet 40 van 1949, soos gewysig deur artikel 3 van Wet 31 van 1953, artikel 12 van Wet 80 van 1959, artikel 3 van Wet 70 van 1963, artikel 3 van Wet 77 van 1964, artikel 1 van Wet 81 van 1965, artikel 7 van Wet 103 van 1969, artikel 2 van Wet 89 van 1972, artikel 3 van Wet 66 van 1973, artikel 5 van Wet 88 van 1974, artikel 77 van Wet 54 van 1976, artikel 2 van Wet 95 van 1978, artikel 6 van Wet 106 van 1980, artikel 2 van Wet 99 van 1981, artikel 2 van Wet 118 van 1984, artikel 3 van Wet 81 van 1985, artikel 3 van Wet 86 van 1987, artikel 4 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989, artikel 1 van Wet 69 van 1989, artikel 79 van Wet 89 van 1991, artikel 6 van Wet 120 van 1992, artikel 4 van Wet 136 van 1992, artikel 5 van Wet 97 van 1993, artikel 2 van Wet 37 van 1995 en artikel 3 van Wet 32 van 1999

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

- (a) deur paragraaf (bA) van subartikel (1) te skrap;
 - (b) deur die woorde wat die voorbehoudsbepaling by paragraaf (c) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

“ ’n [godsdiensstige, liefdadigheids- of opvoedkundige inrigting van ’n openbare aard] openbare weldaadsorganisasie wat ingevolge artikel [10(1)(f)] 10(1)(cN) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van belasting vrygestel is ten opsigte van eiendom wat verkry is [uitsluitlik vir godsdiensstige, liefdadigheids- of opvoedkundige doeleindes] deur bedoelde openbare weldaadsorganisasie waarvan die geheel, of wesenlik die geheel, gebruik sal word vir die doeleindes van een of meer openbare weldaadsaktiwiteit wat deur bedoelde openbare weldaadsorganisasie beoefen word.”;
 - (c) deur paragraaf (j) van subartikel (1) te skrap;
 - (d) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) Geen hereregte is betaalbaar nie ten opsigte van die registrasie van enige eiendom oorgedra deur enige openbare weldaadsorganisasie wat ingevolge die bepalings van artikel 10(1)(cN) van die Inkomstebelastingwet, 1962, van belasting vrygestel is, aan enige ander entiteit wat deur daardie weldaadsorganisasie beheer word, ten einde aan die bepalings van die voorbehoudsbepaling by subartikel (3) van artikel 30 van daardie Wet te voldoen.”;
 - (e) deur subartikel (13) te skrap; en
 - (f) deur subartikel (14) te skrap.
- (2) (a) Subartikel (1)(a) word geag op 1 Januarie 2000 in werking te getree het.
 (b) Subartikel (1)(b), (c), (d) en (e) tree in werking op ’n datum deur die President by proklamasie in the Staatskoerant bepaal.

Wysiging van artikel 11D van Wet 40 van 1949, soos ingevoeg deur artikel 5 van Wet 46 van 1996

4. Artikel 11D van die Wet op Hereregte, 1949, word hierby gewysig—
- (a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

“(b) is met dieselfde bevoegdhede bekleed—

 - (i) om getuies te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en
 - (ii) met betrekking tot minagting tydens die verrigtinge gepleeg, as wat in ’n Voorsitter van die Spesiale Hof beoog in artikel 83 van die Inkomstebelastingwet, 1962, vestig, en vir daardie doeleindes is artikels 84 en 85 van daardie Wet *mutatis mutandis* van toepassing; en”;
 - (b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

“(11) Enige persoon wie se sake ondersoek word gedurende ’n ondervraging in hierdie artikel beoog, is geregtig om [deurgaans] by die ondervraging teenwoordig te wees gedurende die tyd wat sy sake ondersoek word, tensy die voorsittende beampte op aansoek deur die

subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to **[a representative of his choice]** have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall **[not be public]** be private and confidential and the presiding officer shall at any time on application **[of]** by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”; and

(c) by the addition of the following subsections:

“(15) Subject to subsection (16), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(16) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking an of oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers.

(17) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of such inquiry.”.

Amendment of section 15 of Act 40 of 1949, as amended by section 4 of Act 77 of 1964

5. Section 15 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Any person who fails to comply with any provision of this section shall be guilty of an offence and liable on conviction to a fine **[not exceeding fifty rand]** or to imprisonment for a period not exceeding three months.”.

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, section 2 of Act 140 of 1993, section 8 of Act 88 of 1996, section 5 of Act 27 of 1997, section 34 of Act 34 of 1997 and section 7 of Act 53 of 1999

6. Section 1 of the Estate Duty Act, 1955, is hereby amended by the insertion after the definition of “company” of the following definition:

“‘domestic policy’ means any life policy as defined in section 1 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), issued anywhere upon an application made or presented to a representative of an insurer (or to any person on behalf of such a representative) at any place in the Republic, excluding a life policy which has been made payable at a place outside the Republic at the request of the owner, but including any life policy issued outside the Republic which has subsequently been made payable in the Republic at the request of the owner;”.

persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

5 (12) 'n Persoon in subartikel (9) beoog, het die reg **[op 'n verteenwoordiger van sy keuse]** om 'n regsverteenwoordiger teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

10 (13) 'n Ondervraging in hierdie artikel beoog, is **[nie vir die publiek toeganklik nie]** privaat en vertroulik en die voorsittende beampte moet te eniger tyd op **[aan]soek [van]** deur die persoon wie se sake ondersoek word of enige ander persoon wat getuienis lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so 'n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”; en

15 (c) deur die volgende subartikels by te voeg:

20 “(15) Behoudens subartikel (16) kan die getuienis onder eed of bevestigende verklaring afgelê by 'n ondervraging, deur die Kommissaris gebruik word in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word 'n party is of waarby 'n persoon wat met daardie persoon handel het 'n party is.

(16) (a) Geen persoon mag weier om tydens 'n ondervraging enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

25 (b) Geen inkriminerende getuienis aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuienis aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op 'n aanklag betreffende die oplê of aflê van 'n eed of die oplê of doen van 'n bevestiging of die aflê van valse getuienis of 'n valse verklaring in verband met daardie vrae en antwoorde.

30 (17) 'n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiële getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

35 **Wysiging van artikel 15 van Wet 40 van 1949, soos gewysig deur artikel 4 van Wet 77 van 1964**

5. Artikel 15 van die Wet op Hereregte, 1949, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

40 “(3) Iemand wat in gebreke bly om aan enige bepaling van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete **[van hoogstens vyftig rand]** of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.”.

45 **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, artikel 2 van Wet 140 van 1993, artikel 8 van Wet 88 van 1996, artikel 5 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997 en artikel 7 van Wet 53 van 1999**

6. Artikel 1 van die Boedelbelastingwet, 1955, word hierby gewysig deur die volgende omskrywing na die omskrywing van “billike markwaarde” in te voeg:

50 “‘binnelandse polis’ enige lewenspolis in artikel 1 van die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), omskryf, waar ook al uitgereik op aansoek gedoen by of aangebied aan 'n verteenwoordiger van 'n versekeraar (of aan enige persoon namens so 'n verteenwoordiger) op enige plek in die Republiek, uitgesonderd 'n lewenspolis wat
55 op versoek van die eienaar op 'n plek buite die Republiek betaalbaar gemaak is, maar met inbegrip van 'n lewenspolis buite die Republiek uitgereik wat daarna op versoek van die eienaar in die Republiek betaalbaar gemaak is;”.

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, section 7 of Act 97 of 1993, section 6 of Act 27 of 1997 and section 13 of Act 30 of 1998 5

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

“so much of any amount due and recoverable under any policy of insurance which is a ‘domestic policy’ [as defined in section 1 of the Insurance Act, 1943 (Act 27 of 1943)], upon the life of the deceased as exceeds the aggregate amount of any premiums or consideration proved to the satisfaction of the Commissioner to have been paid by any person who is entitled to the amount due under the policy, together with interest at six per cent per annum calculated upon such premiums or consideration from the date of payment to the date of death.” 10 15

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, section 3 of Act 20 of 1994, section 7 of Act 27 of 1997 and section 14 of Act 30 of 1998 20 25

8. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (h) of the following subparagraph:

“(i) any [charitable, educational or religious institution of a public character] public benefit organisation which is exempt from tax in terms of section [10(1)(f)] 10(1)(cN) of the Income Tax Act, 1962 (Act No. 58 of 1962) [and any fund which has been approved by the Commissioner under the provisions of section 10(1)(fA) of that Act]; or”; and 30

(b) by the deletion of subparagraphs (ii) and (iv) of paragraph (h).

(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette* and shall apply in respect of any person who dies on or after that date. 35

Amendment of section 8D of Act 45 of 1955, as inserted by section 7 of Act 46 of 1996

9. Section 8D of the Estate Duty Act, 1955, is hereby amended— 40

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

“(b) have the same powers—

(i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and 45

(ii) relating to contempt committed during the proceedings, as are vested in a President of the Special Court contemplated in section 83 of the Income Tax Act, 1962, and for those purposes sections 84 and 85 of that Act shall apply *mutatis mutandis*; and”; 50

(b) by the substitution for subsections (11), (12) and (13) of the following subsections: 50

“(11) The executor of the estate of the deceased person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the executor and his representative, or 55

- 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 5 Wet 81 van 1985, artikel 9 van Wet 87 van 1988, artikel 7 van Wet 97 van 1993, artikel 6 van Wet 27 van 1997 en artikel 13 van Wet 30 van 1998

7. Artikel 3 van die Boedelbelastingwet, 1955, word hierby gewysig deur die woorde wat die voorbehoudsbepaling by paragraaf (a) van subartikel (3) voorafgaan deur die volgende woorde te vervang:

- 10 “soveel van enige bedrag wat verskuldig en verhaalbaar is ingevolge ’n
assuransiepolis wat ’n ‘binnelandse polis’ [soos omskryf in artikel 1 van die
Versekeringswet, 1943 (Wet No. 27 van 1943)] op die lewe van die oorledene is
as wat die totale bedrag van enige premies of vergoeding wat tot bevrediging van
die Kommissaris bewys word betaal te gewees het deur ’n persoon wat geregtig
15 is op die bedrag wat ingevolge die polis verskuldig is, saam met rente teen ses
persent per jaar bereken op sodanige premies of vergoeding vanaf die datum van
betaling tot die datum van dood te bowe gaan.”

- 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 20 9 van Wet 77 van 1964, artikel 3 van Wet 81 van 1965, artikel 2 van Wet 94 van 1967, artikel 5 van Wet 92 van 1971, artikel 2 van Wet 70 van 1975, artikel 1 van Wet 104 van 1976, artikel 4 van Wet 102 van 1979, artikel 11 van Wet 106 van 1980, artikel 3 van Wet 99 van 1981, artikel 5 van Wet 81 van 1985, artikel 6 van Wet 86 van 1987, artikel 10 van Wet 87 van 1988, artikel 8 van Wet 97 van 1993,
25 artikel 3 van Wet 20 van 1994, artikel 7 van Wet 27 van 1997 en artikel 14 van Wet 30 van 1998

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

(a) deur subparagraaf (i) van paragraaf (h) deur die volgende subparagraaf te vervang:

- 30 “(i) enige [liefdadigheids-, onderwys- of godsdienstige inrigting van ’n
openbare aard] openbare weldaadsorganisasie wat ingevolge artikel
[10(1)(f)] 10(1)(cN) van die Inkomstebelastingwet, 1962 (Wet No. 58
van 1962), van belasting vrygestel is [en ’n fonds wat deur die
Kommissaris kragtens die bepalings van artikel 10(1)(fA) van
35 genoemde Wet goedgekeur is]; of”; en

(b) deur subparagraawe (ii) en (iv) van paragraaf (h) te skrap.

(2) Subartikel (1) tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal en is van toepassing ten opsigte van enige persoon wat op of na daardie datum te sterwe kom.

- 40 Wysiging van artikel 8D van Wet 45 van 1955, soos ingevoeg deur artikel 7 van Wet 46 van 1996

9. Artikel 8D van die Boedelbelastingwet, 1955, word hierby gewysig—

(a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

- 45 “(b) is met dieselfde bevoegdhede bekleed—
(i) om getuiens te verplig om teenwoordig te wees en om getuienis te
lewer of bewysmateriaal oor te lê; en
(ii) met betrekking tot minagting tydens die verrigtinge gepleeg,
as wat in ’n Voorsitter van die Spesiale Hof beoog in artikel 83 van die
Inkomstebelastingwet, 1962, vestig, en vir daardie doeleindes is artikels
50 84 en 85 van daardie Wet *mutatis mutandis* van toepassing; en;”

(b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

- 55 “(11) Die eksekuteur van die boedel van die oorlede persoon wie se
sake ondersoek word gedurende ’n ondervraging in hierdie artikel
beoog, is geregtig om [deurgaans] by die ondervraging teenwoordig te
wees gedurende die tyd wat sy sake ondersoek word, tensy die
voorsittende beamppte op aansoek deur die persoon beoog in subartikel
(1) anders gelas op grond daarvan dat die teenwoordigheid van die

either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to **[a representative of his choice]** have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall **[not be public]** be private and confidential and the presiding officer shall at any time on application **[of]** by the executor of the estate of the deceased person whose affairs are being investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”; and

(c) by the addition of the following subsections:

“(15) Subject to subsection (16), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the executor of the estate of the deceased person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(16) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers.

(17) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of such inquiry.”.

Substitution of section 23 of Act 45 of 1955

10. The following section is hereby substituted for section 23 of the Estate Duty Act, 1955:

“Returns by insurers

23. Every person who carries on in the Republic any insurance business shall whenever he, on the death of any person, makes payment of any claim under any policy of insurance which is a ‘domestic policy’ **[as defined in section one of the Insurance Act, 1943 (Act 27 of 1943)]**, upon the life of that person, advise the Commissioner, in such form as the Commissioner may require, of such payment.”.

Amendment of section 28 of Act 45 of 1955, as amended by section 17 of Act 77 of 1962, section 7 of Act 81 of 1965, section 9 of Act 81 of 1985, section 12 of Act 97 of 1993 and section 8 of Act 46 of 1996

11. Section 28 of the Estate Duty Act, 1955, is hereby amended—

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

“shall be guilty of an offence and liable on conviction to a fine **[not exceeding one thousand rand]** or to imprisonment for a period not exceeding two years **[or to both such fine and such imprisonment]**.”; and

(b) by the substitution for the words following on paragraph (d) of subsection (2) of the following words:

“shall be guilty of an offence and liable on conviction to a fine **[not exceeding R1 000]** or to imprisonment for a period not exceeding two years.”.

eksekuteur en sy verteenwoordiger, of enigeen van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

(12) 'n Persoon in subartikel (9) beoog, het die reg **[op 'n verteenwoordiger van sy keuse]** om 'n regsverteenwoordiger teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

(13) 'n Ondervraging in hierdie artikel beoog, is **[nie vir die publiek toeganklik nie]** privaat en vertroulik en die voorsittende beampte moet te eniger tyd op aansoek **[van]** deur die eksekuteur van die boedel van die oorlede persoon wie se sake ondersoek word of enige ander persoon wat getuienis lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so 'n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”;

(c) deur die volgende subartikels by te voeg:

“(15) Behoudens subartikel (16) kan die getuienis onder eed of bevestigende verklaring afgelê by 'n ondervraging, deur die Kommissaris in enige daaropvolgende verrigtinge waarby die eksekuteur van die boedel van die oorlede persoon wie se sake ondersoek word 'n party is of waarby 'n persoon wat met daardie persoon gehandel het 'n party is, gebruik word.

(16) (a) Geen persoon mag weier om tydens 'n ondervraging enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

(b) Geen inkriminerende getuienis aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuienis aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op 'n aanklag betreffende die oplê of aflê van 'n eed of die oplê of doen van 'n bevestiging of die aflê van valse getuienis of 'n valse verklaring in verband met daardie vrae en antwoorde.

(17) 'n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

Vervanging van artikel 23 van Wet 45 van 1955

10. Artikel 23 van die Boedelbelastingwet, 1955, word hierby deur die volgende artikel vervang:

“Opgawes deur versekeraars

23. Iedere persoon wat versekeringsbesigheid in die Republiek dryf, moet, wanneer hy by die dood van enige persoon 'n eis uitbetaal ingevolge 'n assurantsepolis wat 'n 'binnelandse polis' **[soos in artikel een van die Versekeringswet, 1943 (Wet No. 27 van 1943), omskryf]** op die lewe van bedoelde persoon is, die Kommissaris van daardie uitbetaling in kennis stel in die vorm wat deur die Kommissaris verlang word.”.

Wysiging van artikel 28 van Wet 45 van 1955, soos gewysig deur artikel 17 van Wet 77 van 1962, artikel 7 van Wet 81 van 1965, artikel 9 van Wet 81 van 1985, artikel 12 van Wet 97 van 1993 en artikel 8 van Wet 46 van 1996

11. Artikel 28 van die Boedelbelastingwet, 1955, word hierby gewysig—

(a) deur die woorde wat op paragraaf (b) van subartikel (1) volg deur die volgende woorde te vervang:

“is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete **[van hoogstens duisend rand]** of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar **[of met beide daardie boete en daardie gevangenisstraf]**.”; en

(b) deur die woorde wat op paragraaf (d) van subartikel (2) volg deur die volgende woorde te vervang:

“is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete **[van hoogstens R1 000]** of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.”.

Fixing of rates of normal tax in terms of Act 58 of 1962

12. The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962, in respect of—

- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 2001 or 30 June 2001; 5
- (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2001, excluding any taxable income in respect of which the provisions of paragraph (c) apply; and
- (c) the taxable income of any company contemplated in paragraph 2(b) or (c) of Schedule 1 to this Act, for the year of assessment commencing on or after 1 April 2000 and ending during the period of twelve months ending on 31 March 2000, 10

shall be as set out in Schedule 1 to this Act.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998 and section 10 of Act 53 of 1999 15 20 25 30

13. (1) Section 1 of the Income Tax Act, 1962, is hereby amended— 30

- (a) by the substitution for paragraph (b) of the definition of “company” of the following paragraph:
 - “(b) any association, corporation or company incorporated under the law of any country other than the Republic or any body corporate formed or established under such law [if such association, corporation, company or body, as the case may be, carries on business or has an office or place of business in the Republic or derives income from any source within or deemed to be within the Republic or in which any person ordinarily resident or carrying on business in the Republic is interested as a shareholder or member]; or”; 35 40
- (b) by the deletion of paragraph (c) of the definition of “company”; 40
- (c) by the substitution for paragraph (d) of the definition of “company” of the following paragraph:
 - “(d) any association (not being an association referred to in paragraph (a) or (f) [or an association to which the provisions of section 10(1)(e) apply]) formed in the Republic to serve a specified purpose, beneficial to the public or a section of the public; or”; 45
- (d) by the substitution for paragraph (e) of the definition of “company” of the following paragraph:
 - “(e) any— 50
 - (i) unit portfolio comprised in any unit trust scheme in securities other than property shares managed or carried on by any company registered as a management company under section 4 of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), if—
 - [(i)(aa) such portfolio was created on or after the date of commencement of the Unit Trusts Control Amendment Act, 1962 (Act No. 11 of 1962); 55
 - [(ii)(bb) such portfolio was created before that date and the relevant trust deed has after that date been amended in order to create further units in that portfolio; or 60

Vasstelling van skale van normale belasting ingevolge Wet 58 van 1962

12. Die skale van normale belasting wat ingevolge artikel 5(2) van die Inkomstebelastingwet, 1962, gehef moet word ten opsigte van—

- 5 (a) die belasbare inkomste van 'n ander persoon as 'n maatskappy vir die jaar van aanslag eindigende op 28 Februarie 2001 of 30 Junie 2001;
- (b) die belasbare inkomste van 'n maatskappy vir 'n jaar van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 2001, behalwe enige belasbare inkomste ten opsigte waarvan die bepalings van paragraaf (c), van toepassing is; en
- 10 (c) die belasbare inkomste van 'n maatskappy in paragrawe (b) of (c) van Bylae 1 by hierdie Wet bedoel, vir die jaar van aanslag wat op of na 1 April 2000 'n aanvang neem en eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 2001.

is soos in Bylae 1 by hierdie Wet uiteengesit.

- 15 Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 95 van 1967, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971,
- 20 artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984,
- 25 artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing No. R.780 van 14 April 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel
- 30 2 van Wet 113 van 1993, artikel 2 van Wet 21 van 1994, artikel 2 van Wet 21 van 1995, artikel 2 van Wet 36 van 1996, artikel 2 van Wet 28 van 1997, artikel 19 van Wet 30 van 1998 en artikel 10 van Wet 53 van 1999

13. (1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- 35 (a) deur die volgende paragraaf na paragraaf (c) van die omskrywing van “bruto inkomste” in te voeg:

“(cA) enige bedrag ontvang deur of toegeval aan enige persoon wat—

- (i) 'n natuurlike persoon is;
- (ii) 'n arbeidsmakelaar soos in die Vierde Bylae omskryf is of was (behalwe 'n arbeidsmakelaar ten opsigte waarvan 'n vrystelling-
- 40 sertifikaat ingevolge daardie Bylae uitgereik is);
- (iii) 'n persoonlike diensmaatskappy soos in die Vierde Bylae omskryf, is of was; of
- (iv) 'n persoonlike dienstrust soos in die Vierde Bylae omskryf, is of was,

45 as vergoeding vir enige handelsbeperking op daardie persoon geplaas;”;

- (b) deur na paragraaf (eA) van die omskrywing van “bruto inkomste” die volgende paragraaf in te voeg:

50 “(eB) enige bedrag ontvang deur of toegeval aan enige persoon by wyse van enige uitkering deur enige pensioenfonds of voorsorgsfonds aan daardie persoon (behalwe enige bedrag verhaalbaar ingevolge die bepalings van artikel 37D van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), waar daardie persoon of enige ander persoon van wie daardie persoon die reg verkry het om in daardie fonds of uitkering deel te neem gedurende daardie jaar of enige

55 vorige jaar van aanslag as 'n werkgewer enige bedrag aan daardie fonds vir die voordeel van sy werknemers of voormalige werknemers bygedra het;”;

- (c) deur paragraaf (k) van die omskrywing van “bruto inkomste” deur die volgende paragraaf te vervang:

60 “(k) 'n bedrag ontvang of toegeval by wyse van dividende, met inbegrip van [dividende deur 'n private maatskappy uitgekeer uit of by wyse van die kapitalisering van winste van dié maatskappy, wat voorheen

- (ii) arrangement or scheme carried on outside the Republic in pursuance of which members of the public are or will be invited or permitted to invest in a portfolio of a collective investment scheme, where two or more investors contribute to and hold a participatory interest in a portfolio of the scheme through shares, units or any other form of participatory interest; or”;
- (e) by the substitution for the words preceding paragraph (a) of the definition of “dividend” of the following words:
- “ ‘dividend’ means any amount distributed by a company (not being [a mutual building society or] an institution to which section 10(1)(d) applies) to its shareholders or any amount distributed out of the assets pertaining to any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in this section to shareholders in relation to such unit portfolio (including, in the case of any co-operative society or company referred to in section 27, any amount distributed on or after 1 April 1977 to its members, whether divided among the members in accordance with their rights as shareholders or according to the value of business transactions between individual members and such society or company or on some other basis), and in this definition the expression ‘amount distributed’ includes—”;
- (f) by the insertion after paragraph (c) of the definition of “gross income” of the following paragraph:
- “(cA) any amount received by or accrued to any person who—
- (i) is a natural person;
- (ii) is or was a labour broker as defined in the Fourth Schedule (other than a labour broker in respect of which a certificate of exemption has been issued in terms of that Schedule);
- (iii) is or was a personal service company as defined in the Fourth Schedule; or
- (iv) is or was a personal service trust as defined in the Fourth Schedule,
- as compensation for any restraint of trade imposed on such person;”;
- (g) by the insertion after paragraph (eA) of the definition of “gross income” of the following paragraph:
- “(eB) any amount received by or accrued to any person by way of any distribution by any pension fund or provident fund to such person (other than any amount recoverable in terms of the provisions of section 37D of the Pension Funds Act, 1956 (Act No. 24 of 1956)), where such person or any other person from whom such person received the right to participate in such fund or distribution has during such year or any previous year of assessment as an employer contributed any sum to such fund for the benefit of its employees or former employees;”;
- (h) by the substitution for paragraph (k) of the definition of “gross income” of the following paragraph:
- “(k) any amount received or accrued by way of dividends including any [dividends distributed by a private company out of or by way of capitalization of any profits of such company, which in terms of section 37 of the Income Tax Act, 1941 (Act No. 31 of 1941), had previously been apportioned among its shareholders as the taxable income or the income subject to super tax of such company, and for the purposes of this paragraph all dividends from sources outside the Republic received by or accrued to any person (other than a company) who is ordinarily resident in the Republic or received by or accrued to any company which is registered, managed and controlled in the Republic, shall be deemed to have been received by or to have accrued to such person or company from a source within the Republic] amount determined in accordance with the provisions of section 9E in respect of any foreign dividend received by or accrued to any person who is a resident as defined in such section;”;
- (i) by the insertion after the definition of “mining operations” of the following definition:
- “ ‘Minister’ means the Minister of Finance;”;

- 5 onder sy aandeelhouders ingevolge die bepalings van artikel 37 van
die Inkomstebelastingwet, 1941 (Wet No. 31 van 1941), as die
belasbare inkomste of die aan superbelasting onderhewige inkomste
van dié maatskappy toegedeel was, en by die toepassing van hierdie
10 paragraaf word alle dividende uit bronne buite die Republiek
ontvang deur of toegeval aan iemand anders as 'n maatskappy, wat
gewoonlik in die Republiek woonagtig is, of ontvang deur of
toegeval aan 'n maatskappy wat in die Republiek geregistreer is en
aldaar bestuur en beheer word, geag uit 'n bron in die Republiek
15 deur so iemand of sodanige maatskappy ontvang te gewees het of
aan hom toe te geval het] 'n bedrag ooreenkomstig die bepalings van
artikel 9E bepaal ten opsigte van enige buitelandse dividend ontvang
deur of toegeval aan enige persoon wat 'n inwoner is soos in daardie
artikel omskryf;";
- (d) 15 deur die woorde wat paragraaf (a) van die omskrywing van "dividend"
voorafgaan deur die volgende woorde te vervang:
" 'dividend' 'n bedrag deur 'n ander maatskappy as 'n [onderlinge
bouvereniging of 'n vereniging of] inrigting waarop artikel 10(1)(d)
20 van toepassing is, aan sy aandeelhouders uitgekeer of 'n bedrag uit die
bates met betrekking tot 'n effektegroep bedoel in paragraaf (e) van die
omskrywing van 'maatskappy' in hierdie artikel, aan aandeelhouders met
betrekking tot sodanige effektegroep uitgekeer (met inbegrip van, in die
geval van 'n in artikel 27 bedoelde koöperatiewe vereniging of
maatskappy, 'n bedrag wat op of na 1 April 1977 aan sy lede uitgekeer
25 word, hetsy onder die lede ooreenkomstig hulle regte as aandeelhouders
of volgens die waarde van besigheidstransaksies tussen individuele lede
en bedoelde vereniging of maatskappy of op 'n ander basis verdeel), en
omvat in hierdie omskrywing die uitdrukking 'bedrag uitgekeer'—";
- (e) 30 deur die omskrywing van "handelsvoorraad" deur die volgende omskrywing
te vervang:
" 'handelsvoorraad' ook—
(a) enigets—
(i) 35 deur 'n belastingpligtige vir die doeleindes van vervaardiging,
verkoop of ruil deur of ten behoeve van hom geproduseer
vervaardig, gekoop of op 'n ander wyse verkry; of
(ii) [enigets] waarvan die opbrengs uit die van die hand sit
daarvan deel van sy bruto inkomste uitmaak of sal uitmaak; of
(b) enige verbruikbare voorrade en onderdele deur hom verkry om
gebruik of verbruik te word in die loop van sy bedryf,
40 maar nie ook 'n buitelandse valuta-opsiekontrak en 'n valutatermynk-
trak soos in artikel 24I(1) omskryf nie;";
- (f) 45 deur paragraaf (b) van die omskrywing van "maatskappy" deur die volgende
paragraaf te vervang:
"(b) 'n vereniging, korporasie of maatskappy ingelyf ingevolge die reg van
'n land behalwe die Republiek, of 'n regspersoon opgerig of ingestel
ingevolge sodanige reg [indien daardie vereniging, korporasie,
maatskappy of regspersoon, na gelang van die geval, in die Repu-
blik besigheid dryf of 'n kantoor of besigheidsplek het of uit 'n
50 bron wat in die Republiek is of geag word daarin te wees inkomste
verkry of waarin 'n persoon wat gewoonlik in die Republiek
woonagtig is of daarin besigheid dryf, as 'n aandeelhouer of lid
belang het]; of";
- (g) 55 deur paragraaf (c) van die omskrywing van "maatskappy" te skrap;
- (h) 60 deur paragraaf (d) van die omskrywing van "maatskappy" deur die volgende
paragraaf te vervang:
"(d) 'n vereniging wat nie 'n in paragraaf (a) of (f) bedoelde vereniging is nie
[en ook nie 'n vereniging waarop die bepalings van artikel 10(1)(e)
van toepassing is nie], en wat in die Republiek gestig is om 'n bepaalde
doel ten bate van die publiek of 'n deel van die publiek te dien; of";
- (i) 65 deur paragraaf (e) van die omskrywing van "maatskappy" deur die volgende
paragraaf te vervang:
"(e) 'n—
(i) effektegroep bevat in 'n effektrustskema in ander effekte as eien-
domsaandeel bestuur of voortgesit deur 'n maatskappy geregistreer
as 'n bestuursmaatskappy ingevolge artikel 4 van die Wet op Beheer
van Effektrustskemas, 1981 (Wet No. 54 van 1981), indien—

- (j) by the substitution for the definition of “prescribed rate” of the following definition:

“ ‘prescribed rate’, in relation to any interest payable in terms of this Act, means such rate as the Minister may from time to time fix by notice in the Gazette for the purposes of— 5

(a) [in the case of] interest payable to any taxpayer under the provisions of section 89^{quat}(4) [a rate of 10,5 per cent per annum]; or

(b) [in] any other [case a rate of 14,5 per cent per annum or, in either case, such other rate as the Minister of Finance may from time to time fix by notice in the Gazette] provision of this Act;” and 10

- (k) by the substitution for the definition of “trading stock” of the following definition:

“ ‘trading stock’ includes—

(a) anything— 15

(i) produced, manufactured, purchased or in any other manner acquired by a taxpayer for the purposes of manufacture, sale or exchange by him or on his behalf; or

(ii) the proceeds from the disposal of which forms or will form part of his gross income; or 20

(b) any consumable stores and spare parts acquired by him to be used or consumed in the course of his trade,

but does not include a foreign currency option contract and a forward exchange contract as defined in section 24I(1);”.

- (2) (a) Subsection (1)(a), (b), (d) and (h) shall be deemed to have come into operation 25
on 23 February 2000, and shall apply in respect of any foreign dividend—

(i) received by or accrued to any person on or after that date; or

(ii) which accrued to the person before 23 February 2000, but which is received on or after that date: Provided that the provisions of this paragraph shall not apply in respect of any dividend declared by a company before 23 February 2000, 30
where—

(aa) such company is listed on a recognised stock exchange; or

(bb) in any other case, the chief executive officer and—

(A) an external auditor of the company; or

(B) where a company is situated in a country which does not require 35
compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant, have declared under oath or affirmation that such dividend was actually declared by the company before 23 February 2000.

- (b) Subsection (1)(c) shall come into operation on 1 January 2001 and shall apply in 40
respect of years of assessment commencing on or after that date.

(c) Subsection (1)(f) and (g) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any amount received or accrued on or after that date.

**Amendment of section 4 of Act 58 of 1962, as amended by section 6 of Act 55 of 45
1966, section 4 of Act 104 of 1979, section 32 of Act 104 of 1980, section 3 of Act 96
of 1981, section 3 of Act 85 of 1987, section 3 of Act 70 of 1989, section 4 of Act 21
of 1994, section 3 of Act 36 of 1996, section 34 of Act 34 of 1997, section 21 of Act 30
of 1998 and section 11 of Act 53 of 1999**

14. Section 4 of the Income Tax Act, 1962, is hereby amended— 50

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

- [(i)](aa) sodanige effektegroep op of na die datum van inwerkingtreding van die Wysigingswet op die Beheer van Effektetrustskemas, 1962 (Wet No. 11 van 1962), geskep is; of
- 5 [(ii)](bb) sodanige effektegroep voor daardie datum geskep is en die betrokke trustakte na daardie datum gewysig is ten einde meer onderaandeel in daardie effektegroep te skep; of
- 10 (ii) reëling of skema buite die Republiek beoefen ingevolge waarvan lede van die publiek uitgenooi of toegelaat word of sal word om in 'n portefeulje van 'n gesamentlike beleggingskema te belê, waar twee of meer beleggers bydra tot en 'n deelnemende belang in die portefeulje van die skema by wyse van aandele, eenhede of enige ander vorm van deelnemende belang, hou; of”;
- 15 (j) deur die volgende omskrywing na die omskrywing van “maatskappy” in te voeg:
 “ ‘Minister’ die Minister van Finansies;”;
- (k) deur die omskrywing van “voorgeskrewe koers” deur die volgende omskrywing te vervang:
- 20 “ ‘voorgeskrewe koers’, met betrekking tot enige rente wat ingevolge hierdie Wet betaalbaar is, die koers wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal vir die doeleindes van—
- (a) [in die geval van] rente wat ingevolge die bepalings van artikel 89quat(4) aan 'n belastingpligtige betaalbaar is [‘n koers van 10,5
- 25 persent per jaar]; of
- (b) [in] enige ander [geval, ‘n koers van 14,5 persent per jaar of, in albei gevalle, die ander koers wat die Minister van Finansies van tyd tot tyd by kennisgewing in die Staatskoerant bepaal] bepaling van hierdie Wet;”.
- 30 (2) (a) Subartikel (1)(a) en (b) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige bedrag op of na daardie dag ontvang of toegeval.
- (b) Subartikel (1)(c), (f), (g) en (i) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige buitelandse dividend—
- (i) op of na daardie datum ontvang deur of toegeval aan enige persoon; of
- 35 (ii) wat voor 23 Februarie 2000 aan die persoon toegeval het, maar wat ontvang is op of na daardie datum: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van enige dividend voor 23 Februarie 2000 verklaar, waar—
- (aa) bedoelde maatskappy op 'n erkende aandeelbeurs genoteer is; of
- 40 (bb) in enige ander geval, the hoof uitvoerende beampte en—
- (A) 'n eksterne ouditeur van die maatskappy; of
- (B) waar 'n maatskappy geleë is in 'n land wat nie die verpligte aanstelling van 'n eksterne ouditeur vereis nie, 'n geregistreerde openbare rekenmeester met dieselfde status as 'n gekwalifiseerde geëkspertiseerde rekenmeester,
- 45 onder eed verklaar het of 'n bevestigende verklaring afgelê het dat die dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.
- (c) Subartikel (1)(h) tree in werking op 1 Januarie 2001 en is van toepassing op jare
- 50 van aanslag wat op of na daardie datum 'n aanvang neem.

Wysiging van artikel 4 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 55 van 1966, artikel 4 van Wet 104 van 1979, artikel 32 van Wet 104 van 1980, artikel 3 van Wet 96 van 1981, artikel 3 van Wet 85 van 1987, artikel 3 van Wet 70 van 1989, artikel 4 van Wet 21 van 1994, artikel 3 van Wet 36 van 1996, artikel

55 34 van Wet 34 van 1997, artikel 21 van Wet 30 van 1998 en artikel 11 van Wet 53 van 1999

14. Artikel 4 van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

- “(c) the provisions of this subsection shall not be construed as preventing the Commissioner from—
- (i) disclosing to the Chief of the Central Statistical Services such information in relation to any person as may be required by such Chief in connection with the collection of statistics in complying with the provisions of the Statistics Act, 1976 (Act No. 66 of 1976), or any regulation thereunder; or
 - (ii) publishing a list of approved public benefit organisations for the purposes of the provisions of sections 18A and 30.”;
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) Any person who contravenes the provisions of subsection (1) or (2A) shall be guilty of an offence and liable on conviction to a fine [not exceeding R5 000] or to imprisonment for a period not exceeding two years [or to both such fine and such imprisonment].”.

Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980 and amended by section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5 of Act 21 of 1995, section 4 of Act 36 of 1996, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998 and section 5 of Act 32 of 1999

15. Section 6 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the expression “R3 710” in paragraph (a) of subsection (2) of the expression “R3 800”; and
- (b) by the substitution for the expression “R2 775” in paragraph (b) of subsection (2) of the expression “R2 900”.

Amendment of section 6quat of Act 58 of 1962, as inserted by section 5 of Act 85 of 1987 and amended by section 5 of Act 28 of 1997 and section 12 of Act 53 of 1999

16. (1) Section 6quat of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsections:
 - “(1) Subject to the provisions of subsection (2), there shall be deducted from the normal tax payable by any resident of the Republic or any person contemplated in section 9C(2)(b) or any shareholder who is a ‘resident’ as defined in section 9E, in whose taxable income there is included—
 - (a) any income received by or accrued to such resident or person from any country other than the Republic other than any foreign dividend contemplated in paragraph (d); or
 - (b) any proportional amount of investment income contemplated in section 9D; or
 - (c) any income payable to such resident from the Republic, where such income is deemed to be from a source within the Republic in terms of the provisions of paragraphs (d), (d)bis and (f) of section 9(1); or
 - (d) any foreign dividend contemplated in section 9E, a rebate determined in accordance with this section.
- (1A) For the purposes of subsection (1), the rebate shall be an amount equal to the sum of any taxes on income proved to be payable, without any right of recovery by any person (other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment), by—
 - [(i)(aa)](a)(i) such resident of the Republic; and
 - [(bb)] (ii) any controlled foreign entity, as contemplated in section 9D, in respect of such proportional amount; or
 - [(ii)] (b) such person contemplated in section 9C(2)(b); or

“(c) die bepalings van hierdie subartikel nie so uitgelê word dat dit die Kommissaris belet om—

- (i) die inligting met betrekking tot ’n persoon aan die Hoof van die Sentrale Statistiekdiens te verskaf nie wat deur daardie Hoof vereis word met betrekking tot die insameling van statistieke in die nakoming van die bepalings van die Wet op Statistieke, 1976 (Wet No. 66 van 1976), of enige regulasie daarkragtens; of
- (ii) ’n lys van goedgekeurde openbare weldaadsorganisasies vir die doeleindes van die bepalings van artikels 18A en 30 te publiseer nie.”;

(b) deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) Iemand wat die bepalings van subartikel (1) of (2A) oortree, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete [van hoogstens R5 000] of gevangenisstraf vir ’n tydperk van hoogstens twee jaar [of met sodanige boete sowel as sodanige gevangenisstraf].”.

Wysiging van artikel 6 van Wet 58 van 1962, soos ingevoeg deur artikel 5 van Wet 104 van 1980 en gewysig deur artikel 5 van Wet 96 van 1981, artikel 5 van Wet 91 van 1982, artikel 4 van Wet 94 van 1983, artikel 4 van Wet 121 van 1984, artikel 3 van Wet 96 van 1985, artikel 4 van Wet 85 van 1987, artikel 4 van Wet 90 van 1988, artikel 4 van Wet 70 van 1989, artikel 3 van Wet 101 van 1990, artikel 4 van Wet 129 van 1991, artikel 4 van Wet 141 van 1992, artikel 5 van Wet 21 van 1995, artikel 4 van Wet 36 van 1996, artikel 3 van Wet 28 van 1997, artikel 22 van Wet 30 van 1998 en artikel 5 van Wet 32 van 1999

15. Artikel 6 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur die uitdrukking “R3 710” in paragraaf (a) van subartikel (2) deur die uitdrukking “R3 800” te vervang; en
- (b) deur die uitdrukking “R2 775” in paragraaf (b) van subartikel (2) deur die uitdrukking “R2 900” te vervang.

Wysiging van artikel 6quat van Wet 58 van 1962, soos ingevoeg deur artikel 5 van Wet 85 van 1987 en gewysig deur artikel 5 van Wet 28 van 1997 en artikel 12 van Wet 53 van 1999

16. Artikel 6quat van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikels te vervang:
- “(1) Behoudens die bepalings van subartikel (2), word daar van die normale belasting betaalbaar deur ’n inwoner van die Republiek of enige persoon in artikel 9C(2)(b) beoog of enige aandeelhouer wat ’n ‘inwoner’ is soos in artikel 9E omskryf, in wie se belasbare inkomste daar ingesluit is—
- (a) enige inkomste ontvang deur of toegeval aan daardie inwoner of persoon uit ’n ander land as die Republiek, behalwe ’n buitelandse dividend in paragraaf (d) bedoel; of
- (b) enige proporsionele bedrag van beleggingsinkomste in artikel 9D beoog; of
- (c) enige inkomste aan daardie inwoner vanuit die Republiek betaalbaar, waar daardie inkomste ingevolge die bepalings van paragraawe (d), (d)bis en (f) van artikel 9(1) geag word uit ’n bron in die Republiek te wees; of
- (d) enige buitelandse dividend in artikel 9E bedoel,
- ’n korting ooreenkomstig hierdie artikel bepaal, afgetrek.
- (1A) By die toepassing van subartikel (1), is die korting gelyk aan die som van enige belastings op inkomste wat bewys word deur—
- [(i)(aa)](a)(i) bedoelde inwoner van die Republiek; en
- [(bb)] (ii) enige beheerde buitelandse entiteit, soos beoog in artikel 9D, ten opsigte van gemelde proporsionele gedeelte; of
- [(ii)] (b) bedoelde persoon in artikel 9C(2)(b) beoog.

(c) (i) such shareholder in respect of any dividend contemplated in subsection (1)(d); and

(ii) any company in respect of any profits from which such dividend is declared or deemed to have been declared; or

(d) any company in respect of the proportional amount of any profits from which any dividend is declared or deemed to have been declared to a controlled foreign entity and which dividend relates to any proportional amount of investment income included in the income of such shareholder as contemplated in subsection (1)(b),

to the government of [such other] any country other than the Republic in respect of the amount of income derived from such country, which is so included in that resident's or person's or shareholder's taxable income.

[Provided that]

(1B) Notwithstanding the provisions of subsection (1A)—

(a) the rebate [under this subsection] of any tax proved to be payable to the government of any other country shall not exceed an amount which bears to the total normal tax payable the same ratio as the taxable income attributable to the income derived from such country, which is so included bears to the total taxable income; and

(b) where such sum of any taxes payable to the government of any such other country exceeds the rebate as determined in paragraph (a) [of this proviso] (hereinafter referred to as the excess amount), such excess amount [(excluding so much of such excess amount relating to foreign tax paid or payable by any controlled foreign entity which distributes its profits in the form of dividends)] may—

(i) in the case of any excess amount which relates to any amount included in the income of any company as contemplated in paragraph (a), (c) or (d) of subsection (1), be deducted from any Secondary Tax on Companies which becomes payable by such company after the determination of such excess amount, limited to an amount determined by applying the rate of the Secondary Tax on Companies to the profits attributable to the inclusion of the income contemplated in [paragraph (a) of this subsection] such paragraphs; or

(ii) in the case of any excess amount relating to any amount included in the income of any company as contemplated in paragraph (b) of subsection (1), be deducted from any Secondary Tax on Companies which becomes payable by such company on the distribution of any profits derived by way of dividends declared to such company by such controlled foreign entity from profits that relate to any amount of investment income so included in terms of paragraph (b), limited to an amount determined by

(c)(i) bedoelde aandeelhouer ten opsigte van enige dividend in subartikel (1)(d) bedoel; en

(ii) enige maatskappy ten opsigte van enige winste waaruit bedoelde dividend verklaar is of geag verklaar te gewees het; of

(d) enige maatskappy ten opsigte van die proporsionele gedeelte van enige winste waaruit enige dividend aan 'n beheerde buitelandse entiteit verklaar is of geag verklaar te gewees het en welke dividend betrekking het op enige proporsionele bedrag van beleggingsinkomste wat in die inkomste van bedoelde aandeelhouer ingesluit is soos in subartikel (1)(b) bedoel,

sonder enige reg van verhaal (behalwe 'n reg van verhaal ingevolge 'n reg om enige verliese wat gedurende enige jaar van aanslag ontstaan na 'n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra), aan die regering van **[bedoelde ander]** enige land behalwe die Republiek betaalbaar is ten opsigte van die bedrag aan inkomste vanaf daardie land verkry wat aldus in daardie inwoner of persoon of aandeelhouer se belasbare inkomste ingesluit is.

[Met dien verstande dat] (1B) Ondanks die bepalings van subartikel (1A)—

(a) mag die korting **[ingevolge hierdie subartikel]** van enige belasting wat bewys word aan die regering van enige ander land betaalbaar is, nie 'n bedrag wat tot die totale normale belasting betaalbaar in dieselfde verhouding staan as wat die belasbare inkomste toeskryfbaar aan die inkomste vanaf daardie land verkry wat aldus ingesluit is tot die totale belasbare inkomste staan, te bowe gaan nie; en

(b) waar bedoelde bedrag van belastings betaalbaar aan die regering van enige bedoelde ander land die korting soos bepaal in paragraaf (a) **[van hierdie voorbehoudsbepaling]** (hieronder die oorskotbedrag genoem), te bowe gaan, kan bedoelde oorskotbedrag **[(uitgesonderd soveel van enige oorskotbedrag met betrekking tot buitelandse belasting betaal of betaalbaar deur enige beheerde buitelandse entiteit wat sy winste in die vorm van dividende uitkeer)]**—

(i) in die geval van enige oorskotbedrag met betrekking tot enige bedrag in die inkomste van enige maatskappy soos bedoel in paragraaf (a), (c) of (d) van subartikel (1) ingesluit, afgetrek word van die Sekondêre Belasting op Maatskappye wat deur bedoelde maatskappy betaalbaar word na die vaststelling van bedoelde oorskotbedrag, beperk tot 'n bedrag vasgestel deur die koers van Sekondêre Belasting op Maatskappye toe te pas op die winste wat toeskryfbaar is aan die insluiting van die inkomste in **[paragraaf (a) van hierdie subartikel beoog]** bedoelde paragrawe; of

(ii) in die geval van enige oorskotbedrag met betrekking tot enige bedrag in die inkomste van enige maatskappy soos bedoel in paragraaf (b) van subartikel (1) ingesluit, afgetrek word van die Sekondêre Belasting op Maatskappye wat deur bedoelde maatskappy betaalbaar word by die uitkering van enige winste verkry by wyse van dividende wat aan bedoelde maatskappy deur bedoelde beheerde buitelandse entiteit verklaar is uit winste wat betrekking het op enige bedrag beleggingsinkomste aldus ingevolge paragraaf (b) ingesluit, beperk tot 'n bedrag vasgestel deur die koers van die Sekondêre Belasting

applying the rate of the Secondary Tax on Companies to the amount of the taxable income attributable to the inclusion of the income contemplated in such paragraph,

after the deduction of—

- [(i)](aa) any normal tax paid or payable; or 5
- [(ii)](bb) such sum of taxes payable to the government of any such other country,

whichever amount is the greater:

Provided that—

- (A) the amount of any such excess amount as exceeds the amount of any Secondary Tax on Companies as contemplated in subparagraph (i) or (ii), may— 10
 - (AA) be carried forward to the immediately succeeding year of assessment and shall be deemed to be a tax on income paid to the government of such country in such year; and 15
 - (BB) be set off against the amount of any normal tax payable by such company during such year of assessment in respect of any amount derived from such country which is included in the taxable income of such shareholder during such year, as contemplated in paragraph (a), (b), (c) or (d) of subsection (1), after any tax payable by such company to the government of such country in respect of the amount so included during such year of assessment has been set off against the amount of— 20
 - (AAA) such normal tax payable in respect of such amount of income; and 25
 - (BBB) any Secondary Tax on Companies as contemplated in subparagraph (i) or (ii) which becomes payable during such year; and
- (B) the excess amount contemplated in this paragraph shall not be allowed to be carried forward for more than three years reckoned from the year of assessment when such excess amount was for the first time carried forward; 30
- (c) the amount of any tax which— 35
 - (i) becomes payable to the government of any other country in respect of any amount which—
 - (aa) is declared to any company which is a resident as a foreign dividend which is exempt from tax in terms of section 9E(7)(e); or
 - (bb) would, but for the provisions of section 9D(9)(f), have been included in any income of such company which is a resident; and 40
 - (ii) has not been taken into account as a rebate against any normal tax payable by such company in respect of such amount previously included in his taxable income in terms of section 9D, 45
 - may be deducted from any Secondary Tax on Companies which becomes payable by such company on the distribution of any profits derived by way of dividends declared to such company by any

op Maatskappye toe te pas op die belasbare inkomste wat toeskryfbaar is aan die insluiting van die inkomste in daardie paragraaf bedoel,

na die aftrekking van—

5 [(i)(aa) enige normale belasting betaal of betaalbaar; of

[(ii)(bb) bedoelde som van die belastings betaalbaar aan die regering van bedoelde ander land,

welke bedrag die grootste is:

Met dien verstande dat—

10 (A) die bedrag van bedoelde oorskotbedrag wat die bedrag van enige Sekondêre Belasting op Maatskappye soos bedoel in subparagraaf (i) of (ii) te bowe gaan, kan—

15 (AA) oorgedra word na die onmiddellik daaropvolgende jaar van aanslag en word geag 'n belasting op inkomste betaal aan die regering van daardie land te wees in bedoelde jaar; en

20 (BB) verreken word teen die bedrag van enige normale belasting betaalbaar deur bedoelde maatskappy gedurende bedoelde jaar van aanslag ten opsigte van enige bedrag vanaf bedoelde land verkry wat in die belasbare inkomste van bedoelde aandeelhouer in bedoelde jaar ingesluit is, soos in paragraaf (a), (b), (c) of (d) van subartikel (1) bedoel, na

25 enige belasting betaalbaar deur bedoelde maatskappy aan die regering van bedoelde land gedurende bedoelde jaar van aanslag ten opsigte van die bedrag aldus ingesluit in daardie jaar van aanslag verreken is teen die

30 bedrag van—

(AAA) bedoelde normale belasting ten opsigte van bedoelde bedrag van inkomste betaalbaar; en

35 (BBB) enige Sekondêre Belasting op Maatskappye soos in subparagraaf (i) of (ii) bedoel wat gedurende bedoelde jaar betaalbaar word; en

40 (B) die oorskotbedrag in hierdie paragraaf bedoel, nie vir langer as drie jaar, gereken vanaf die jaar van aanslag waarop bedoelde oorskotbedrag vir die eerste maal oorgedra is, oorgedra mag word nie;

(c) kan die bedrag van enige belasting wat—

45 (i) aan die regering van enige ander land betaalbaar word met betrekking tot enige bedrag wat—

(aa) aan enige maatskappy wat 'n inwoner is as 'n buitelandse dividend verklaar word wat ingevolge artikel 9E(7)(e) van belasting vrygestel is; of

50 (bb) by ontstentenis van die bepaling van artikel 9D(9)(f) by enige inkomste van bedoelde maatskappy wat 'n inwoner is ingesluit sou word; en

55 (ii) nie as 'n korting teen enige normale belasting betaalbaar deur bedoelde maatskappy ten opsigte van bedoelde bedrag voorheen ingesluit in sy belasbare inkomste ingevolge artikel 9D in berekening gebring is nie,

60 afgetrek word van enige Sekondêre Belasting op Maatskappye wat deur bedoelde maatskappy betaalbaar word by die uitkeer van enige winste wat by wyse van dividende aan bedoelde maatskappy deur enige beheerde buitelandse entiteit verklaar uit winste wat verband hou

- controlled foreign entity from profits relating to any investment income so previously included;
- (d) no rebate shall be allowed as a deduction from the tax payable by any shareholder, in respect of any tax contemplated in subsection (1A)(c)(ii) or (d), which is payable by—
- (i) any company distributing any dividend to such shareholder, if such shareholder (in the case of a company, together with any other company in a group of companies of which such company forms part) holds for his or its own benefit less than 10 per cent of the equity share capital in such company; or
- (ii) any company in respect of any profits from which the dividend is declared or deemed to have been declared, if such shareholder does not hold a qualifying interest in such company;
- (e) no rebate shall be allowed in respect of any tax payable on any amount contemplated in subsection (1)(d), if the shareholder has made an election as contemplated in section 9E(6).”; and
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) For the purposes of this section—
- ‘controlled company’ means a controlled company as defined in section 9E;
- ‘controlling company’ means a controlling company as defined in section 9E;
- ‘group of companies’ means a group of companies as defined in section 9E;
- ‘qualifying interest’ means any qualifying interest as defined in section 9E;
- ‘resident of the Republic’ means—
- (a) any natural person who is ordinarily resident in the Republic; and
- (b) any person, other than a natural person, which is incorporated or has its place of effective management in the Republic.”.
- (2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and applies in respect of any foreign dividend—
- (a) received by or accrued to any person on or after that date; or
- (b) which accrued to the person before 23 February 2000, but which is received on or after that date: Provided that the provisions of this paragraph shall not apply in respect of any dividend declared by a company before 23 February 2000, where—
- (i) such company is listed on a recognised stock exchange; or
- (ii) in any other case, the chief executive officer and—
- (aa) an external auditor of the company; or
- (bb) where a company is situated in a country which does not require compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant,
- have declared under oath or affirmation that such dividend was actually declared by the company before 23 February 2000.

met enige beleggingsinkomste aldus voorheen ingesluit, verkry is;

(d) word geen korting toegelaat as 'n aftrekking van die belasting betaalbaar deur enige aandeelhouer nie, ten opsigte van enige belasting in subartikel (1A)(c)(ii) of (d) bedoel, wat betaalbaar is deur—

(i) enige maatskappy wat 'n dividend aan daardie aandeelhouer uitkeer, indien daardie aandeelhouer (in die geval van 'n maatskappy, tesame met enige ander maatskappy in 'n groep maatskappye waarvan bedoelde maatskappy deel uitmaak) minder as 10 persent van die ekwiteitsaandelekapitaal in bedoelde maatskappy vir sy eie belang hou; of

(ii) enige maatskappy ten opsigte van enige winste waaruit die dividend uitgekeer of geag uitgekeer te gewees het, indien daardie aandeelhouer nie 'n kwalifiserende belang in bedoelde maatskappy hou nie;

(e) word geen korting toegelaat ten opsigte van enige belasting betaalbaar ten opsigte van enige bedrag in subartikel (1)(d) bedoel, indien die aandeelhouer 'n keuse soos in artikel 9E(6) bedoel, uitgeoefen het nie.”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) By die toepassing van hierdie artikel beteken—

‘beheerde maatskappy’ ‘n beheerde maatskappy soos in artikel 9E omskryf;

‘beherende maatskappy’ ‘n beherende maatskappy soos in artikel 9E omskryf;

‘groep maatskappye’ ‘n groep maatskappye soos in artikel 9E omskryf; ‘inwoner van die Republiek’—

(a) enige natuurlike persoon wat gewoonlik in die Republiek woonagtig is; en

(b) enige persoon, behalwe 'n natuurlike persoon, wat ingelyf is in of sy plek van effektiewe bestuur binne die Republiek het;

‘kwalifiserende belang’ ‘n kwalifiserende belang soos in artikel 9E omskryf.”.

(2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige buitelandse dividend—

(a) op of na daardie datum ontvang deur of toegeval aan enige persoon; of

(b) wat voor 23 Februarie 2000 aan die persoon toegeval het, maar wat ontvang word op of na daardie datum: Met dien verstande dat die bepalinge van hierdie paragraaf nie van toepassing is nie ten opsigte van enige dividend voor 23 Februarie 2000 deur 'n maatskappy verklaar, waar—

(i) bedoelde maatskappy op 'n erkende aandelebeurs genoteer is; of

(ii) in enige ander geval, die hoof uitvoerende beampte en—

(aa) 'n eksterne ouditeur van die maatskappy; of

(bb) waar 'n maatskappy geleë is in 'n land wat nie die verpligte aanstelling van 'n eksterne ouditeur vereis nie, 'n geregistreerde openbare rekenmeester met dieselfde status as 'n gekwalifiseerde geoktrooieerde rekenmeester,

onder eed verklaar het of 'n bevestigende verklaring afgelê het dat bedoelde dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998 and section 14 of Act 53 of 1999

17. (1) Section 8 of the Income Tax Act, 1962, is hereby amended—

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

“(g) Where, during any year of assessment, any person contemplated in paragraph (e) has held a public office for less than 12 months, the amount of R2 500 referred to in the proviso to paragraph (d)(iv) and the amount determined [by the Minister] in terms of paragraph (f), shall be reduced to an amount which bears to the relevant amount, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), for which the office was held bears to 12 months.”;

(b) by the addition to paragraph (a) of subsection (4) of the following proviso:

“Provided that the provisions of this paragraph shall not apply in respect of any such amount so recovered or recouped which has been included in the gross income of such taxpayer in terms of paragraph (eB) of the definition of ‘gross income’.”; and

(c) by the substitution for paragraph (e) of subsection (4) of the following paragraph:

“(e) If any amount which was deducted—

- (i) under the provisions of section 11(e) or section 12(1) or section 12(1) as applied by section 12(3) or the corresponding provisions of any previous Income Tax Act or section 12B or section 12C or section 14 or section 14bis or section 27(2)(d), in respect of machinery or plant which was used by the taxpayer directly in a process of manufacture, or directly in any other process carried on by him on or after 15 March 1961, which in the opinion of the Commissioner was of a similar nature; or
- (ii) in respect of machinery or plant which was used by an agricultural co-operative (as defined in section 27(9)) directly for storing or packing pastoral, agricultural or other farm products or for subjecting such products to a primary process as defined in the said section 27(9); or
- (iii) in respect of a ship or aircraft used by him for the purposes of his trade; or
- (iv) in respect of any pipeline, transmission line or cable or railway line as contemplated in section 12D,

has as a result of damage or destruction (hereinafter referred to as ‘the event’) been recovered or recouped during any year of assessment, and if the taxpayer satisfies the Commissioner—

- [(i)](aa) that he has concluded or will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) from the date of the event conclude a contract for the acquisition by him of further new or unused machinery, [or] plant, [or a] ship, [or] aircraft, pipeline, transmission line or cable or railway line (hereinafter referred to as the ‘further asset’) to replace the aforesaid machinery, [or] plant, [or] ship, [or] aircraft, pipeline, transmission line or cable or railway line; and

- Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van
 5 Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van 1993, artikel 6 van Wet 21 van 1994, artikel 8 van Wet 21 van 1995, artikel 6 van
 10 Wet 36 van 1996, artikel 6 van Wet 28 van 1997, artikel 24 van Wet 30 van 1998 en artikel 14 van Wet 53 van 1999

17. (1) Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

- “(g) Waar, gedurende ’n jaar van aanslag, ’n persoon bedoel in
 15 paragraaf (e) ’n openbare amp vir minder as 12 maande beklee het, word die bedrag van R2 500 bedoel in die voorbehoudsbepaling by paragraaf (d)(iv) en die bedrag [deur die Minister] vasgestel ingevolge paragraaf (f), verminder tot ’n bedrag wat in dieselfde verhouding tot die betrokke
 20 bedrag staan as die verhouding waarin die aantal maande (by die vasstelling waarvan ’n gedeelte van ’n maand as ’n volle maand beskou word) waarteen die amp beklee is tot 12 maande staan.”;

(b) deur die volgende voorbehoudsbepaling by paragraaf (a) van subartikel (4) te voeg:

- “Met dien verstande dat die bepalings van hierdie paragraaf nie van
 25 toepassing is nie ten opsigte van enige bedoelde bedrag aldus verhaal of vergoed wat ingevolge paragraaf (eB) van die omskrywing van ‘bruto inkomste’ in die bruto inkomste van bedoelde belastingpligtige ingesluit is.”; en

(c) deur paragraaf (e) van subartikel (4) deur die volgende paragraaf te vervang:

- “(e) Indien ’n bedrag wat afgetrek is—
 30 (i) ingevolge die bepalings van artikel 11(e) of artikel 12(1) of artikel 12(1) soos deur artikel 12(3) toegepas of die ooreenstemmende bepalings van ’n vorige Inkomstebelastingwet of artikel 12B of artikel 12C of artikel 14 of artikel 14bis of
 35 artikel 27(2)(d), ten opsigte van masjinerie of installasie [afgetrek is] wat deur die belastingpligtige gebruik is regstreeks by ’n vervaardigingsproses of regstreeks by enige ander proses deur hom op of na 15 Maart 1961 voortgesit wat volgens die Kommissaris se oordeel van dergelike aard was; of
 40 (ii) ten opsigte van masjinerie of installasie wat deur ’n landboukoöperasie (soos in artikel 27(9) omskryf) gebruik is regstreeks vir die opberging of verpakking van veeboerdery-, landbou- of ander plaasprodukte of om bedoelde produkte aan ’n primêre proses, soos omskryf in genoemde artikel 27(9) te onderwerp; of
 45 (iii) ten opsigte van ’n skip of vliegtuig deur hom gebruik vir die doeleindes van sy bedryf; of
 (iv) ten opsigte van enige pypleyn, transmissielyn of -kabel of spoorlyn soos in artikel 12D bedoel,
 50 as gevolg van skade of vernietiging (hieronder ‘die gebeurtenis’ genoem) gedurende ’n jaar van aanslag verhaal of vergoed is; en indien die belastingpligtige die Kommissaris oortuig—

- [(i)](aa) dat hy binne ’n tydperk van een jaar (of so ’n langer tydperk as wat die Kommissaris onder die omstandighede van die geval mag toelaat) vanaf die datum van die gebeurtenis ’n
 55 kontrak gesluit het of sal sluit vir die verkryging deur hom van verdere nuwe of ongebruikte masjinerie, [of] installasie, [of ’n] skip, [of] vliegtuig, pypleyn, transmissielyn of -kabel of spoorlyn (hieronder die ‘verdere bate’ genoem) ter vervanging van voormelde masjinerie, [of] installasie, [of] skip, [of]
 60 vliegtuig, pypleyn, transmissielyn of -kabel of spoorlyn; en

- (b) by the substitution for the proviso to subsection (2) of the following proviso:
 “Provided that—
 (a) the provisions of this subsection shall not apply to any amount of investment income to which the provisions of subsection (4) are applicable; and
 (b) the amount of any investment income received by or accrued to such entity by way of foreign dividends, shall for the purposes of this section be determined in accordance with the provisions of section 9E, as if such entity had been a resident.”;
- (c) by the addition to subsection (4) of the following proviso:
 “Provided that any amount of investment income received by or accrued to such person by way of foreign dividends, shall for the purposes of this section be determined in accordance with the provisions of section 9E, as if such person had been a shareholder who is a resident.”;
- (d) by the substitution for the words preceding the proviso to paragraph (a) of subsection (9) of the following words:
 “in respect of investment income, other than income from foreign dividends, where the foreign tax actually paid or payable without any right of recovery by any person (other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment) in any country other than the Republic, relating to the proportional amount contemplated in subsection (2) or (4), after taking into consideration any deductions or allowances under the taxation provisions of such other country determined at the ratio as contemplated in subsection (2) or (4), as the case may be, is more than 85 per cent of the normal tax payable in the Republic.”;
- (e) by the substitution for paragraph (d) of subsection (9) of the following paragraph:
 “(d) to any particular class of investment income which is taxable in a country which the Minister [of Finance] has identified by notice in the *Gazette* as a country whose tax on income is determined on a basis which is substantially the same as that of the Republic; [or]”;
 and
- (f) by the addition to subsection (9) of the following paragraphs:
 “(f) in relation to the proportional amount of investment income relating to any foreign dividend declared to or deemed to have been declared to a controlled foreign entity which is attributable to any resident, to the extent that the profits from which the dividend is declared or deemed to have been declared relate to any proportional amount of investment income which has been included in the income of such resident in terms of the provisions of this section; or
 (g) to the proportional amount of any investment income of any company listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any subsidiary of such company, which is attributable to any resident by virtue of the shareholding of such resident in such company which resident, together with any connected person in relation to such resident, directly or indirectly holds less than 10 per cent of the equity share capital in such company or subsidiary.”.
- (2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and applies in respect of any foreign dividend—
 (a) received by or accrued to any person on or after that date; or
 (b) which accrued to the person before 23 February 2000; but which is received on or after that date: Provided that the provisions of this paragraph shall not apply in respect of any dividend declared by a company before 23 February 2000, where—
 (i) such company is listed on a recognised stock exchange; or
 (ii) in any other case, the chief executive officer and—
 (aa) the external auditor of the company; or

- (b) deur die voorbehoudsbepaling by subartikel (2) deur die volgende voorbehoudsbepaling te vervang:
“Met dien verstande dat—
(a) die bepaling van hierdie subartikel nie van toepassing is nie ten opsigte van ’n bedrag beleggingsinkomste waarop die bepaling van subartikel (4) van toepassing is; en
(b) die bedrag van enige beleggingsinkomste ontvang deur of toegeval aan bedoelde entiteit by wyse van buitelandse dividende, by die toepassing van hierdie artikel ooreenkomstig die bepaling van artikel 9E bepaal word, asof bedoelde entiteit ’n inwoner was.”;
- (c) deur die volgende voorbehoudsbepaling by subartikel (4) te voeg:
“Met dien verstande dat die bedrag van enige beleggingsinkomste ontvang deur of toegeval aan daardie persoon by wyse van buitelandse dividende, by die toepassing van hierdie artikel ingevolge die bepaling van artikel 9E bepaal word, asof bedoelde persoon ’n aandeelhouer wat ’n inwoner is, was.”;
- (d) deur die woorde wat die voorbehoudsbepaling by paragraaf (a) van subartikel (9) voorafgaan deur die volgende woorde te vervang:
“ten opsigte van beleggingsinkomste, behalwe inkomste van buitelandse dividende, waar die buitelandse belasting werklik betaal of betaalbaar sonder enige reg van verhaal deur enige persoon (behalwe ’n reg van verhaal ingevolge ’n reg om enige verliese wat gedurende enige jaar van aanslag ontstaan na ’n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra) in ’n ander land as die Republiek, met betrekking tot die proporsionele bedrag bedoel in subartikel (2) of (4), na inagneming van enige aftrekkings of verminderings kragtens die belastingbepalings van bedoelde ander land vasgestel in die verhouding soos in subartikel (2) of (4) beoog, na gelang van die geval, 85 persent van die normale belasting in die Republiek betaalbaar, te bowe gaan.”;
- (e) deur paragraaf (d) van subartikel (9) deur die volgende paragraaf te vervang:
“(d) op enige besondere klas beleggingsinkomste wat belasbaar is in ’n land wat die Minister [van Finansies] by kennisgewing in die Staatskoerant aangedui het as ’n land wie se belasting op inkomste vasgestel is op ’n grondslag wat hoofsaaklik dieselfde is as dié van die Republiek; [of]”; en
- (f) deur die volgende paragraawe by subartikel (9) te voeg:
“(f) met betrekking tot die proporsionele bedrag beleggingsinkomste wat betrekking het op enige buitelandse dividend verklaar of geag verklaar te gewees het aan ’n beheerde buitelandse entiteit wat aan enige inwoner toeskryfbaar is, in die mate wat die winste waaruit die dividend verklaar is of geag verklaar te gewees het betrekking het op enige proporsionele bedrag beleggingsinkomste wat ingevolge die bepaling van hierdie artikel in die inkomste van daardie inwoner ingesluit is; of
(g) op die proporsionele bedrag enige beleggingsinkomste van enige maatskappy wat op ’n aandeelbeurs soos in artikel 1 van die Wet op Beheer van Aandeelbeurse, 1985 (Wet No. 1 van 1985), genoteer is of enige filiaal van bedoelde maatskappy, wat toeskryfbaar is aan enige inwoner uit hoofde van die aandeelhouding van bedoelde inwoner in bedoelde maatskappy, welke inwoner, tesame met enige verbonde persoon met betrekking tot bedoelde persoon, hetsy direk of indirek minder as 10 persent van die ekwiteitsaandeelkapitaal in bedoelde maatskappy of filiaal hou.”.
- (2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige buitelandse dividend—
(a) op of na daardie datum ontvang deur of toegeval aan enige persoon; of
(b) wat voor 23 Februarie 2000 aan die persoon toegeval het, maar wat ontvang word op of na daardie datum: Met dien verstande dat die bepaling van hierdie paragraaf nie van toepassing is nie ten opsigte van enige dividend voor 23 Februarie 2000 verklaar, waar—
(i) bedoelde maatskappy op ’n erkende aandeelbeurs genoteer is; of
(ii) in enige ander geval, die hoof uitvoerende beampte en—
(aa) ’n eksterne ouditeur van die maatskappy; of

(bb) where a company is situated in a country which does not require compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant,

have declared under oath or affirmation that such dividend was actually declared by the company before 23 February 2000. 5

Insertion of section 9E in Act 58 of 1962

20. (1) The following section is hereby inserted after section 9D of the Income Tax Act, 1962:

“Taxation of foreign dividends 10

9E. (1) For the purposes of this section—

‘controlled company’ means a company in relation to which another company is the controlling company;

‘controlling company’, in relation to any other company, means a company which is a resident and which holds for its own benefit, whether directly or indirectly, through one or more companies in a group of companies of which all the companies in question form part, shares in such other company which constitute not less than 75 per cent of the equity share capital of the said other company; 15

‘designated country’ means a country designated by the Minister under subsection (8); 20

‘effective date’ means 23 February 2000;

‘fixed capital’ includes share capital, share premium and accumulated profits, whether of a capital nature or not;

‘foreign dividend’ means any dividend received by or which accrued to any person from any company, to the extent that the dividend is declared from profits derived by such company from a source outside the Republic which are not deemed to be from a source within the Republic, or from profits which are deemed to be from a source within the Republic which have not been subject to tax in the Republic, and includes the following amounts, which shall be deemed to be a dividend declared by such company to such person— 25 30

(a) any amount deemed to have been distributed by any company as contemplated in section 64C(3)(a), (b), (c) or (d) to such person or any resident who is a connected person in relation to such person to the extent that such company could have distributed a dividend to such person from profits derived from a source outside the Republic which are not deemed to be from a source within the Republic, or from profits which are deemed to be from a source within the Republic which have not been subject to tax in the Republic, and none of the provisions contained in section 64C(4) apply: Provided that the provisions of this paragraph shall not apply in respect of any amount distributed by any company which is being wound up or liquidated or whose corporate existence is finally terminated, out of profits of a capital nature (other than profits of a capital nature derived from the disposal by such company, on or after the effective date, of any interest in any other company with retained profits which were available for distribution by such other company to such company which would not have been excluded from the provisions of paragraph (b) had that paragraph applied); or 35 40 45 50

(b) any amount derived by any person from the disposal by such person of any share or interest in the fixed capital in a company, to the extent that such company or any subsidiary of such company has any undistributed profits which were derived from a source outside the Republic which are not deemed to be from a source within the Republic, or from profits deemed to be from a source within the Republic which have not been subject to tax in the Republic, which were directly or indirectly available for distribution to such person: Provided that the provisions 55

(bb) waar 'n maatskappy geleë is in 'n land wat nie die verpligte aanstelling van 'n eksterne ouditeur vereis nie, 'n geregistreerde openbare rekenmeester met dieselfde status as 'n gekwalifiseerde geoktrooieerde rekenmeester,

5 onder eed verklaar het of 'n bevestigende verklaring afgelê het dat die dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.

Invoeging van artikel 9E in Wet 58 van 1962

20. (1) Die volgende artikel word hierby na artikel 9D van die Inkomstebelastingwet, 10 1962, ingevoeg:

“Belasting van buitelandse dividende

9E. (1) By die toepassing van hierdie artikel beteken—

‘aangewese land’ 'n land deur die Minister kragtens subartikel (8) aangewys;

15 ‘beheerde maatskappy’ 'n maatskappy met betrekking waartoe 'n ander maatskappy die beherende maatskappy is;

‘beherende maatskappy’, met betrekking tot 'n ander maatskappy, 'n maatskappy wat 'n inwoner is en wat vir sy eie voordeel hetsy direk of indirek deur een of meer maatskappye in die groep maatskappye waarvan al die betrokke maatskappye 'n deel uitmaak, aandele in bedoelde ander maatskappy besit wat minstens 75 persent van die ekwiteitsaandelekapitaal van bedoelde ander maatskappy uitmaak;

20 ‘buitelandse dividend’ enige dividend ontvang deur of toegeval aan 'n persoon vanaf 'n maatskappy, in die mate wat die dividend verklaar is uit winste deur bedoelde maatskappy uit 'n bron buite die Republiek verkry wat nie geag word van 'n bron binne die Republiek te wees nie, of uit winste wat geag word van 'n bron binne die Republiek te wees en wat nie onderhewig is aan belasting in die Republiek nie, en ook die volgende bedrae, wat geag word 'n dividend deur bedoelde maatskappy aan bedoelde persoon verklaar te gewees het—

30 (a) 'n bedrag geag deur 'n maatskappy uitgekeer te gewees het soos in artikel 64C(3)(a), (b), (c) of (d) beoog aan bedoelde persoon of 'n inwoner wat 'n verbonde persoon met betrekking tot bedoelde persoon is in die mate wat bedoelde maatskappy 'n dividend aan bedoelde persoon kon uitgekeer het uit winste uit 'n bron buite die Republiek verkry wat nie geag word uit 'n bron binne die Republiek te wees nie, of uit winste wat geag word uit 'n bron binne die Republiek te wees en wat nie onderhewig is aan belasting in die Republiek nie, en geen van die bepalings in artikel 64C(4) vervat van toepassing is nie: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van 'n bedrag deur 'n maatskappy uitgekeer wat gelikwider word of wie se korporatiewe bestaan finaal beëindig word, uit winste van 'n kapitale aard (behalwe winste van 'n kapitale aard verkry uit die van die hand sit deur daardie maatskappy op of na die effektiewe datum van enige belang in enige ander maatskappy met opgehoopte winste wat vir uitkering deur bedoelde ander maatskappy aan bedoelde maatskappy beskikbaar was wat nie van die bepalings van paragraaf (b) uitgesluit sou gewees het nie sou daardie bepalings van toepassing gewees het); of

50 (b) enige bedrag deur 'n persoon verkry uit die vandiehandsetting deur bedoelde persoon van 'n aandeel of belang in die vaste kapitaal van 'n maatskappy, in die mate wat bedoelde maatskappy of 'n filiaal van bedoelde maatskappy oor enige nie-verdeelde winste beskik wat uit 'n bron buite die Republiek verkry is wat nie geag word uit 'n bron binne die Republiek te wees nie, of uit winste wat geag word uit 'n bron binne die Republiek te wees en wat nie onderhewig is aan belasting in die Republiek nie, wat direk of indirek vir uitkering aan bedoelde persoon beskikbaar was: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte

of this paragraph shall not apply in respect of the disposal of any share or other interest in the fixed capital in a company—

- (i) where such person at no time on and after the effective date held 10 per cent or more of the total equity share capital of such company; 5
- (ii) to any resident, where such resident will after such disposal hold for his own benefit at least 10 per cent of the equity share capital of such company;
- (iii) where such person retains the same effective interest in the equity share capital or fixed capital of the company as prior to the disposal: Provided that the provisions of this subparagraph shall not apply if one of the main purposes of such disposal is the avoidance, postponement or reduction of liability for any tax, duty or levy which, but for such disposal would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner; 10 15
- (iv) by a shareholder who acquired such shares or interest from any person who is not a resident and who is not a connected person in relation to such shareholder, to the extent that such undistributed profits were derived prior to the acquisition of the shares by such shareholder; 20
- (v) to the extent that the proceeds from the disposal have otherwise been included in the taxable income of such person; or
- (vi) where the Commissioner is satisfied that the disposal of the shares or the non-declaration of dividends by such company was not effected as part of a scheme for the purposes of avoiding the liability for tax, duty or levy, taking into account such conditions as the Minister may prescribe by regulation; 25

‘group of companies’ means a controlling company and one or more other companies which are controlled companies in relation to the controlling company; 30

‘proportionate amount of the profit’, in relation to a shareholder, means an amount which bears to the total profit, the same ratio as such shareholder’s shareholding bears to the total shareholding, and for that purpose, if there are different classes of shares— 35

- (a) the expression ‘total shareholding’ refers only to the total of the class of shares of which such shareholding is part; and
- (b) the expression ‘total profits’ means the total profits attributable to such class of shares; 40

‘qualifying interest’ of any person means—

- (a) any direct interest of at least 10 per cent held by such person in the equity share capital of any company; and
- (b) any direct interest of at least 10 per cent held by any company contemplated in paragraph (a) in the equity share capital of any other company, which other company shall for the purposes of this definition be deemed to be a company contemplated in paragraph (a) in which such person holds a direct interest of at least 10 per cent; 45

‘resident’ means a resident as defined in section 9C(1).

(2) Any foreign dividend received by or accrued to a resident shall for the purposes of the definition of ‘gross income’ in section 1, be deemed to have been received by or to have accrued to such resident from a source within the Republic. 50

van die vandiehandsetting van 'n aandeel of ander belang in die vaste kapitaal van 'n maatskappy—

(i) waar bedoelde persoon op geen tydstip op en na die effektiewe datum 10 persent of meer van die totale ekwiteitsaandelekapitaal van bedoelde maatskappy gehou het nie;

(ii) aan 'n inwoner, waar bedoelde inwoner na die vandiehandsetting vir sy eie voordeel minstens 10 persent van die ekwiteitsaandelekapitaal van bedoelde maatskappy sal hou;

(iii) waar bedoelde persoon dieselfde effektiewe belang behou in die ekwiteitsaandelekapitaal of vaste kapitaal van die maatskappy as voor die vandiehandsetting; Met dien verstande dat die bepalinge van hierdie subparagraaf nie van toepassing is nie indien een van die hoofogmerke van bedoelde van-die-handsetting die vermyding, uitstel of vermindering is van die aanspreeklikheid van enige belasting, reg of heffing wat, by ontstentenis van bedoelde vandiehandsetting deur 'n persoon ingevolge hierdie Wet of enige ander Wet wat deur die Kommissaris geadministreer word, betaalbaar sou gewees het of geword het;

(iv) deur 'n aandeelhouer wat bedoelde aandele of belang verkry het van 'n persoon wat nie 'n inwoner is nie en wat nie 'n verbonde persoon met betrekking tot bedoelde aandeelhouer is nie, in die mate wat bedoelde onverdeelde winste verkry is voor die verkryging van die aandele deur bedoelde aandeelhouer;

(v) in die mate wat die opbrengs van die vandiehandsetting andersins ingesluit is in die belastbare inkomste van bedoelde persoon; of

(vi) waar die Kommissaris oortuig is dat die vandiehandsetting van die aandele of die nie-verklaring van dividende deur bedoelde maatskappy nie teweeggebring is nie as deel van 'n skema vir die doeleindes van vermyding van die aanspreeklikheid vir belasting, reg of heffing met inagneming van die voorwaardes wat die Minister by regulasie voorskryf;

'effektiewe datum' 23 Februarie 2000;

'groep maatskappye' 'n beheerende maatskappy en een of meer ander maatskappye wat beheerde maatskappye is met betrekking tot die beheerende maatskappy;

'inwoner' 'n inwoner soos in artikel 9C(1) omskryf;

'kwalifiserende belang' van enige persoon—

(a) enige direkte belang van minstens 10 persent deur daardie persoon gehou in die ekwiteitsaandelekapitaal van enige maatskappy; en

(b) enige direkte belang van minstens 10 persent deur enige maatskappy in paragraaf (a) bedoel, gehou in die ekwiteitsaandelekapitaal van enige ander maatskappy,

welke ander maatskappy by die toepassing van hierdie omskrywing geag word 'n maatskappy te wees in paragraaf (a) bedoel waarin daardie persoon 'n direkte belang van minstens 10 persent hou.

'proporsionele bedrag van die wins', met betrekking tot 'n aandeelhouer, 'n bedrag wat tot die totale wins in dieselfde verhouding staan as wat daardie aandeelhouer se aandeelhouding tot die totale aandeelhouding staan, en vir daardie doel, indien daar verskillende klasse aandele is—

(a) verwys die uitdrukking 'totale aandeelhouding' slegs na die totaal van die klas aandele waarvan bedoelde aandeelhouding deel is; en

(b) beteken die uitdrukking 'totale winste' die totale winste toeskryfbaar aan bedoelde klas aandele;

'vaste kapitaal' ook aandelekapitaal, aandelepremie en opgehoopte winste, hetsy van 'n kapitale aard al dan nie.

(2) 'n Buitelandse dividend ontvang deur of toegeval aan 'n inwoner word by die toepassing van die omskrywing van 'bruto inkomste' in artikel 1, geag ontvang te gewees het of toe te geval het aan bedoelde inwoner van 'n bron binne die Republiek.

(3) Subject to subsection (7), where during any year of assessment any foreign dividend is received by or accrues to any resident, the amount to be included in the gross income of such resident for such year of assessment in terms of paragraph (k) of the definition of 'gross income' in section 1, shall—

(a) if such resident—

- (i) holds for his own benefit; or
- (ii) in the case of a company, together with any other company in a group of companies of which such company forms part, hold for their own benefit,

at least 10 per cent of the equity share capital in the company declaring the dividend, be the proportionate amount of the profit from which the dividend is distributed, before taking into account any foreign tax on income imposed in respect of such profit and any withholding tax paid in respect of such dividend: Provided that—

(aa) unless such resident proves otherwise in such manner and such form as the Commissioner may prescribe, the dividend shall be deemed to have been distributed from the profits most recently derived and available for distribution; and

(bb) where such company derived its profits by way of dividends received or accrued and by way of other sources of profits, the dividend shall be deemed to have been declared on a proportionate basis from such dividends and other sources of profits; or

(b) if such resident—

- (i) does not hold for his own benefit; or
- (ii) in the case of a company, together with any other company in a group of companies of which such company forms part, do not hold for their own benefit,

at least 10 per cent of the equity share capital in the company declaring the dividend, be the amount of such dividend declared before taking into account the amount of any withholding tax paid in respect of such dividend.

(4) In determining the proportionate amount of the profit to be included in the income of any resident in terms of subsection (3)(a), there shall be taken into account any profits derived by any other company in which the company distributing the dividend has an interest and which have been distributed to such company in the form of dividends, if the resident has a qualifying interest in such other company: Provided that—

(a) unless such resident proves otherwise in such manner and such form as the Commissioner may prescribe, the dividend shall be deemed to have been distributed by such other company from the profits most recently derived and available for distribution; and

(b) where such other company derived its profits by way of dividends received or accrued to such company and by way of other sources of profits, the dividend shall be deemed to have been declared by such other company on a proportionate basis from such dividends and other sources of profits.

(5) For the purposes of subsection (3)(b), where—

(a) any dividend is declared by a company to any unit portfolio referred to in paragraph (e)(i) of the definition of 'company' in section 1; and

(b) such dividend is distributed by such unit portfolio by way of a dividend, or a portion of a dividend, to persons who have become entitled to such dividend by virtue of their being registered as holders of units in such unit portfolio,

such dividend contemplated in paragraph (a) shall be deemed to have been declared by such company directly to such holders of units.

(3) Behoudens subartikel (7), waar 'n buitelandse dividend gedurende 'n jaar van aanslag ontvang is deur of toegeval het aan 'n inwoner, is die bedrag wat by die bruto inkomste van bedoelde inwoner ingesluit staan te word ingevolge paragraaf (k) van die omskrywing van 'bruto inkomste' in artikel 1—

(a) indien bedoelde inwoner—

(i) vir sy eie voordeel; of

(ii) in die geval van 'n maatskappy, tesame met enige ander maatskappy in 'n groep maatskappye waarvan bedoelde maatskappy 'n deel uitmaak, vir hul eie voordeel,

minstens 10 persent van die ekwiteitsaandelekapitaal van die maatskappy hou wat die dividend verklaar, die proporsionele bedrag van die wins waaruit die dividend uitgekeer word, voor inagneming van enige buitelandse belasting op inkomste gehef ten opsigte van bedoelde wins en enige terughoudingsbelasting betaal ten opsigte van bedoelde dividend: Met dien verstande dat—

(aa) tensy die inwoner op die wyse en in die vorm wat die Kommissaris voorskryf die teendeel bewys, die dividend geag word uitgekeer te gewees het uit die winste mees onlangs verkry en beskikbaar vir verdeling; en

(bb) waar bedoelde maatskappy sy winste verkry het by wyse van dividende ontvang of toegeval en by wyse van ander bronne van winste, word die dividend geag verklaar te gewees het op 'n proporsionele grondslag uit bedoelde dividende en ander bronne van winste; of

(b) indien bedoelde inwoner—

(i) nie vir sy eie voordeel; of

(ii) in die geval van 'n maatskappy, tesame met enige ander maatskappy in 'n groep maatskappye waarvan bedoelde maatskappy 'n deel uitmaak, nie vir hul eie voordeel,

minstens 10 persent van die ekwiteitsaandelekapitaal van die maatskappy wat die dividend verklaar, hou nie, die bedrag van bedoelde dividend verklaar, voor inagneming van die bedrag van enige terughoudingsbelasting betaal ten opsigte van bedoelde dividend.

(4) By die vasstelling van die proporsionele bedrag van die wins wat ingevolge subartikel (3)(a) by die inkomste van die inwoner ingesluit staan te word, word in ag geneem enige winste deur enige ander maatskappy verkry waarin die maatskappy wat die dividend verklaar 'n belang hou en wat aan bedoelde maatskappy in die vorm van dividende uitgekeer is, indien die inwoner 'n kwalifiserende belang het in bedoelde ander maatskappy: Met dien verstande dat—

(a) tensy die inwoner op die wyse en in die vorm wat die Kommissaris voorskryf die teendeel bewys, die dividend geag word uitgekeer te gewees het deur bedoelde ander maatskappy uit die winste mees onlangs verkry en beskikbaar vir uitkering; en

(b) waar bedoelde ander maatskappy sy winste verkry by wyse van dividende ontvang of toegeval aan bedoelde maatskappy en by wyse van ander bronne van winste, word die dividend geag deur bedoelde ander maatskappy verklaar te gewees het op 'n proporsionele grondslag uit bedoelde dividende en ander bronne van winste.

(5) By die toepassing van subartikel (3)(b), waar—

(a) 'n dividend deur 'n maatskappy verklaar word aan 'n effektegroepe in paragraaf (e)(i) van die omskrywing van 'maatskappy' in artikel 1 bedoel; en

(b) bedoelde dividend deur bedoelde effektegroepe verklaar is by wyse van 'n dividend, of 'n gedeelte van 'n dividend, aan persone wat op bedoelde dividend geregtig geword het op grond van hul registrasie as houers van onderaandele in bedoelde effektegroepe,

word bedoelde dividend in paragraaf (a) beoog, geag deur bedoelde maatskappy verklaar te gewees het direk aan bedoelde houers van onderaandele.

(6) Any resident who receives a foreign dividend or to whom a foreign dividend accrues may, notwithstanding the provisions of subsection (3), in respect of any year of assessment elect that the amount of such dividend to be included in the gross income of such resident shall—

(a) if such resident—

- (i) holds for his own benefit; or
- (ii) in the case of a company, together with any other company in a group of companies of which such company forms part, hold for their own benefit,

at least 10 per cent of the equity share capital in the company declaring such dividend, be the amount of the profits from which such dividend is declared after taking into account any foreign tax on income imposed in respect of such profits and any withholding tax paid in respect of such dividend; or

(b) if such resident—

- (i) does not hold for his own benefit; or
- (ii) in the case of a company, together with any other company in a group of companies of which such company forms part, do not hold for their own benefit,

at least 10 per cent of the equity share capital in the company declaring such dividend, be the amount of such dividend after taking into account any withholding tax paid in respect of such dividend, and such election shall apply in respect of all foreign dividends received by or accrued to such resident during the year of assessment in respect of which the election was made.

(7) There shall be exempt from tax any foreign dividend declared or deemed to have been declared by—

(a) any company which is a resident of the Republic, which during—

- (i) the entire period of existence of such company; or
- (ii) each of the three years of assessment preceding the year of assessment during which such dividend is declared or deemed to have been declared,

whichever period is shorter, derived 75 per cent or more of its total receipts or accruals from a source within the Republic or deemed to be from a source within the Republic and which was subject to tax in the Republic;

(b) any company incorporated in the Republic out of profits derived—

- (i) by way of dividends which accrued to such company prior to the effective date;
- (ii) by such company through a branch outside the Republic—

(aa) if such profits were repatriated to the Republic prior to the effective date; or

(bb) in any other case, if such branch is situated in a designated country and the profit from which the dividend is distributed is subject to tax at a rate of at least 27 per cent without any right of recovery by any person (other than a right of recovery in terms of an entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment);

(c) any company listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), to a resident who, together with any connected person in relation to such resident, does not hold at least 10 per cent of the equity share capital of such company, if more than 10 per cent of the equity share capital in such company is at the time of the declaration of such dividend held collectively by residents: Provided that where such company was not listed on such stock exchange on the effective date, the exemption

(6) 'n Inwoner wat 'n buitelandse dividend ontvang of aan wie 'n buitelandse dividend toeval, kan, ondanks die bepalings van subartikel (3), ten opsigte van enige jaar van aanslag kies dat die bedrag van bedoelde dividend wat by die bruto inkomste van bedoelde inwoner ingesluit staan te word—

(a) indien bedoelde inwoner—

(i) vir sy eie voordeel; of

(ii) in die geval van 'n maatskappy, tesame met enige ander maatskappy in 'n groep maatskappye waarvan bedoelde maatskappy 'n deel uitmaak, vir hul eie voordeel,

minstens 10 persent van die ekwiteitsaandelekapitaal van die maatskappy wat bedoelde dividend verklaar, hou, die bedrag van die winste waaruit bedoelde dividend verklaar is na inagneming van enige buitelandse belasting op inkomste gehef ten opsigte van bedoelde winste en enige terughoudingsbelasting betaal ten opsigte van bedoelde dividend, moet wees; of

(b) indien bedoelde inwoner—

(i) nie vir sy eie voordeel; of

(ii) in die geval van 'n maatskappy, tesame met enige ander maatskappy in 'n groep maatskappye waarvan bedoelde maatskappy 'n deel uitmaak, nie vir hul eie voordeel,

minstens 10 persent van die ekwiteitsaandelekapitaal van die maatskappy wat bedoelde dividend verklaar, hou nie, die bedrag van bedoelde dividend na inagneming van enige terughoudingsbelasting betaal ten opsigte van bedoelde dividend, moet wees,

en bedoelde keuse is van toepassing ten opsigte van alle buitelandse dividende ontvang deur of toegeval aan bedoelde inwoner gedurende die jaar van aanslag ten opsigte waarvan die keuse uitgeoefen is.

(7) Daar word van belasting vrygestel enige buitelandse dividend verklaar of geag verklaar te gewees het deur—

(a) 'n maatskappy wat 'n inwoner van die Republiek is, wat gedurende—

(i) die hele tydperk van die bestaan van bedoelde maatskappy; of

(ii) elk van die drie jare van aanslag wat die jaar van aanslag voorafgaan waartydens bedoelde dividend verklaar word of geag word verklaar te gewees het,

welke tydperk die kortste is, 75 persent of meer van sy totale ontvangste of toevallings uit 'n bron binne die Republiek, of uit 'n bron in die Republiek geag te wees en wat onderhewig was aan belasting in die Republiek, verkry het;

(b) 'n maatskappy in die Republiek ingelyf uit winste verkry—

(i) by wyse van dividende wat aan bedoelde maatskappy toegeval het voor die effektiewe datum; of

(ii) deur bedoelde maatskappy deur 'n tak buite die Republiek—

(aa) indien bedoelde winste na die Republiek gerepatrieer is voor die effektiewe datum; of

(bb) in enige ander geval, indien bedoelde tak in 'n aangewese land geleë is en die wins waaruit die dividend uitgekeer word onderhewig is aan belasting teen 'n koers van minstens 27 persent sonder 'n reg van verhaal deur enige persoon (behalwe 'n reg van verhaal ingevolge 'n reg om verliese wat gedurende enige jaar van aanslag ontstaan na 'n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra);

(c) 'n maatskappy genoteer op 'n aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van Aandelebeurse, 1985 (Wet No. 1 of 1985),

aan 'n inwoner wat, tesame met enige verbonde persoon met betrekking tot bedoelde inwoner, nie minstens 10 persent van die ekwiteitsaandelekapitaal van bedoelde maatskappy hou nie, indien meer as 10 persent van die ekwiteitsaandelekapitaal van bedoelde maatskappy op die tydstip van die verklaring van bedoelde dividend gesamentlik deur inwoners gehou word: Met dien verstande dat waar bedoelde maatskappy nie op die effektiewe datum op bedoelde aandelebeurs genoteer was nie, die vrystelling slegs van toepassing is

shall apply only upon approval by the Commissioner, which approval the Commissioner may grant on application by such company, having regard to—

- (i) the fact whether or not the profits of such company were generated in a designated country; and 5
- (ii) the tax rate at which the profits from which the dividend was declared was or will be taxed;
- (d) any company, which is distributed directly or indirectly to a resident who holds a qualifying interest in such company, to the extent that the profits from which the dividend is declared— 10
 - (i) were generated in a designated country; and
 - (ii) are or will be subject to tax at a rate of at least 27 per cent without any right of recovery by any person (other than a right of recovery in terms of an entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment); or 15
- (e) any company to the extent that the profits from which the dividend is distributed— 20
 - (i) relate to any amount of investment income which has or will be included in the income of the shareholder of such company in terms of section 9D; or
 - (ii) have or will be included in the taxable income of such company in terms of this Act; or
 - (iii) have otherwise been included in the taxable income of the shareholder in terms of paragraph (a) of the definition of “foreign dividend”. 25
- (8) The Minister may, by notice in the *Gazette*, designate countries which—
 - (a) have entered into an agreement with the Republic for the avoidance of double taxation and where such agreement is in force; 30
 - (b) have a tax on income that is determined on a basis which is substantially the same as that of the Republic;
 - (c) have a statutory rate of tax on income of companies of at least 27 per cent without any right of recovery of such tax by any person (other than a right of recovery in terms of an entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment); and 35
 - (d) comply with any other requirement which the Minister may prescribe by regulation.
- (9) The discretion exercised by the Commissioner in terms of this section shall be subject to objection and appeal.” 40

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and applies in respect of any foreign dividend—

- (a) received by or accrued to any person on or after that date; or
 - (b) which accrued to the person before 23 February 2000, but which is received 45
 - (i) such company is listed on a recognised stock exchange; or
 - (ii) in any other case, the chief executive officer and— 50
 - (aa) an external auditor of the company; or
 - (bb) where a company is situated in a country which does not require compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant, have declared under oath or affirmation that such dividend was actually 55
- declared by the company before 23 February 2000.

by goedkeuring deur die Kommissaris, welke goedkeuring die Kommissaris kan toestaan op aansoek deur bedoelde maatskappy, met inagneming van—

- 5 (i) die feit of die winste van bedoelde maatskappy in 'n aangewese land gegenerereer is al dan nie; en
- (ii) die belastingkoers waarteen die winste waaruit die dividend verklaar is, belas is of sal word;
- 10 (d) 'n maatskappy, wat direk of indirek aan 'n inwoner uitgekeer word wat 'n kwalifiserende belang in die maatskappy hou, in die mate wat die winste waaruit die dividend verklaar word—
 - (i) in 'n aangewese land gegenerereer is; en
 - 15 (ii) aan belasting onderhewig is of sal word teen 'n koers van minstens 27 persent sonder enige reg van verhaal deur 'n persoon (behalwe 'n reg van verhaal ingevolge 'n reg om enige verliese wat gedurende enige jaar van aanslag ontstaan na 'n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra); of
- (e) 'n maatskappy in die mate wat die winste waaruit die dividend uitgekeer is—
 - 20 (i) betrekking het op enige beleggingsinkomste wat by die inkomste van die aandeelhouer van bedoelde maatskappy ingevolge artikel 9D ingesluit is of staan te word; of
 - (ii) by die belasbare inkomste van bedoelde maatskappy ingevolge hierdie Wet ingesluit is of sal word; of
 - 25 (iii) andersins by die belasbare inkomste van die aandeelhouer ingevolge paragraaf (a) van die omskrywing van "buitelandse dividend" ingesluit is.
- (8) Die Minister kan by kennisgewing in die *Staatskoerant* lande aanwys wat—
 - 30 (a) 'n ooreenkoms met die Republiek aangegaan het vir die vermyding van dubbele belasting en waar bedoelde ooreenkoms van krag is;
 - (b) 'n belasting op inkomste het wat vasgestel word op 'n grondslag wat wesenlik dieselfde is as dié van die Republiek;
 - 35 (c) 'n statutêre koers van belasting op inkomste van maatskappye van minstens 27 persent het sonder enige reg van verhaal van daardie belasting deur 'n persoon (behalwe 'n reg van verhaal ingevolge 'n reg om verliese wat gedurende enige jaar van aanslag ontstaan na 'n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra); en
 - 40 (d) aan enige ander vereiste wat die Minister by regulasie kan voorskryf, voldoen.

(9) Die diskresie deur die Kommissaris uitgeoefen ingevolge hierdie artikel is aan beswaar en appèl onderhewig."

(2) Subartikel (1) word geag in werking te getree het op 23 Februarie 2000, en is van toepassing op enige buitelandse dividend wat—

- 45 (a) op of na daardie datum ontvang is deur of toegeval het aan 'n persoon; of
- (b) voor 23 Februarie 2000 aan die persoon toegeval het, maar wat op of na daardie datum ontvang word: Met dien verstande dat die bepalinge van hierdie paragraaf nie van toepassing is nie ten opsigte van 'n dividend deur 'n maatskappy voor 23 Februarie 2000 verklaar, waar—
 - 50 (i) bedoelde maatskappy op 'n erkende aandeelbeurs genoteer is; of
 - (ii) in enige ander geval, die hoof uitvoerende beampte en—
 - (aa) 'n eksterne ouditeur van die maatskappy; of
 - 55 (bb) waar 'n maatskappy in 'n land geleë is wat nie die verpligte aanstelling van 'n eksterne ouditeur vereis nie, 'n geregistreerde openbare rekenmeester met dieselfde status as 'n gekwalifiseerde geoktrooieerde rekenmeester,
- 60 onder eed verklaar het of 'n bevestigende verklaring gemaak het dat bedoelde dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998 and section 18 of Act 53 of 1999

21. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion of paragraphs (cB), (cC), (cD), (cF), (cI), (cJ), (f) and (fA) of subsection (1);
- (b) by the deletion of paragraph (cK) of subsection (1);
- (c) by the insertion after paragraph (cM) of subsection (1) of the following paragraph: 20
 “(cN) the receipts and accruals of any public benefit organisation which has been approved by the Commissioner in terms of section 30(3);”;
- (d) by the substitution for paragraph (d) of subsection (1) of the following paragraph: 25
 “(d) the receipts and accruals of any [terminating building society]—
 (i) pension fund, provident fund, retirement annuity fund; or
 (ii) benefit fund [mutual savings bank], mutual loan association, fidelity or indemnity fund, trade union, chamber of commerce or industries (or an association of such chambers), local publicity association or non-proprietary stock exchange approved by the Commissioner subject to such conditions as the Minister may prescribe by regulation; or 30
 (iii) company, society or other association of persons established to—
 (aa) provide social and recreational amenities or facilities for the members of such company, society or other association; or 35
 (bb) promote the common interests of persons (being members of such company, society or association of persons) carrying on any particular kind of business, profession or occupation, approved by the Commissioner subject to such conditions as the Minister may prescribe by regulation;” 40
- (e) by the substitution for subparagraph (iii) of paragraph (hA) of subsection (1) of the following subparagraph: 45
 “(iii) for the purposes of this paragraph, so much of any dividend as has been distributed by any unit portfolio constituting a company in terms of paragraph (e)(i) of the definition of ‘company’ in section 1 out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA), shall be deemed to be interest;”;
- (f) by the substitution for subparagraph (xv) of paragraph (i) of subsection (1) of the following subparagraph: 50
 “(xv) in the case of any taxpayer who is a natural person, so much of the aggregate of any dividends and interest received by or accrued to him which [is] are not otherwise exempt from tax, as does not during the year of assessment exceed [the amount of R2 000]— 55

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996, artikel 10 van Wet 28 van 1997, artikel 29 van Wet 30 van 1998 en artikel 18 van Wet 53 van 1999

21. (1) Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur paragrawe (cB), (cC), (cD), (cF), (cI), (cJ), (f) en (fA) van subartikel (1) te skrap;
- (b) deur paragraaf (cK) van subartikel (1) te skrap;
- (c) deur die volgende paragraaf na paragraaf (cM) van subartikel (1) in te voeg:
- “(cN) die ontvangste en toevallings van enige openbare weldaadsorganisasie wat ingevolge artikel 30(3) deur die Kommissaris goedgekeur is;”;
- (d) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:
- “(d) die ontvangste en toevallings van ’n [tydelike bouvereniging]—
- (i) pensioenfonds, voorsorgsfonds, uittredingannuïteitsfonds; of
- (ii) bystandsfonds, **[onderlinge spaarbank]** onderlinge leningsvereniging, getrouheids- of vrywaringsfonds, vakvereniging, sake- of nywerheidskamer (of ’n vereniging van sulke kamers), plaaslike publisiteitsvereniging of nie-eiendomseffektebeurs **[is]** deur die Kommissaris goedgekeur behoudens die voorwaardes wat die Minister by regulasie voorskryf; of
- (iii) maatskappy, genootskap of ander vereniging van persone opgerig om—
- (aa) sosiale of ontspanningsgeriewe of -fasiliteite aan die lede van bedoelde maatskappy, genootskap of ander vereniging te verskaf; of
- (bb) die gemeenskaplike belange van persone (wat lede is van bedoelde maatskappy, genootskap of vereniging van persone) wat ’n besigheid, professie of beroep van ’n besondere soort beoefen, te bevorder,
- deur die Kommissaris goedgekeur behoudens die voorwaardes wat die Minister by regulasie voorskryf;”;
- (e) deur subparagraaf (iii) van paragraaf (hA) van subartikel (1) deur die volgende subparagraaf te vervang:
- “(iii) by die toepassing van hierdie paragraaf, soveel van ’n dividend as wat deur ’n effektegroepe wat ingevolge paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel 1 ’n maatskappy is, uitgekeer is uit rente deur sodanige effektegroepe verkry wat ingevolge die bepalinge van paragraaf (iA) in die hande van daardie effektegroepe van belasting vrygestel is, geag word ’n bedrag aan rente te wees;”;
- (f) deur subparagraaf (xv) van paragraaf (i) van subartikel (1) deur die volgende subparagraaf te vervang:
- “(xv) in die geval van ’n belastingpligtige wat ’n natuurlike persoon is, soveel van die totaal van enige dividende en rente deur hom ontvang of aan hom toegeval wat nie andersins van belasting vrygestel is nie, as wat nie gedurende die jaar van aanslag **[die bedrag van R2 000 te bowe gaan nie]**—

- (aa) in the case of any person who was or, had he lived would have been, at least 65 years of age on the last day of the year of assessment, the amount of R4 000; or
- (bb) in any other case, the amount of R3 000:
- Provided that the amount of the exemption from tax shall—
- (A) first apply in respect of any foreign dividends contemplated in section 9E received or accrued which would not otherwise have been exempt from tax; and
- (B) in so far as such amount exceeds the amount of such foreign dividends, apply in respect of such interest and other taxable dividends received or accrued;”;
- (g) by the deletion of subparagraph (xvi) of paragraph (i) of subsection (1);
- (h) by the substitution for paragraph (iA) of subsection (1) of the following paragraph:
- “(iA) in the case of any unit portfolio referred to in paragraph (e)(i) of the definition of ‘company’ in section 1, so much of the interest or foreign dividends contemplated in section 9E received by or accrued to such unit portfolio as has been distributed, or as the Commissioner is satisfied will be distributed, by way of a dividend or a portion of a dividend, to persons who have become entitled to such dividend by virtue of their being registered as holders of units in such unit portfolio on a date falling on or after the first day of April, 1971;”;
- (i) by the addition of the word “or” at the end of subitem (B) of item (bb) of subparagraph (i) of paragraph (k) of subsection (1);
- (j) by the addition to subparagraph (i) of paragraph (k) of subsection (1) of the following item:
- “(dd) to the amount of any foreign dividend contemplated in section 9E received by or accrued to any resident as defined in section 9C;”;
- (k) by the deletion of subparagraph (xii) of paragraph (t) of subsection (1).
- (2) (a) Subsection (1)(a), (c) and (d) shall come into operation on a date fixed by the President by proclamation in the *Gazette*: Provided that any company, society, trust, institution, union, chamber, exchange, other association of persons or fund whose receipts and accruals were exempt from tax in terms of the provisions of paragraphs (cB), (cC), (cD), (cF), (cI), (cJ), (f) and (fA) of section 10(1) of the Income Tax, 1962, prior to the amendment thereof by this section, which company, society, trust, institution, union, chamber, exchange, other association of persons or fund applies for approval by the Commissioner in terms of section 10(1)(d)(ii) or (iii) or section 30 of that Act within a period of 12 months after the date so fixed by the President, or submit a written undertaking as provided for in the said section 30 within such period, shall continue to enjoy exemption until written notification by the Commissioner of his decision in terms of the said section 10(1)(d)(ii) or (iii) or section 30: Provided further that any such company, society, trust, institution, union, chamber, exchange, other association or fund, shall subject to the provisions of the said section 30—
- (i) within a period of five years after the date so fixed by the President; or
- (ii) at such time as any amendment to the constitution or other written document in terms of which it has been established is effected,
- whichever is sooner, submit to the Commissioner a copy of such constitution or other written instrument in terms of which it has been established.
- (b) Subsection (1)(b) and (k) shall be deemed to have come into operation on 1 January 2000 and shall apply in respect of any year of assessment commencing on or after that date.
- (c) Subsection (1)(f) and (g) shall be deemed to have come into operation on 1 March 2000, and shall apply in respect of any year of assessment commencing on or after that date.
- (d) Subsection (1)(e), (h), (i) and (j) shall be deemed to have come into operation on 23 February 2000, and apply in respect of any foreign dividend—

- (aa) in die geval van 'n persoon wat op die laaste dag van die jaar van aanslag minstens 65 jaar oud was of sou wees indien hy gelewe het, die bedrag van R4 000; of
- (bb) in enige ander geval, die bedrag van R3 000, te bowe gaan nie:
- Met dien verstande dat die bedrag van die vrystelling van belasting—
- (A) eerste van toepassing is ten opsigte van enige buitelandse dividende in artikel 9E bedoel wat ontvang is of toegeval het wat nie andersins van belasting vrygestel sou wees nie; en
- (B) vir sover die bedrag die bedrag van bedoelde buitelandse dividende te bowe gaan, van toepassing is op bedoelde rente en ander belasbare dividende ontvang of toegeval;”;
- (g) deur subparagraaf (xvi) van paragraaf (i) van subartikel (1) te skrap;
- (h) deur paragraaf (iA) van subartikel (1) deur die volgende paragraaf te vervang:
- “(iA) in die geval van 'n effektegroepe in paragraaf (e)(i) van die omskrywing van 'maatskappy' in artikel 1, soveel van die rente of buitelandse dividende in artikel 9E bedoel ontvang deur of toegeval aan daardie effektegroepe as wat by wyse van 'n dividend of 'n gedeelte van 'n dividend uitgekeer is of wat, volgens die oortuiging van die Kommissaris, uitgekeer sal word, aan persone wat op sodanige dividend geregtig geword het uit hoofde van die feit dat hulle, op 'n datum wat op of na die eerste dag van April 1971 val, as besitters van onderaandeel in bedoelde effektegroepe geregistreer is;”;
- (i) deur die woord “of” aan die einde van subitem (B) van item (bb) van subparagraaf (i) van paragraaf (k) van subartikel (1) by te voeg;
- (j) deur die volgende item by subparagraaf (i) van paragraaf (k) van subartikel (1) te voeg:
- “(dd) op die bedrag van enige buitelandse dividend in artikel 9E bedoel, ontvang deur of toegeval aan enige inwoner soos in artikel 9C omskryf;”;
- (k) deur subparagraaf (xii) van paragraaf (t) van subartikel (1) te skrap.
- (2) (a) Subartikel (1)(a), (c) en (d) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal: Met dien verstande dat enige maatskappy, genootskap, trust, instelling, kamer, beurs, ander vereniging van persone of fonds wie se ontvangste en toevallings ingevolge die bepalinge van paragrawe (cB), (cC), (cD), (cF), (cI), (cJ), (f) en (fA) van artikel 10(1) van die Inkomstebelastingwet, 1962, vrygestel was van belasting voor die wysiging daarvan deur hierdie artikel, welke maatskappy, genootskap, trust, instelling, ander vereniging van persone of fonds binne 'n tydperk van 12 maande na die datum aldus deur die President bepaal, ingevolge artikel 10(1)(d)(ii) of (iii) of artikel 30 van daardie Wet vir goedkeuring deur die Kommissaris aansoek doen, of binne bedoelde tydperk 'n skriftelike onderneming indien soos in genoemde artikel 30 bepaal, gaan voort om vrystelling te geniet tot skriftelike kennisgewing deur die Kommissaris van sy besluit ingevolge genoemde artikel 10(1)(d)(ii) of (iii) of artikel 30: Met dien verstande voorts dat enige bedoelde maatskappy, genootskap, trust, instelling, ander vereniging van persone of fonds, behoudens die bepalinge van genoemde artikel 30—
- (i) binne 'n tydperk van vyf jaar na die datum aldus deur die President bepaal; of
- (ii) op die tydstip wat enige wysiging van die konstitusie of ander skriftelike dokument ingevolge waarvan dit opgerig is, aangebring word, welke tyd die vroegste is, 'n afskrif van bedoelde konstitusie of ander skriftelike dokument ingevolge waarvan dit aldus opgerig is by die Kommissaris indien.
- (b) Subartikel (1)(b) en (k) word geag op 1 Januarie 2000 in werking te getree het en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem.
- (c) Subartikel (1)(f) en (g) word geag in werking te getree het op 1 Maart 2000 en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem.
- (d) Subartikel (1)(e), (h), (i) en (j) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige buitelandse dividend—

- (i) received by or accrued to any person on or after that date; or
- (ii) which accrued to the person before 23 February 2000, but which is received on or after that date:

Provided that the provisions of this paragraph shall not apply in respect of any dividend declared by a company before 23 February 2000, where—

- (aa) such company is listed on a recognised stock exchange; or
- (bb) in any other case, the chief executive officer and—
 - (A) an external auditor of the company; or
 - (B) where a company is situated in a country which does not require compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant, have declared under oath or affirmation that such dividend was actually declared by the company before 23 February 2000.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998 and section 20 of Act 53 of 1999

22. (1) Section 11 of the Income Tax Act, 1962, is hereby amended—

- (a) by the insertion after paragraph (c) of the following paragraph:

“(cA) an allowance in respect of any amount actually incurred by such person in the course of the carrying on of his trade, as compensation in respect of any restraint of trade imposed on any other person who—

 - (i) is a natural person;
 - (ii) is or was a labour broker as defined in the Fourth Schedule (other than a labour broker in respect of which a certificate of exemption has been issued in terms of such Schedule);
 - (iii) is or was a personal service company as defined in the Fourth Schedule; or
 - (iv) is or was a personal service trust as defined in the Fourth Schedule, to the extent that such amount constitutes or will constitute income of the person to whom it is paid: Provided that the amount allowed to be deducted under this paragraph shall not exceed for any one year the lesser of—
 - (aa) so much of such amount so incurred as is equal to such amount divided by the number of years, or part thereof, during which the restraint of trade shall apply; or
 - (bb) one-third of such amount so incurred;”;
- (b) by the substitution for the words preceding the proviso to paragraph (a) of the following words:

“save as provided in paragraph 12(2) of the First Schedule, an allowance in respect of—

 - (i) any building (or portion thereof) referred to in section 13(1) or (4) or section 13bis(1) or section 27(2)(b) or of any improvements (or portion thereof) to such building; or
 - (ii) [of] any shipbuilding structure referred to in section 13(8) or of any improvement to such shipbuilding structure; or

- (i) op of na daardie datum ontvang deur of toegeval aan enige persoon; of
- (ii) wat voor 23 Februarie 2000 aan die persoon toegeval het, maar wat ontvang word op of na daardie datum:

Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van enige dividend voor 23 Februarie 2000 verklaar, waar—

- (aa) bedoelde maatskappy op 'n erkende aandelebeurs genoteer is; of
- (bb) in enige ander geval, die hoof uitvoerende beamppte en—
 - (A) 'n eksterne ouditeur van die maatskappy; of
 - (B) waar 'n maatskappy geleë is in 'n land wat nie die verpligte aanstelling van 'n eksterne ouditeur vereis nie, 'n geregistreerde openbare rekenmeester met dieselfde status as 'n gekwalifiseerde geoktrooieerde rekenmeester,

onder eed verklaar het of 'n bevestigende verklaring afgelê het dat die dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.

15 Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, 20 artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 25 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991, artikel 11 van Wet 141 van 1992, artikel 9 van Wet 113 van 1993, artikel 5 van Wet 140 van 1993, artikel 10 van Wet 21 van 1994, artikel 12 van Wet 21 van 1995, artikel 9 van Wet 36 van 1996, artikel 12 van Wet 28 van 1997, artikel 30 van Wet 30 van 1998 en artikel 30 20 van Wet 53 van 1999.

22. (1) Artikel 11 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die volgende paragraaf na paragraaf (c) in te voeg:

“(cA) 'n vermindering ten opsigte van enige bedrag werklik aangegaan deur bedoelde persoon in die loop van die uitoefening van sy bedryf, as vergoeding ten opsigte van enige handelsbeperking aan enige ander persoon opgelê wat—

- (i) 'n natuurlike persoon is;
- (ii) 'n arbeidsmakelaar soos in die Vierde Bylae omskryf (behalwe 'n arbeidsmakelaar ten opsigte waarvan 'n vrystellingsertifikaat ingevolge bedoelde Bylae uitgereik is), is of was;
- (iii) 'n persoonlike diensmaatskappy soos in die Vierde Bylae omskryf, is of was; of
- (iv) 'n persoonlike dienstrust soos in die Vierde Bylae omskryf, is of was,

in die mate wat bedoelde bedrag inkomste van die persoon aan wie dit betaal is, uitmaak of sal uitmaak: Met dien verstande dat die bedrag wat ingevolge hierdie paragraaf toegelaat word om afgetrek te word nie vir enige jaar die minste van—

(aa) soveel van bedoelde bedrag aldus aangegaan as wat gelyk is aan bedoelde bedrag gedeel deur die aantal jare, of gedeelte daarvan, waartydens die handelsbeperking van toepassing is; of

(bb) een derde van bedoelde bedrag aldus aangegaan, oorskry nie;”;

(b) deur die woorde wat die voorbehoudsbepaling by paragraaf (o) voorafgaan deur die volgende woorde te vervang:

“behoudens die bepalings van paragraaf 12(2) van die Eerste Bylae, 'n vermindering ten opsigte van—

- (i) 'n gebou (of gedeelte daarvan) in artikel 13(1) of (4) of artikel 13bis(1) of artikel 27(2)(b) bedoel of van verbeterings (of gedeelte daarvan) aan bedoelde gebou; of
- (ii) [van] 'n in artikel 13(8) bedoelde skeepsbouwerk of van verbeterings aan bedoelde skeepsbouwerk; of

- (iii) [of] any residential unit referred to in section 13*ter*; or
- (iv) [of] any permanent work, road pavement or ancillary service referred to in section 24G; or
- (v) [of] any machinery, plant, implements, utensils or articles used by the taxpayer for the purposes of his trade; or
- (vii) any transmission line or cable or railway line referred to in section 12D,
- which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof), [or such] improvements (or portion thereof) to such building, [or such] shipbuilding structure, [or such] improvements to such shipbuilding structure, [or such] residential unit, [or such] permanent work, road pavement, [or] ancillary service, [or such] machinery, plant, implements, utensils, [or] articles, transmission line or cable or railway line over the total amount arrived at by adding all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12(1), or section 12(1) as applied by section 12(3), or section 12A(2), or section 12B, or section 12C, or section 12D, or section 13(1), or section 13(1) as applied by section 13(4) or (8), or section 13*bis*(1), (2) or (3), or section 13*ter*(2) or (3), or section 14(1)(a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14*bis*(1)(a), (b) or (c), or section 24F, or section 24G, or section 27(2)(b) or (d), to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils [or] articles, transmission line or cable or railway line.”;
- (c) by the substitution for paragraphs (i) and (ii) of the proviso to paragraph (o) of the following paragraphs:
- “(i) no allowance shall be made in the case of any such building (or portion thereof), [or of any such] improvements (or portion thereof) to such building, [or of any such] shipbuilding structure, [or of any such] improvements to such shipbuilding structure, [or of any such] residential unit, transmission line or cable or railway line which has or have been scrapped within a period of ten years from the date of erection or purchase, or in the case of any such residential unit in respect of which any amount has fallen for inclusion in the taxpayer’s income under the provisions of section 13*ter*(7)(a), whether in the current or in any previous year of assessment;
- (ii) for the purposes of this paragraph the cost of any building (or portion thereof), [or of any] improvements (or portion thereof) to any building, [or of any] shipbuilding structure, [or of any] improvements to any shipbuilding structure, [or of any such] residential unit, transmission line or cable or railway line shall be deemed to be that portion of the actual cost on which the allowance in question was made;”;
- (d) by the substitution for subparagraph (B) of paragraph (dd) of the proviso to paragraph (w) of the following subparagraph:
- “(B) the only benefit payable under the policy is a benefit payable within a period fixed in such policy upon or by reason of the death or disablement of the employee or director whose life is insured under the policy or the policy is a [personal accident] disability policy as defined in section 1 of the Long-term Insurance Act, [1943 (Act 27 of 1943)] 1998 (Act No. 52 of 1998); or”;
- (e) by the substitution for paragraph (ff) of the proviso to paragraph (w) of the following paragraph:
- “(ff) no deduction shall be made from the income of any taxpayer in respect of premiums paid by him under any policy of insurance of which he is the owner on the life of an employee of that taxpayer or, where the taxpayer is a company, of a director or employee of that company, except in so far

- (iii) [van] 'n wooneenheid in artikel 13^{ter} bedoel; of
- (iv) [van] enige permanente werk, padplaveisel of bykomstige diens in artikel 24G bedoel; of
- (v) [van] masjinerie, installasie, gereedskap, werktuie of artikels deur die belastingpligtige gebruik vir die doeleindes van sy bedryf; of
- (vi) enige transmissielyn of -kabel of spoorlyn in artikel 12D bedoel, wat gedurende die jaar van aanslag deur die belastingpligtige as uitgedien onttrek is, te wete, 'n vermindering gelyk aan die bedrag wat die oorspronklike koste aan die belastingpligtige van bedoelde gebou (of gedeelte daarvan), [of bedoelde] verbeterings (of gedeelte daarvan) aan bedoelde gebou, [of bedoelde] skeepsbouwerk, [of bedoelde] verbeterings aan bedoelde skeepsbouwerk, [of bedoelde] wooneenheid, [of bedoelde] permanente werk, padplaveisel, [of] bykomstige diens, [of bedoelde] masjinerie, installasie, gereedskap, werktuie, [of] artikels, transmissielyn of -kabel of spoorlyn meer is as die totale bedrag verkry deur al die verminderings ingevolge die bepalinge van paragraaf (e) van hierdie artikel, of artikel 12(1), of artikel 12(1) soos toegepas deur artikel 12(3), of artikel 12A(2), of artikel 12B, of artikel 12C, of artikel 12D, of artikel 13(1), of artikel 13(1) soos toegepas deur artikel 13(4) of (8), of artikel 13^{bis}(1), (2) of (3), of artikel 13^{ter}(2) of (3), of artikel 14(1)(a) of (b), of die ooreenstemmende bepalinge van 'n vorige Inkomstebelastingwet, of artikel 14^{bis}(1)(a), (b) of (c), of artikel 24F, of artikel 24G, of artikel 27(2)(b) of (d), ten opsigte daarvan toegestaan, te voeg by enige bedrag of die waarde van enige voordeel wat aan die belastingpligtige toeval ten opsigte van die verkoop van of ander beskikking oor sodanige gebou, skeepsbouwerk, verbeterings, wooneenheid, permanente werk, padplaveisel, [of] bykomstige diens, masjinerie, installasie, gereedskap, werktuie, [of] artikels, transmissielyn of -kabel of spoorlyn.”;
- (c) deur paragrafe (i) en (ii) van die voorbehoudsbepaling by paragraaf (o) deur die volgende paragrafe te vervang:
- “(i) geen vermindering toegelaat word nie in die geval van so 'n gebou (of gedeelte daarvan), [of van sodanige] verbeterings (of gedeelte daarvan) aan bedoelde gebou, [of van so 'n] skeepsbouwerk, [of van sodanige] verbeterings aan bedoelde skeepsbouwerk, [of van so 'n] wooneenheid, transmissielyn of -kabel of spoorlyn wat as uitgedien onttrek is binne 'n tydperk van tien jaar vanaf die datum van oprigting of aankoop, of in die geval van so 'n wooneenheid ten opsigte waarvan 'n bedrag ingevolge die bepalinge van artikel 13^{ter}(7)(a) by die belastingpligtige se inkomste inrekenbaar was, hetsy in die lopende of in 'n vorige jaar van aanslag;
- (ii) by die toepassing van hierdie paragraaf die koste van 'n gebou (of gedeelte daarvan), [of van enige] verbeterings (of gedeelte daarvan) aan 'n gebou, [of van enige] skeepsbouwerk, [of van enige] verbeterings aan 'n skeepsbouwerk, [of van so 'n] wooneenheid, transmissielyn of -kabel of spoorlyn geag word daardie gedeelte van die werklike koste te wees waarop die betrokke vermindering gemaak is;”;
- (d) deur subparagraaf (B) van paragraaf (dd) van die voorbehoudsbepaling by paragraaf (w) deur die volgende subparagraaf te vervang:
- “(B) die enigste voordeel wat ingevolge die polis betaalbaar is 'n voordeel is wat binne 'n tydperk in die polis vasgestel, betaalbaar is by of uit hoofde van die dood of ongeskiktheid van die werknemer of direkteur wie se lewe ingevolge die polis verseker word, of die polis 'n [persoonlike ongevallepolis] ongeskiktheidspolis is soos in artikel 1 van die [Versekeringswet, 1943 (Wet No. 27 van 1943)] Langtermynversekeringswet, 1998, (Wet No. 52 van 1998), omskryf; of”;
- (e) deur paragraaf (ff) van die voorbehoudsbepaling by paragraaf (w) deur die volgende paragraaf te vervang:
- “(ff) geen aftrekking van die inkomste van 'n belastingpligtige gemaak word nie ten opsigte van premies deur hom betaal ingevolge 'n assuransiepolis waarvan hy die eienaar is op die lewe van 'n werknemer van daardie belastingpligtige of, waar die belastingpligtige 'n maatskappy is, van 'n direkteur of werknemer van daardie maatskappy, behalwe vir

as an allowance may be made under this paragraph or, in the case of a policy which is not a life policy or a **[personal accident] disability** policy as defined in section 1 of the Long-term Insurance Act, [1943] 1998, a deduction which may, in appropriate circumstances, be made under paragraph (a) or (b) of this section;”.

(2) (a) Subsection (1)(a) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any amount incurred on or after that date.

(b) Subsection (1)(b) and (c) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any transmission line or cable or railway line contracted for and the construction, erection or installation of which commenced on or after that date.

Insertion of section 12D in Act 58 of 1962

23. (1) The following section is hereby inserted after section 12C of the Income Tax Act, 1962:

“Deduction in respect of certain pipelines, transmission lines and railway lines

12D. (1) For the purposes of this section—

‘affected asset’ means any—

- (a) pipeline used for the transportation of natural oil;
 - (b) line or cable used for the transmission of electricity;
 - (c) telephone line or cable used for the transmission of any signal for the purposes of telecommunication; and
 - (d) railway line used for the transportation of persons, goods or things, contracted for on or after the effective date, and the construction, erection or installation of which commenced on or after such date, and includes any earthworks or supporting structures forming part of such pipeline, transmission line or cable or railway line;
- ‘effective date’ means 23 February 2000; and
 ‘natural oil’ means any liquid or solid hydrocarbon or combustible gas existing in a natural condition in the earth’s crust and includes any refined by-products of such liquid or solid hydrocarbon or combustible gas.

(2) In respect of any new and unused affected asset which—

- (a) is owned by the taxpayer and is brought into use for the first time by such taxpayer on or after the effective date; and
- (b) is used directly by such taxpayer—
 - (i) in the production of his income; and
 - (ii) in carrying on his sole business of—
 - (aa) the transportation of persons, goods, things or natural oil; or
 - (bb) the transmission of electricity or any telecommunication signal,

there shall be allowed to be deducted an allowance in respect of the cost actually incurred by the taxpayer in respect of the acquisition of such asset.

(3) The allowance contemplated in subsection (2) shall not for any one year exceed—

- (a) 10 per cent of the cost incurred in respect of any asset contemplated in paragraph (a) of the definition of ‘affected asset’; or
- (b) 5 per cent of the cost incurred in respect of any asset contemplated in paragraph (b), (c) or (d) of the definition of ‘affected asset’.

(4) For the purposes of this section the cost to a taxpayer of any affected asset shall be deemed to be—

- (a) where such asset has been acquired to replace any asset which has been damaged or destroyed, the actual cost of such asset, less any amount which has been recovered or recouped in respect of the damaged or destroyed asset which has been excluded from the

- sover 'n vermindering ingevolge hierdie paragraaf gemaak kan word of, in die geval van 'n polis wat nie 'n lewenspolis of [persoonlike ongevallepolis] ongeskiktheidspolis is soos in artikel 1 van die [Versekeringswet, 1943 (Wet No. 27 van 1943)] Langtermynversekeringswet, 1998, omskryf nie, 'n aftrekking wat in paslike omstandighede ingevolge paragraaf (a) of (b) van hierdie artikel gemaak kan word;".
- (2) (a) Subartikel (1)(a) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing ten opsigte van enige bedrag op of na daardie datum aangegaan.
- (b) Subartikel (1)(b) en (c) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing ten opsigte van enige transmissielyn of -kabel of spoorlyn waarvoor op of na daardie datum gekontrakteer is en die konstruksie, installasie of oprigting waarvan 'n aanvang geneem het op of na daardie datum.

Invoeging van artikel 12D in Wet 58 van 1962

23. (1) Die volgende artikel word hierby na artikel 12C van die Inkomstebelastingwet, 1962, ingevoeg:

"Aftrekking ten opsigte van sekere pyplyne, transmissielyne en spoorlyne

12D. (1) By die toepassing van hierdie artikel beteken—

- 'aardolie' enige vloeibare of vaste koolwaterstof of ontvlambare gas wat in 'n natuurstaat in die aardkors voorkom en sluit in enige verwerkte byprodukte van daardie vloeibare of vaste koolwaterstof of ontvlambare gas;
- 'effektiewe datum' 23 Februarie 2000; en
- 'geaffekteerde bate' enige—
- (a) pyplyn gebruik vir die vervoer van aardolie;
- (b) lyn of kabel gebruik vir die transmissie van elektrisiteit;
- (c) telefoonlyn of -kabel gebruik vir die transmissie van enige sein vir die doeleindes van telekommunikasie; en
- (d) spoorlyn gebruik vir die vervoer van persone, goed of sake, waarvoor op of na die effektiewe datum gekontrakteer is, en die konstruksie, oprigting of installasie waarvan op of na bedoelde datum begin is, en ook enige grondwerk of ondersteunende bouwerk wat deel vorm van bedoelde pyplyn, transmissielyn of -kabel of spoorlyn.
- (2) Ten opsigte van enige nuwe en ongebruikte geaffekteerde bate wat—
- (a) behoort aan die belastingpligtige en op of na die effektiewe datum vir die eerste keer deur bedoelde belastingpligtige in gebruik geneem word; en
- (b) regstreeks gebruik word deur bedoelde belastingpligtige—
- (i) in die voortbrenging van sy inkomste; en
- (ii) in die beoefening van sy enigste besigheid van—
- (aa) die vervoer van persone, goed, sake of aardolie; of
- (bb) die transmissie van elektrisiteit of enige telekommunikasie, word 'n vermindering ten opsigte van die koste werklik deur die belastingpligtige aangegaan ten opsigte van die verkryging van bedoelde bate as 'n aftrekking toegelaat.
- (3) Die vermindering in subartikel (2) bedoel, oorskry nie vir enige een jaar—
- (a) 10 persent van die koste ten opsigte van enige bate in paragraaf (a) van die omskrywing van 'geaffekteerde bate' bedoel, aangegaan nie; of
- (b) 5 persent van die koste ten opsigte van enige bate in paragraaf (b), (c) of (d) van die omskrywing van 'geaffekteerde bate' bedoel, aangegaan nie.
- (4) By die toepassing van hierdie artikel word die koste vir die belastingpligtige van enige geaffekteerde bate geag te wees—
- (a) waar bedoelde bate verkry is om enige bate wat beskadig of vernietig is, te vervang, die werklike koste van bedoelde bate, min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate verhaal of vergoed is wat ingevolge artikel 8(4)(e) van die belastingpligtige se

taxpayer's income in terms of section 8(4)(e), whether in the current or any previous year of assessment; or

(b) in any other case, the lesser of—

(i) the actual cost of acquisition of the asset incurred by the taxpayer; or

(ii) the cost which a person would, if he had acquired the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the said asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset (including the direct cost of the installation or erection thereof).

(5) No deduction shall be allowed under this section in respect of any affected asset which has been disposed of by the taxpayer during any previous year of assessment.

(6) The deductions which may be allowed in terms of this section and any other provision of this Act in respect of the cost of any affected asset shall not in the aggregate exceed the amount of such cost.”.

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any pipeline, transmission line or cable or railway line contracted for and the construction, installation or erection of which commenced on or after that date.

Substitution of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970 and substituted by section 16 of Act 96 of 1981 and amended by section 14 of Act 91 of 1982, section 16 of Act 94 of 1983, section 16 of Act 121 of 1984, section 15 of Act 90 of 1988, section 17 of Act 101 of 1990, section 20 of Act 129 of 1991 and section 11 of Act 36 of 1996

24. (1) The following section is hereby substituted for Section 18A of the Income Tax Act, 1962:

“Deduction of donations to certain public benefit organisations

18A. (1) There shall be allowed to be deducted from the taxable income of any taxpayer so much of the sum of any *bona fide* donations in cash or in kind made by such taxpayer and actually paid or transferred during the year of assessment to—

(a) any—

(i) public benefit organisation approved by the Commissioner under section 30; or

(ii) institution, board or body contemplated in section 10(1)(cA)(i), which carries on in the Republic any public benefit activity which is determined by the Minister by notice in the *Gazette* for the purposes of this section, a copy of which shall be laid upon the table in Parliament;

(b) any public benefit organisation approved by the Commissioner under section 30, which—

(i) provides funds solely to any public benefit organisation, institution, board or body contemplated in paragraph (a); and

(ii) during the year of assessment preceding the year of assessment of such public benefit organisation during which the donation is received, distributed or incurred the obligation to so distribute at least 75 per cent of the funds received by or accrued to such organisation by way of donations which qualified for a deduction in terms of this section,

as does not exceed the greater of—

(aa) five per cent of the taxable income of the taxpayer as calculated before allowing any deduction under this section or section 18; or

inkomste uitgesluit is, hetsy in die huidige of enige vorige jaar van aanslag; of

(b) in enige ander geval, die minste van—

(i) die werklike koste van verkryging van die bate deur die belastingpligtige aangegaan; of

(ii) die koste wat iemand, indien hy bedoelde bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van bedoelde bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate (met inbegrip van die regstreekse koste van die installering of oprigting daarvan).

(5) Geen aftrekking word ingevolge hierdie artikel toegelaat ten opsigte van enige geaffekteerde bate wat gedurende enige vorige jaar van aanslag deur die belastingpligtige van die hand gesit is nie.

(6) Die aftrekkings wat ingevolge hierdie artikel en enige ander bepaling van hierdie Wet toegestaan kan word ten opsigte van die koste van enige geaffekteerde bate, is in totaal nie meer nie as die bedrag van bedoelde koste.”

(2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing ten opsigte van enige pylyn, transmissielyn of -kabel of spoorlyn waarvoor gekontrakteer is, en waarvan die konstruksie, installasie of oprigting 'n aanvang geneem het, op of na daardie datum.

Vervanging van artikel 18A van Wet 58 van 1962, soos ingevoeg deur artikel 15 van Wet 52 van 1970 en vervang deur artikel 16 van Wet 96 van 1981 en gewysig deur artikel 14 van Wet 91 van 1982, artikel 16 van Wet 94 van 1983, artikel 16 van Wet 121 van 1984, artikel 15 van Wet 90 van 1988, artikel 17 van Wet 101 van 1990, artikel 20 van Wet 129 van 1991 en artikel 11 van Wet 36 van 1996

24. (1) Artikel 18A van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

“Aftrekking van skenkings aan sekere openbare weldaadsorganisasies

18A. (1) Daar word as 'n aftrekking van die belasbare inkomste van 'n belastingpligtige toegelaat soveel van die som van enige *bona fide*-skenkings in kontant of in natura deur die belastingpligtige gedurende die jaar van aanslag gemaak en werklik gedurende die jaar van aanslag betaal of oorgedra aan—

(a) enige—

(i) openbare weldaadsorganisasie wat ingevolge artikel 30 deur die Kommissaris goedgekeur is; of

(ii) instelling, raad of liggaam in artikel 10(1)(cA)(i) bedoel, wat enige openbare weldaadsaktiwiteit in die Republiek beoefen wat deur die Minister vir die doeleindes van hierdie artikel bepaal is by kennisgewing in die *Staatskoerant*, waarvan 'n afskrif in die Parlement ter tafel gelê moet word;

(b) enige openbare weldaadsorganisasie wat ingevolge artikel 30 deur die Kommissaris goedgekeur is, wat—

(i) alleenlik fondse voorsien aan enige openbare weldaadsorganisasie, instelling, raad of liggaam in paragraaf (a) bedoel; en

(ii) gedurende die jaar van aanslag wat die jaar van aanslag van die openbare weldaadsorganisasie waarin die skenking ontvang is, voorafgaan minstens 75 persent van die fondse wat ontvang is deur of toegeval het aan bedoelde organisasie by wyse van skenkings wat ingevolge hierdie artikel as 'n aftrekking gekwalifiseer het, uitgekeer het of die verpligting aangegaan het om aldus uit te keer,

as wat nie die grootste van—

(aa) vyf persent van die belasbare inkomste van die belastingpligtige soos bereken voordat 'n aftrekking ingevolge hierdie artikel en artikel 18 toegelaat word; of

(bb) R1 000.

(2) Any claim for a deduction in respect of any donation under subsection (1) shall not be allowed unless supported by a receipt issued by the public benefit organisation, institution, board or body concerned, on which the following details are given, namely—

- (a) the reference number of the public benefit organisation, institution, board or body issued by the Commissioner for the purposes of this section;
- (b) the date of the receipt of the donation;
- (c) the name of the public benefit organisation, institution, board or body which received the donation, together with an address to which enquiries may be directed in connection therewith;
- (d) the name and address of the donor;
- (e) the amount of the donation or the nature of the donation (if not made in cash);
- (f) a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of the public benefit organisation, institution, board or body concerned.

(3) If any deduction is claimed by any taxpayer under the provisions of subsection (1) in respect of any donation of property in kind, the amount of such deduction shall be deemed to be an amount equal to—

- (a) where such property constitutes trading stock of the taxpayer (including any livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable), the amount which has been taken into account for the purposes of section 22(8) or, in the case of such livestock or produce, the said paragraph 11, in relation to the donation of such property; or
- (b) where such property (other than trading stock) constitutes an asset used by the taxpayer for the purposes of his trade, the cost to the taxpayer of such property less any allowance (other than any investment allowance) allowed to be deducted from the income of the taxpayer under the provisions of this Act in respect of that asset; or
- (c) where such property does not constitute trading stock of the taxpayer or an asset used by him for the purposes of his trade, the cost to the taxpayer of such asset, less, in the case of a movable asset which has deteriorated in condition by reason of use or other causes, a depreciation allowance calculated in the manner contemplated in section 8(5)(bB)(i); or
- (d) where such property is purchased, manufactured, erected, assembled, installed or constructed by or on behalf of the taxpayer in order to form the subject of the said donation, the cost to the taxpayer of such property.

(4) The provisions of subsections (9) and (10) of section 30 shall apply *mutatis mutandis* in respect of any institution, board or body contemplated in subsection (1)(a).

(5) If the Commissioner has reasonable grounds for believing that any person who is in a fiduciary capacity responsible for the management or control of the income or assets of any public benefit organisation, institution, board or body has with intent—

- (a) in any material way failed to ensure that the objects for which the public benefit organisation, institution, board or body was established are carried out or has expended moneys belonging to the public benefit organisation, institution, board or body for the purposes not covered by such objects; or

(bb) R1 000,

te bowe gaan nie.

(2) 'n Aanspraak op 'n aftrekking ten opsigte van 'n skenking ingevolge subartikel (1) word nie toegelaat nie tensy dit gestaaf word deur 'n kwitansie uitgereik deur die betrokke openbare weldaadsorganisasie, instelling, raad of liggaam, waarop die volgende besonderhede verstrek word, naamlik—

(a) die verwysingsnommer van die openbare weldaadsorganisasie, instelling, raad of liggaam wat vir die doeleindes van hierdie artikel deur die Kommissaris uitgereik is;

(b) die datum van die ontvangs van die skenking;

(c) die naam van die openbare weldaadsorganisasie, instelling, raad of liggaam wat die skenking ontvang het tesame met 'n adres waartoe navrae in verband daarmee gerig kan word;

(d) die naam en adres van die skenker;

(e) die bedrag van die skenking of die aard van die skenking (indien nie in kontant gedoen nie);

(f) 'n sertifisering ten effekte dat die kwitansie uitgereik word vir die doeleindes van artikel 18A van die Inkomstebelastingwet, 1962, en dat die skenking uitsluitlik vir die doeleindes van die betrokke openbare weldaadsorganisasie, instelling, raad of liggaam gebruik is of sal word.

(3) Indien 'n belastingpligtige ingevolge die bepalinge van subartikel (1) 'n aftrekking eis ten opsigte van 'n skenking van eiendom in natura, word die bedrag van bedoelde aftrekking geag 'n bedrag te wees gelyk aan—

(a) waar bedoelde eiendom handelsvoorraad van die belastingpligtige uitmaak (met inbegrip van enige lewende hawe of produkte ten opsigte waarvan die bepalinge van paragraaf 11 van die Eerste Bylae van toepassing is), die bedrag wat by die toepassing van artikel 22(8) of, in die geval van bedoelde lewende hawe of produkte, genoemde paragraaf 11, in berekening gebring is met betrekking tot die skenking van bedoelde eiendom; of

(b) waar bedoelde eiendom (behalwe handelsvoorraad) 'n bate uitmaak wat deur die belastingpligtige vir die doeleindes van sy bedryf gebruik word, die koste vir die belastingpligtige van bedoelde eiendom min enige vermindering (behalwe 'n beleggingsvermindering) wat ingevolge die bepalinge van hierdie Wet toegelaat is om van die belastingpligtige se inkomste afgetrek te word ten opsigte van daardie bate; of

(c) waar bedoelde eiendom nie handelsvoorraad van die belastingpligtige of 'n bate wat vir die doeleindes van sy bedryf deur hom gebruik word, uitmaak nie, die koste vir die belastingpligtige van bedoelde bate min, in die geval van 'n roerende bate waarvan die toestand weens gebruik of ander oorsake versleg het, 'n waardeverminderingstoelae bereken op die wyse in artikel 8(5)(bB)(i) bedoel; of

(d) waar bedoelde eiendom deur of ten behoeve van die belastingpligtige gekoop, vervaardig, opgerig, gemonteer, geïnstalleer of gebou word ten einde die onderwerp van genoemde skenking te wees, die koste vir die belastingpligtige van bedoelde eiendom.

(4) Die bepalinge van subartikels (9) en (10) van artikel 30 is *mutatis mutandis* van toepassing ten opsigte van enige instelling, raad of liggaam in subartikel (1)(a) bedoel.

(5) Indien die Kommissaris rede het om te glo dat enige persoon wat in 'n fidusiêre hoedanigheid vir die bestuur of beheer van die inkomste of bates van enige openbare weldaadsorganisasie, instelling, raad of liggaam verantwoordelik is, opsetlik—

(a) in enige wesenlike opsig nagelaat het om toe te sien dat die doelstellings waarvoor die openbare weldaadsorganisasie, instelling, raad of liggaam ingestel is, nagekom word of gelde wat aan die openbare weldaadsorganisasie, instelling, raad of liggaam behoort, uitgegee het vir doeleindes wat nie binne daardie doelstellings val nie; of

(b) issued or allowed a receipt to be issued to any taxpayer for the purposes of this section in respect of any fees or other emoluments payable to such organisation, institution, board or body by such taxpayer,

the Commissioner may by notice in writing addressed to that person direct that donations to such fund shall not qualify for deduction under the provisions of this section in respect of any year of assessment specified in such notice, and any claim by any taxpayer for such deduction shall accordingly be disallowed.”.

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

(a) determines the limit of the deduction as contemplated in section 18A(1), be deemed to have come into operation on 1 March 2000, and shall apply in respect of years of assessment commencing on or after that date; and

(b) amends the rest of section 18A, come into operation on a date fixed by the President by proclamation in the *Gazette*.

(3) The public benefit activities determined by the Minister of Finance by notice in the *Gazette* as contemplated in section 18A(1)(a) of the Income Tax Act, 1962, shall be incorporated into that Act within a period of 12 months after the date fixed by the President in terms of subsection (2)(b).

Repeal of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of Act 88 of 1965, section 17 of Act 88 of 1971, section 14 of Act 90 of 1972, section 18 of Act 85 of 1974, section 14 of Act 104 of 1980, section 17 of Act 96 of 1981, section 15 of Act 91 of 1982, section 17 of Act 94 of 1983, section 17 of Act 121 of 1984, section 12 of Act 96 of 1985, section 12 of Act 65 of 1986, section 4 of Act 108 of 1986, section 13 of Act 85 of 1987, section 18 of Act 101 of 1990, section 21 of Act 129 of 1991 and section 33 of Act 30 of 1998

25. (1) Section 19 of the Income Tax Act, 1962, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2000, and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 19 of Act 191 of 1990, section 16 of Act 113 of 1993, section 17 of Act 21 of 1995 and section 15 of Act 28 of 1997

26. Section 20 of the Income Tax Act, 1962, is hereby amended by the addition to subsection (1) of the following proviso:

“Provided that there shall not be set off against any amount distributed to such person by any pension fund or provident fund which is included in the gross income of such person in terms of paragraph (eB) of the definition of ‘gross income’ in section 1, any—

(a) balance of assessed loss; or

(b) ‘assessed loss’ as defined in subsection (2) incurred in such year before taking into account any amount of such distribution.”.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993, section 19 of Act 21 of 1995, section 12 of Act 36 of 1996 and section 25 of Act 53 of 1999

27. (1) Section 22 of the Income Tax Act, 1962, is hereby amended—

- (b) 'n kwitansie aan enige belastingpligtige vir die doeleindes van hierdie artikel uitgereik het of toegelaat het om uitgereik te word ten opsigte van enige gelde of ander vergoeding deur bedoelde belastingpligtige aan bedoelde organisasie, instelling, raad of liggaam betaalbaar,
- 5 kan die Kommissaris deur skriftelike kennisgewing aan daardie persoon gerig, gelas dat skenkings aan sodanige fonds ten opsigte van 'n jaar van aanslag in bedoelde kennisgewing vermeld nie vir aftrekking kragtens die bepalings van hierdie artikel kwalifiseer nie, en word 'n eis deur enige belastingpligtige vir bedoelde aftrekking dienooreenkomstig nie toege-
- 10 staan nie.”
- (2) Vir sover subartikel (1)—
- (a) die beperking van die aftrekking bedoel in artikel 18A(1) bepaal, word dit geag op 1 Maart 2000 in werking te getree het en is dit van toepassing ten opsigte van jare van aanslag wat op of na daardie datum 'n aanvang neem;
- 15 en
- (b) die res van artikel 18A wysig, tree dit in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.
- (3) Die openbare weldaadsaktiwiteite deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal soos in artikel 18A(1)(a) van die Inkomstebelastingwet, 1962, bedoel, moet binne 'n tydperk van 12 maande na die datum ingevolge subartikel (2)(b) deur die President bepaal, in daardie Wet opgeneem word.

Herroeping van artikel 19 van Wet 58 van 1962, soos gewysig deur artikel 15 van Wet 90 van 1962, artikel 6 van Wet 6 van 1963, artikel 17 van Wet 88 van 1965, artikel 17 van Wet 88 van 1971, artikel 14 van Wet 90 van 1972, artikel 18 van Wet

25 **85 van 1974, artikel 14 van Wet 104 van 1980, artikel 17 van Wet 96 van 1981, artikel 15 van Wet 91 van 1982, artikel 17 van Wet 94 van 1983, artikel 17 van Wet 121 van 1984, artikel 12 van Wet 96 van 1985, artikel 12 van Wet 65 van 1986, artikel 4 van Wet 108 van 1986, artikel 13 van Wet 85 van 1987, artikel 18 van Wet 101 van 1990, artikel 21 van Wet 129 van 1991 en artikel 33 van Wet 30 van 1998**

- 30 25. (1) Artikel 19 van die Inkomstebelastingwet, 1962, word hierby herroep.
- (2) Subartikel (1) word geag op 1 Maart 2000 in werking te getree het en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem of geneem het.

Wysiging van artikel 20 van Wet 58 van 1962, soos gewysig deur artikel 13 van

35 **Wet 90 van 1964, artikel 18 van Wet 88 van 1965, artikel 13 van Wet 76 van 1968, artikel 18 van Wet 89 van 1969, artikel 15 van Wet 65 van 1973, artikel 8 van Wet 101 van 1978, artikel 18 van Wet 94 van 1983, artikel 19 van Wet 191 van 1990, artikel 16 van Wet 113 van 1993, artikel 17 van Wet 21 van 1995 en artikel 15 van Wet 28 van 1997**

- 40 26. Artikel 20 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende voorbehoudsbepaling by subartikel (1) te voeg:

“Met dien verstande dat daar nie verreken word nie teen enige bedrag aan bedoelde persoon deur enige pensioenfonds of voorsorgsfonds uitgekeer wat by die bruto inkomste van bedoelde persoon ingevolge paragraaf (eB) van die omskrywing van ‘bruto inkomste’ in artikel 1 ingesluit is, enige—

45 (a) balans van 'n vasgestelde verlies; of

(b) ‘vasgestelde verlies’ soos in subartikel (2) omskryf wat in bedoelde jaar gely is voor enige bedrag van bedoelde uitkering in berekening gebring is.”

50 **Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101**

55 **van 1990 artikel 22 van Wet 129 van 1991, artikel 17 van Wet 113 van 1993, artikel 1 van Wet 168 van 1993, artikel 19 van Wet 21 van 1995, artikel 12 van Wet 36 van 1996 en artikel 25 van Wet 53 van 1999**

27. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(5) No person may for the purpose of determining the cost price of any trading stock, adopt the basis of trading stock valuation whereunder the last item of any class of trading stock acquired by him on any date is deemed to be the first item of that class of trading stock disposed of by him on or after that date.”;

- (b) by the substitution for paragraph (c) of subsection (5A) of the following paragraph:

“(c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (3B), [or a LIFO reserve as contemplated in subsection (5)(d) has been determined in relation to such last-mentioned company]”; and

- (c) by the substitution for the words following on paragraph (c) of subsection (5A) of the following words:

“the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsection (3B) [or paragraphs (d) and (e) of subsection (5), as the case may be] be regarded as being one company.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 2000, and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993 and section 15 of Act 21 of 1994

28. (1) Section 23 of the Income Tax Act, 1962, is hereby amended—

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

“(d) any tax, duty, levy, interest or penalty imposed under this Act, any additional tax imposed under section 60 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and any interest or penalty payable in consequence of the late payment of any tax, duty or levy payable under any Act administered by the Commissioner, the Regional Services Councils Act, 1985 (Act No. 109 of 1985), [and] the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), and the Skills Development Levies Act, 1999 (Act No. 9 of 1999);”; and

- (b) by the addition of the following paragraphs:

“(k) any expense incurred by—

(i) a labour broker as defined in the Fourth Schedule, other than a labour broker in respect of which a certificate of exemption has been issued in terms of paragraph 2(5) of the said Schedule;

(ii) a personal service company as defined in the said Schedule; or

(iii) a personal service trust as defined in the said Schedule, other than any expense which constitutes an amount paid or payable to any employee of such labour broker, company or trust for services rendered by such employee, which is or will be taken into account in the determination of the taxable income of such employee;

(l) any expense incurred in respect of the payment of any restraint of trade, except as provided for in section 11(cA).”.

(2) (a) Subsection (1)(a) shall come into operation on 1 April 2000 and shall apply in respect of any year of assessment commencing on or after that date.

(b) Subsection (1)(b) shall—

- (i) in so far as it adds paragraph (k), be deemed to have come into operation on 1 April 2000, and shall apply in respect of any expense incurred on or after that date; and

- (ii) in so far as it adds paragraph (l), be deemed to have come into operation on 23 February 2000, and shall apply in respect of any expense incurred on or after that date.

(a) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Geen persoon mag ten einde die kosprys van handelsvoorraad vas te stel, die basis van handelsvoorraadwaardering toepas waarvolgens die laaste item van enige klas handelsvoorraad wat op enige datum deur hom verkry word, geag word die eerste item van daardie klas handelsvoorraad te wees wat op of na daardie datum deur hom van die hand gesit is nie.”;

(b) deur paragraaf (c) van subartikel (5A) deur die volgende paragraaf te vervang:

“(c) die laasgenoemde maatskappy in paragraaf (a) beoog op 'n aftrekking soos beoog in subartikel (3B) geregtig is [of 'n **LIEU-reserwe soos beoog in subartikel (5)(d) met betrekking tot daardie laasgenoemde maatskappy vasgestel is**],”;

(c) deur die woorde wat op paragraaf (c) van subartikel (5A) volg deur die volgende woorde te vervang:

“kan die Kommissaris gelas dat, onderworpe aan die voorwaardes wat hy op lê, genoemde twee maatskappye by die toepassing van subartikel (3B) [of **paragrafe (d) en (e) van subartikel (5), na gelang van die geval**] as een maatskappy beskou word.”.

(2) Subartikel (1) word geag op 1 Julie 2000 in werking te getree het en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem.

Wysiging van artikel 23 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 65 van 1973, artikel 20 van Wet 121 van 1984, artikel 23 van Wet 129 van 1991, artikel 20 van Wet 141 van 1992, artikel 18 van Wet 113 van 1993 en artikel 15 van Wet 21 van 1994

28. (1) Artikel 23 van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(d) enige belasting, reg, heffing, rente of boete kragtens hierdie Wet, gehef, enige addisionele belasting kragtens artikel 60 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), gehef en enige rente of boete betaalbaar ten gevolge van die laat betaling van enige belasting, reg of heffing wat betaalbaar is kragtens enige Wet wat deur die Kommissaris geadministreer word, die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985), [en] die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990 (Wet No. 84 van 1990), en die ‘Skills Development Levies Act, 1999 (Act No. 9 of 1999)’;”; en

(b) deur die volgende paragrafe by te voeg:

“(k) enige onkoste aangegaan deur—

(i) 'n arbeidsmakelaar soos in die Vierde Bylae omskryf, behalwe 'n arbeidsmakelaar ten opsigte waarvan 'n vrystellingsertifikaat ingevolge paragraaf 2(5) van genoemde Bylae uitgereik is;

(ii) 'n persoonlike diensmaatskappy soos in genoemde Bylae omskryf; of

(iii) 'n persoonlike dienstrust soos in genoemde Bylae omskryf, behalwe enige onkoste wat 'n bedrag uitmaak wat betaal of betaalbaar is aan 'n werknemer van bedoelde arbeidsmakelaar, maatskappy of trust vir dienste gelewer deur daardie werknemer, wat in berekening gebring is of sal word by die vasstelling van die belasbare inkomste van bedoelde werknemer;

(l) enige onkoste aangegaan ten opsigte van die betaling van enige handelsbeperking, behalwe soos in artikel 11(cA) bepaal.”.

(2) (a) Subartikel (1)(a) tree in werking op 1 April 2000 en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem.

(b) Subartikel (1)(b)—

(i) vir sover dit paragraaf (k) byvoeg, word geag op 1 April 2000 in werking te getree het en is van toepassing ten opsigte van enige onkoste wat op of na daardie datum aangegaan is; en

(ii) vir sover dit paragraaf (l) byvoeg, word geag op 23 Februarie 2000 in werking te getree het en is van toepassing ten opsigte van enige onkoste wat op of na daardie datum aangegaan is.

Amendment of section 23B of Act 58 of 1962, as inserted by section 25 of Act 129 of 1991 and amended by section 16 of Act 21 of 1994

29. Section 23B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Where, but for the provisions of this subsection, an amount—

- (a) qualifies or has qualified for a deduction or an allowance; or
- (b) is otherwise taken into account in determining the taxable income of any person,

under more than one provision of this Act, [a deduction or allowance in respect of] such amount or any portion thereof, shall not be allowed or taken into account more than once as a deduction or allowance in the determination of the taxable income of any person.”.

Substitution of section 23F of Act 58 of 1962, as inserted by section 17 of Act 21 of 1994

30. (1) The following section is hereby substituted for section 23F of the Income Tax Act, 1962:

“Acquisition or disposal of trading stock

23F. (1) Where any taxpayer has during any year of assessment incurred expenditure for the acquisition of trading stock which was neither disposed of by him during such year nor held by him at the end of such year, any deduction which may be allowed to him under the provisions of section 11(a) or (b) in respect of such expenditure shall not be allowed in such year, but such expenditure shall for the purposes of such provisions be deemed to have been incurred by him in the first subsequent year of assessment in which—

- (a) such trading stock is disposed of by him;
- (b) the value of such trading stock falls to be included in his income under the provisions of section 22(1); or
- (c) it is shown by him that by reason of the loss or destruction of such trading stock or the termination of the agreement in terms of which such trading stock was acquired by him or for any other reason, such trading stock will neither be disposed of nor held by him,

to the extent that such expenditure has actually been paid by such taxpayer.

(2) Where any taxpayer has during any year of assessment disposed of any trading stock in the ordinary course of his trade for any consideration the full amount of which will not accrue to him during such year of assessment and any expenditure incurred in respect of the acquisition of such trading stock was allowed as a deduction under the provisions of section 11(a) or (b) during such year or any previous year of assessment, the amount of such expenditure so allowed as a deduction shall be deemed to have been recovered or recouped by such taxpayer and be included in the income of the taxpayer for the year of assessment during which such trading stock was so disposed of, and there shall be allowed to be deducted in—

- (a) such year, so much of such expenditure which bears to the full amount of such expenditure, the same ratio as the amount of such consideration which has accrued to the taxpayer during such year bears to the full amount of such consideration;
- (b) any subsequent year of assessment, so much of such expenditure which bears to the full amount of such expenditure, the same ratio as the amount of such consideration which has accrued to the taxpayer

Wysiging van artikel 23B van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 129 van 1991 en gewysig deur artikel 16 van Wet 21 van 1994

29. Artikel 23B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 5 “(1) Waar, by ontstentenis van die bepalings van hierdie subartikel, ’n bedrag—
 (a) vir ’n aftrekking of vermindering kwalifiseer of gekwalifiseer het;
 of
 (b) andersins in berekening gebring word by berekening van die
 10 belasbare inkomste van enige persoon,
 ingevolge meer as een bepaling van hierdie Wet [kwalifiseer of gekwalifiseer het], word [’n aftrekking of vermindering ten opsigte van] bedoelde bedrag, of enige gedeelte daarvan, nie meer as een keer by die vaststelling van ’n persoon se belasbare inkomste toegestaan of in
 15 berekening gebring as ’n aftrekking of vermindering nie.”.

Vervanging van artikel 23F van Wet 58 van 1962, soos ingevoeg deur artikel 17 van Wet 21 van 1994

30. (1) Artikel 23F van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

20 **“Verkryging of van die handsetting van handelsvoorraad**

23F. (1) Waar ’n belastingpligtige gedurende ’n jaar van aanslag onkoste aangegaan het vir die verkryging van handelsvoorraad wat nóg gedurende bedoelde jaar deur hom van die hand gesit is nóg aan die einde van bedoelde jaar deur hom besit word, word enige aftrekking wat kragtens die
 25 bepalings van artikel 11(a) of (b) ten opsigte van bedoelde onkoste aan hom toegestaan mag word nie in bedoelde jaar toegestaan nie, maar word bedoelde onkoste by die toepassing van bedoelde bepalings geag deur hom aangegaan te gewees het in die eerste daaropvolgende jaar van aanslag waarin—

- 30 (a) bedoelde handelsvoorraad deur hom van die hand gesit word;
 (b) die waarde van bedoelde handelsvoorraad kragtens die bepalings van artikel 22(1) by sy inkomste in rekening gebring staan te word; of
 (c) daar deur hom bewys word dat omrede die verlies of vernietiging van
 35 bedoelde handelsvoorraad of die beëindiging van die ooreenkoms ingevolge waarvan bedoelde handelsvoorraad deur hom verkry is of om enige ander rede, bedoelde handelsvoorraad nóg deur hom van die hand gesit sal word nóg deur hom besit sal word,
 in die mate wat bedoelde uitgawe werklik deur bedoelde belastingpligtige betaal is.

40 (2) Waar ’n belastingpligtige gedurende enige jaar van aanslag enige handelsvoorraad in die gewone loop van sy bedryf van die hand gesit het vir enige vergoeding waarvan die volle bedrag nie gedurende bedoelde jaar van aanslag aan hom toeval nie en enige onkoste ten opsigte van die verkryging van bedoelde handelsvoorraad aangegaan as ’n aftrekking
 45 ingevolge die bepalings van artikel 11(a) of (b) gedurende bedoelde jaar of enige vorige jaar van aanslag toegestaan is, word die bedrag van bedoelde onkoste wat aldus as ’n aftrekking toegestaan is, geag deur bedoelde belastingpligtige verhaal of aan hom vergoed te gewees het en by die inkomste van die belastingpligtige ingesluit in die jaar van aanslag waarin bedoelde handelsvoorraad aldus van die hand gesit is, en word ’n
 50 aftrekking toegestaan in—

- (a) bedoelde jaar, van soveel van bedoelde onkoste as wat tot die totale bedrag van bedoelde onkoste, in dieselfde verhouding staan as die bedrag van bedoelde vergoeding wat gedurende bedoelde jaar aan die
 55 belastingpligtige toeval tot die totale bedrag van bedoelde vergoeding staan;
 (b) enige daaropvolgende jaar van aanslag, van soveel van bedoelde onkoste as wat tot die totale bedrag van bedoelde onkoste, in dieselfde verhouding staan as die bedrag van bedoelde vergoeding

- during such subsequent year bears to the full amount of such consideration; or
- (c) any year of assessment during which it is shown by such taxpayer that the consideration will never accrue to him, so much of such expenditure as has not been allowed as a deduction in terms of the provisions of paragraph (a) or (b), to the extent that such expenditure was actually paid. 5
- (3) Where—
- (a) any taxpayer has during any year of assessment in the ordinary course of his trade disposed of any right or interest in any asset which constitutes trading stock which has the effect that the remaining right or interest in such asset held and not disposed of will not be included in trading stock at the end of such year; and 10
- (b) any expenditure incurred in respect of the acquisition of such asset was allowed as a deduction under the provisions of section 11(a) or (b) or was otherwise taken into account during such year or any previous year of assessment, 15
- there shall be deemed to have been recovered or recouped by such taxpayer and be included in the income of such taxpayer for such year of assessment, so much of such expenditure as relates to the remaining right or interest contemplated in paragraph (a).” 20

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000.

Insertion of section 23H in Act 58 of 1962

31. (1) The following section is hereby inserted after section 23G of the Income Tax Act, 1962: 25

“Limitation of certain deductions

- 23H.** (1) Where any person has during any year of assessment actually incurred any expenditure (other than expenditure incurred in respect of the acquisition of any trading stock)—
- (a) which is allowable as a deduction in terms of the provisions of section 11(a), (b), (c) or (d); and 30
- (b) in respect of goods, services or any other benefit, all of which will not be supplied or rendered to such person, or the full benefit of which such person will not become entitled to during such year of assessment, 35
- the amount of the expenditure which shall be allowable as a deduction in terms of such section in the said year and any subsequent year of assessment, shall be limited to, in the case of expenditure incurred in respect of—
- (i) goods to be supplied, so much of the expenditure as relates to the goods actually supplied to such person in such year of assessment; or 40
- (ii) services to be rendered, an amount which bears to the total amount of such expenditure the same ratio as the number of months in such year during which such services are rendered bears to the total number of months during which such services will be rendered; or 45
- (iii) any other benefit to which such person will become entitled, an amount which bears to the total amount of such expenditure the same ratio as the number of months in such year during which such person will be entitled to such benefit bears to the total number of months during which such person will be entitled to such benefit: 50
- Provided that the provisions of this section shall not apply—
- (aa) where all the goods or services are to be supplied or rendered within six months after the end of the year of assessment during which the expenditure was incurred, or such person becomes entitled to the full

- 5 wat gedurende bedoelde daaropvolgende jaar aan die belasting-
pligtige toeval tot die volle bedrag van bedoelde vergoeding staan; of
- (c) enige jaar van aanslag waarin dit deur die belastingpligtige getoon
word dat die vergoeding nooit aan hom sal toeval nie, van soveel van
bedoelde onkoste as wat nie as 'n aftrekking ingevolge die bepalings
van paragraaf (a) of (b) toegestaan is nie, in die mate wat bedoelde
onkoste werklik betaal is.
- (3) Waar—
- (a) enige belastingpligtige gedurende enige jaar van aanslag in die
gewone loop van sy bedryf enige reg of belang in enige bate wat
handelsvoorraad uitmaak, van die hand gesit het wat tot gevolg het
dat die oorblywende reg of belang in bedoelde bate gehou en nie van
die hand gesit nie, nie aan die einde van die jaar in handelsvoorraad
ingesluit sal word nie; en
- (b) enige onkoste aangegaan ten opsigte van die verkryging van bedoelde
bate gedurende bedoelde jaar of enige vorige jaar van aanslag
ingevolge die bepalings van artikel 11(a) of (b) as 'n aftrekking
toegestaan is of andersins in berekening gebring is,
word soveel van bedoelde onkoste as wat verband hou met die oorbly-
wende reg of belang in paragraaf (a) bedoel, geag deur die belasting-
pligtige verhaal of aan hom vergoed te gewees het en in die inkomste van
bedoelde belastingpligtige vir bedoelde jaar van aanslag ingesluit.”.
- (2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het.

Invoeging van artikel 23H in Wet 58 van 1962

- 25 31. (1) Die volgende artikel word hierby na artikel 23G van die Inkomstebelasting-
wet, 1962, ingevoeg:

“Beperking van sekere aftrekkings

- 23H. (1) Waar enige persoon gedurende enige jaar van aanslag
enige onkoste werklik aangegaan het (behalwe enige onkoste aangegaan
ten opsigte van die verkryging van enige handelsvoorraad)—
- (a) wat ingevolge die bepalings van artikel 11(a), (b), (c) of (d) as 'n
aftrekking toelaatbaar is; en
- (b) ten opsigte van goed, dienste of enige ander voordeel, waarvan alles
nie aan bedoelde persoon verskaf of gelewer sal word nie, of die volle
voordeel waarop bedoelde persoon nie gedurende bedoelde jaar van
aanslag geregtig sal word nie,
- word die bedrag van die onkoste wat as 'n aftrekking ingevolge bedoelde
artikel in bedoelde jaar en enige daaropvolgende jaar van aanslag
toegestaan word, beperk tot, in die geval van onkoste aangegaan ten
opsigte van—
- (i) goed wat verskaf staan te word, soveel van die onkoste wat
betrekking het op die goed werklik verskaf aan bedoelde persoon in
bedoelde jaar van aanslag; of
- (ii) dienste wat gelewer staan te word, 'n bedrag wat tot die totale bedrag
van bedoelde onkoste, in dieselfde verhouding staan as wat die aantal
maande in bedoelde jaar waartydens bedoelde dienste gelewer word
tot die totale aantal maande waartydens bedoelde dienste gelewer
staan te word, staan; of
- (iii) enige ander voordeel waarop bedoelde persoon geregtig sal word, 'n
bedrag wat tot die totale bedrag van bedoelde onkoste, in dieselfde
verhouding staan as wat die aantal maande in bedoelde jaar waar-
tydens bedoelde persoon op bedoelde voordeel geregtig is tot die
totale aantal maande waartydens bedoelde persoon op bedoelde
voordeel geregtig sal wees, staan:
- Met dien verstande dat die bepalings van hierdie artikel nie van toepassing
is nie—
- (aa) waar al die goed of dienste verskaf of gelewer staan te word binne ses
maande na die einde van die jaar van aanslag waartydens die onkoste
aangegaan is, of bedoelde persoon binne bedoelde tydperk geregtig

benefit in respect of which the expenditure was incurred within such period; or

(bb) where the aggregate of all amounts of expenditure incurred by such person, which would otherwise be limited by this section, does not exceed R50 000; or

(cc) to any expenditure to which the provisions of section 24I, 24J, 24K or 24L apply; or

(dd) to any expenditure actually paid in respect of any unconditional liability to pay an amount imposed by legislation.

(2) If the Commissioner is in any case satisfied that the apportionment of the expenditure in accordance with subsection (1) does not reasonably represent a fair apportionment of such expenditure in respect of the goods, services or benefits to which it relates, he may direct that such apportionment be made in such other manner as to him appears fair and reasonable.

(3) Notwithstanding the provisions of subsections (1) and (2), where it is during any year of assessment shown by any person that—

(a) the goods or services in respect of which the expenditure is incurred will never be received by or be rendered to such person; or

(b) such person will never become entitled to such other benefit in respect of which any expenditure is incurred,

such expenditure shall be allowed in such year, to the extent that such expenditure has been actually paid by such person.

(4) The exercise by the Commissioner of his discretion contemplated in subsection (2) shall be subject to objection and appeal.”

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any expenditure incurred on or after that date.

Repeal of section 24B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1978 and substituted by section 13 of Act 104 of 1979 and amended by section 20 of Act 113 of 1993

32. Section 24B of the Income Tax Act, 1962, is hereby repealed.

Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990, section 29 of Act 129 of 1991, section 24 of Act 113 of 1993 and section 19 of Act 21 of 1994

33. Section 28 of the Income Tax Act, 1962, is hereby amended—

(a) by the deletion of subsections (1), (1A), (1B) and (1C);

(b) by the substitution for subsection (3) of the following subsection:

“(3) Nothing in this section contained shall be construed as relieving any taxpayer from the obligation to render returns of any income derived otherwise than from the carrying on of [long-term or] short-term insurance business or in the form of dividends [(notwithstanding the inclusion of such dividends or of a portion thereof in the gross amounts referred to in subsection (1))] or from any liability for taxation in respect of any taxable income so derived or as depriving the taxpayer of the right to set off against the taxable income derived from the business of insurance any loss incurred in respect of any other business or any balance of loss so incurred which the taxpayer would be entitled to set off under the provisions of section 20.”;

(c) by the deletion of the definition of “long-term insurance business” in subsection (4);

(d) by the substitution for the definition of “short-term insurance business” in subsection (4) of the following definition:

word op die volle voordeel ten opsigte waarvan die onkoste aange-
gaan is; of

(bb) waar die totaal van alle bedrae van die onkoste aangegaan deur
bedoelde persoon, wat andersins deur hierdie artikel beperk sou wees,
nie R50 000 te bowe gaan nie; of

(cc) op enige onkoste waarop die bepalings van artikel 24I, 24J, 24K of
24L van toepassing is; of

(dd) op enige onkoste werklik betaal ten opsigte van enige onvoorwaarde-
like aanspreeklikheid om 'n bedrag ingevolge wetgewing opgelê, te
betaal.

(2) Indien die Kommissaris in enige geval tevrede is dat die verdeling
van die onkoste ingevolge subartikel (1) nie redelikerwys 'n regverdige
verdeling van daardie onkoste ten opsigte van goed, dienste of voordele
waarmee dit in verband staan, uitmaak nie, kan hy gelas dat die verdeling
op die ander wyse gedoen word wat vir hom billik en redelik blyk te wees.

(3) Ondanks die bepalings van subartikels (1) en (2), waar daar
gedurende enige jaar van aanslag deur enige persoon aangetoon word
dat—

(a) die goed of dienste ten opsigte waarvan die onkoste aangegaan is
nooit ontvang sal word deur of gelewer sal word aan bedoelde
persoon nie; of

(b) bedoelde persoon nooit geregtig sal word op bedoelde ander voordeel
ten opsigte waarvan enige onkoste aangegaan is nie,
word bedoelde onkoste toegestaan in bedoelde jaar, in die mate wat
bedoelde onkoste werklik deur bedoelde persoon betaal is.

(4) Die uitoefening deur die Kommissaris van sy diskresie in subartikel
(2) bedoel, is aan beswaar en appêl onderhewig.”

(2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het en is van
toepassing op enige onkoste op of na daardie datum aangegaan.

30 **Herroeping van artikel 24B van Wet 58 van 1962, soos ingevoeg deur artikel 9 van
Wet 101 van 1978 en vervang deur artikel 13 van Wet 104 van 1979 en gewysig
deur artikel 20 van Wet 113 van 1993**

32. Artikel 24B van die Inkomstebelastingwet, 1962, word hierby herroep.

35 **Wysiging van artikel 28 van Wet 58 van 1962, soos gewysig deur artikel 17 van
Wet 90 van 1962, artikel 22 van Wet 55 van 1966, artikel 24 van Wet 89 van 1969,
artikel 21 van Wet 88 van 1971, artikel 19 van Wet 65 van 1973, artikel 19 van Wet
91 van 1982, artikel 22 van Wet 94 van 1983, artikel 17 van Wet 65 van 1986,
artikel 23 van Wet 90 van 1988, artikel 13 van Wet 70 van 1989, artikel 25 van Wet
101 van 1990, artikel 29 van Wet 129 van 1991, artikel 24 van Wet 113 van 1993
40 en artikel 19 van Wet 21 van 1994**

33. Artikel 28 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikels (1), (1A), (1B) en (1C) te skrap;

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“ (3) Die bepalings van hierdie artikel word nie so uitgelê dat dit 'n
belastingpligtige van die verpligting om opgawes van inkomste wat op
'n ander wyse as uit die dryf van [langtermyn- of] korttermyn-
versekeringsbesigheid of in die vorm van dividende verkry is [(ondanks
die insluiting van daardie dividende of 'n gedeelte daarvan by die
bruto bedrae in subartikel (1) bedoel)], te verstrek, of van aanspreek-
likheid vir belasting ten opsigte van belasbare inkomste aldus verkry,
onthef nie of die belastingpligtige die reg ontnem om teen die belasbare
inkomste uit die besigheid van versekering verkry enige verlies wat ten
opsigte van ander besigheid gelyk is of enige balans van so 'n verlies in
vergelyking te bring wat die belastingpligtige ingevolge die bepalings
van artikel 20 geregtig sou wees om in vergelyking te bring nie.”;

(c) deur die omskrywing van “langtermynversekeringsbesigheid” in subartikel
(4) te skrap;

(d) deur die omskrywing van “korttermynversekeringsbesigheid” in subartikel
(4) deur die volgende omskrywing te vervang:

“ ‘short-term insurance business’ means any short-term insurance business [other than long-term insurance business] as defined in the Short-term Insurance Act, 1998 (Act No. 53 of 1998).”.

Amendment of section 28bis of Act 58 of 1962, as inserted by section 19 of Act 88 of 1965 and amended by section 25 of Act 89 of 1969, section 25 of Act 85 of 1974, section 18 of Act 113 of 1977 and section 23 of Act 94 of 1983 5

34. Section 28bis of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) that at the time the arrangement was implemented, all the issued shares of the subsidiary were held for its own benefit by the foreign company or a company which was incorporated, managed and controlled outside the Republic and was controlled by or controlled the foreign company, **[or that the arrangement was implemented in order to meet the requirements of section 3quat of the Insurance Act, 1943 (Act 27 of 1943)]**”.

Insertion of section 30 in Act 58 of 1962 15

35. (1) The following section is hereby inserted after section 29A of the Income Tax act, 1962:

“Public benefit organisations

30. (1) For the purposes of this Act—

‘public benefit activity’ means—

(a) any activity determined by the Minister in terms of subsection (2); and
(b) the providing of funds to—

(i) any public benefit organisation which has been approved in terms of this section;

(ii) any institution, board or body contemplated in section 10(1)(cA)(i), of which at least 75 per cent of its resources are applied in the furtherance of a public benefit activity contemplated in paragraph (a); or

(iii) any association of persons carrying on one or more such public benefit activity in the Republic:

‘public benefit organisation’ means any organisation of a public character—

(a) which is a company formed and incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or a trust or an association of persons; and

(b) of which the sole object is—

(i) subject to the provisions of subsection (3)(b)(iv), to carry on one or more public benefit activities in a non-profit manner;

(ii) to carry out all such activities (or substantially the whole thereof) in the Republic, unless the Minister, having regard to the circumstances of the case, directs otherwise.

(2) (a) The Minister shall, by notice in the *Gazette*, determine any activity which is of a philanthropic and benevolent nature, having regard to the needs, interests and well-being of the general public for the purposes of this section.

(b) A copy of the notice contemplated in paragraph (a) shall be laid upon the Table in Parliament as soon as practicable.

(3) The Commissioner shall, for the purposes of this Act, approve a public benefit organisation which—

(a) complies with such conditions as the Minister may prescribe by way of regulation to ensure that the activities and resources of such organisation are directed in the furtherance of its object;

(b) has submitted to the Commissioner a copy of the constitution, will or other written instrument under which it has been established and in terms of which it is—

“‘korttermynversekeringsbesigheid’ enige [ander versekeringsbesigheid as langtermyn-versekeringsbesigheid], korttermynversekeringsbesigheid soos in die Wet op Korttermynversekering, 1998 (Wet No. 53 van 1998), omskryf.”.

- 5 Wysiging van artikel 28bis van Wet 58 van 1962, soos ingevoeg deur artikel 19 van Wet 88 van 1965 en gewysig deur artikel 25 van Wet 89 van 1969, artikel 25 van Wet 85 van 1974, artikel 18 van Wet 113 van 1977 en artikel 23 van Wet 94 van 1983

34. Artikel 28bis van die Inkomstebelastingwet, 1962, word hierby gewysig deur 10 paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) dat toe die reëling uitgevoer is al die uitgereikte aandele van die filiaal vir sy eie voordeel besit is deur die buitelandse maatskappy of ’n maatskappy wat buite die Republiek ingelyf, bestuur en beheer was en deur die buitelandse maatskappy beheer was of dit beheer het, [of dat die reëling uitgevoer is ten 15 einde aan die voorskrifte van artikel 3quat van die Versekeringswet, 1943 (Wet No. 27 van 1943), te voldoen]”.

Invoeging van artikel 30 in Wet 58 van 1962

35. Die volgende artikel word hierby na artikel 29A van die Inkomstebelastingwet, 1962, ingevoeg:

20 “Openbare weldaadsorganisasies

30. (1) By die toepassing van hierdie Wet beteken—
 ‘openbare weldaadsaktiwiteit’ —
 (a) enige aktiwiteit deur die Minister ingevolge subartikel (2) bepaal; en
 (b) die voorsiening van fondse aan—
 25 (i) enige openbare weldaadsorganisasie wat ingevolge hierdie artikel goedgekeur is;
 (ii) enige instelling, raad of liggaam in artikel 10(1)(cA)(i) bedoel, waarvan minstens 75 persent van sy hulpbronne vir die bevordering van ’n openbare weldaadsaktiwiteit in paragraaf (a) bedoel, aangewend word; of
 30 (iii) enige vereniging van persone wat een of meer bedoelde openbare weldaadsaktiwiteit in die Republiek beoefen;
 ‘openbare weldaadsorganisasie’ enige organisasie van ’n openbare aard—
 (a) wat ’n maatskappy is wat opgerig en ingelyf is ingevolge artikel 21 35 van die Maatskappywet, 1973 (Wet No. 61 van 1973), of ’n trust of ’n vereniging van persone; en
 (b) waarvan die enigste oogmerk—
 (i) behoudens die bepalings van subartikel (3)(b)(iv), die beoefening van een of meer openbare weldaadsaktiwiteite sonder winsoogmerk is; en
 40 (ii) is om alle bedoelde aktiwiteite (of wesenlik die geheel daarvan) in die Republiek te beoefen, tensy die Minister, met inagneming van die omstandighede van die geval, anders gelas.
 (2) (a) Die Minister moet by kennisgewing in die *Staatskoerant* enige aktiwiteit wat van ’n filantropiese en welwillendheidsaard is, bepaal, met inagneming van die behoeftes, belange en welvaart van die algemene publiek vir die doeleindes van hierdie artikel.
 (b) ’n Afskrif van die kennisgewing in paragraaf (a) bedoel, moet so gou doenlik in die Parlement ter tafel gelê word.
 50 (3) Die Kommissaris moet by die toepassing van hierdie Wet ’n openbare weldaadsorganisasie goedkeur wat—
 (a) aan die voorwaardes voldoen wat die Minister by regulasie voorskryf om te verseker dat die aktiwiteite en hulpbronne van bedoelde organisasie aangewend word ter bevordering van sy oogmerk;
 55 (b) by die Kommissaris ’n afskrif ingedien het van die konstitusie, testament of ander geskrewe stuk waarkragtens dit ingestel is en ingevolge waarvan dit—

- (i) required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of such organisation;
- (ii) prohibited from distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established, or to invest such funds—
 - (aa) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984);
 - (bb) in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); or
 - (cc) in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations:

Provided that the provisions of this subparagraph shall not prohibit any such organisation from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance;
- (iii) required on dissolution to transfer its assets to any similar public benefit organisation which has been approved in terms of this section;
- (iv) prohibited from carrying on any business undertaking or trading activity, otherwise than to the extent that—
 - (aa) the gross income derived from such business undertaking or trading activity does not exceed the greater of—
 - (A) 15 per cent of the gross receipts of such public benefit organisation; or
 - (B) R25 000;
 - (bb) the undertaking or activity is—
 - (A) integral and directly related to the sole object of such public benefit organisation; and
 - (B) carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost and which would not result in unfair competition in relation to taxable entities;
 - (cc) the undertaking or activity, if not integral and directly related to the sole object of such public benefit organisation as contemplated in item (bb), is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation; or
 - (dd) the undertaking or activity is approved by the Minister by notice in the *Gazette*, having regard to—
 - (A) the scope and benevolent nature of the undertaking or activity;
 - (B) the direct connection and interrelationship of the undertaking or activity with the sole purpose of the public benefit organisation;
 - (C) the profitability of the undertaking or activity; and
 - (D) the level of economic distortion that may be caused by the tax exempt status of the public benefit organisation carrying out the undertaking or activity;

- (i) verplig word om ten minste drie persone, wat nie verbonde persone met betrekking tot mekaar is nie, te hê om die fidusiêre verantwoordelikheid van bedoelde organisasie te aanvaar;
- 5 (ii) verbied word om enige van sy fondse aan enige persoon uit te keer (behalwe in die loop van die beoefening van enige openbare weldaadsaktiwiteit) en vereis word om sy fondse alleenlik vir die oogmerk waarvoor dit ingestel is, aan te wend, of om bedoelde fondse te belê—
- 10 (aa) by 'n finansiële instelling soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984);
- (bb) in aandele genoteer op 'n aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van Aandelebeurse, 1985 (Wet No. 1 van 1985); of
- 15 (cc) in die ander versigtige beleggings in finansiële instrumente en bates wat die Kommissaris bepaal, na oorlegpleging met die Uitvoerende Beampte van die Raad op Finansiële Dienste en die Direkteur van Organisasies Sonder Winsoogmerk:
- 20 Met dien verstande dat die bepalings van hierdie subparagraaf nie enige bedoelde organisasie verhoed om enige belegging (behalwe 'n belegging in die vorm van 'n besigheidsonderneming of handelsaktiwiteit of bate wat aangewend word in sodanige besigheidsonderneming of handelsaktiwiteit) te behou in die vorm waarin dit by wyse van skenking, bemaking of erflating verkry is nie;
- 25 (iii) verplig is om by ontbinding sy bates aan enige soortgelyke openbare weldaadsorganisasie wat ingevolge hierdie artikel goedgekeur is, oor te dra;
- 30 (iv) verbied word om enige besigheidsonderneming of handelsaktiwiteit te dryf, behalwe in die mate wat—
- (aa) die bruto inkomste uit bedoelde besigheidsonderneming of handelsaktiwiteit verkry, nie die grootste van—
- 35 (A) 15 persent van die bruto ontvangste van bedoelde openbare weldaadsorganisasie; of
- (B) R25 000, te bowe gaan nie;
- (bb) die onderneming of aktiwiteit—
- 40 (A) integraal en direk verwant is tot die enigste oogmerk van bedoelde openbare weldaadsorganisasie; en
- (B) beoefen of uitgevoer word op 'n grondslag waarvan wesenlik die geheel gerig is op die verhaling van koste en wat nie onregverdig mededinging met betrekking tot belasbare entiteite tot gevolg sal hê nie;
- 45 (cc) die onderneming of aktiwiteit, indien nie integraal en direk verwant aan die enigste oogmerk van bedoelde openbare weldaadsorganisasie soos in item (bb) bedoel nie, van 'n toevallige aard is en wesenlik onderneem word met vrywillige bystand sonder vergoeding; of
- 50 (dd) die onderneming of aktiwiteit deur die Minister by kennisgewing in die *Staatskoerant* goedgekeur is, met inagneming van—
- (A) die omvang en welwillendheidsaard van die onderneming of aktiwiteit;
- 55 (B) die direkte verband en verwantskap van die onderneming of aktiwiteit met die enigste oogmerk van die openbare weldaadsorganisasie;
- (C) die winsgewendheid van die onderneming of aktiwiteit; en
- 60 (D) die vlak van ekonomiese verwringing wat deur die belastingvrye status van die openbare weldaadsorganisasie wat die onderneming of aktiwiteit bedryf, veroorsaak mag word;

- (v) prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that a donor may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation; 5
- (vi) required to submit to the Commissioner a copy of any amendment to the constitution, will or other written instrument under which it was established; 10
- (c) the Commissioner is satisfied is or was not knowingly a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner; 15
- (d) has not paid any remuneration to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; 20
- (e) complies with such reporting requirements as may be determined by the Commissioner; 25
- (f) the Commissioner is satisfied that, in the case of any public benefit organisation which provides funds to any association of persons contemplated in paragraph (b)(iii) of the definition of 'public benefit activity', has taken reasonable steps to ensure that the funds are utilised for the purpose for which it has been provided; and 30
- (g) has, within such period as the Commissioner may determine, been registered in terms of section 13(5) of the Non-profit Organisations Act, 1997 (Act No. 71 of 1997), and complied with any other requirements imposed in terms of that Act: 35
- Provided that notwithstanding subparagraph (iv) of paragraph (b), any business undertaking or trading activity, or asset used in such undertaking or activity, acquired by such organisation before 1 January 2001 by way of donation, bequest or inheritance may be retained or continued, as the case may be, in the form so acquired for a period of five years after that date.
- (4) Where the constitution, will or other written instrument does not comply with the provisions of subsection (3)(b), it shall be deemed to so comply— 40
- (a) in the case of a public benefit organisation established under the terms of a will, or under a constitution or other written instrument which cannot be amended to comply with the said subsection; or 45
- (b) in any other case, for a period not exceeding five years, if the person responsible in a fiduciary capacity for the funds and assets of such organisation furnishes the Commissioner with a written undertaking that such organisation will be administered in compliance with the provisions of this section. 50
- (5) Where the Commissioner is—
- (a) satisfied that any public benefit organisation approved under subsection (3) has during any year of assessment in any material respect; or
- (b) during any year of assessment satisfied that any such public benefit organisation has on a continuous or repetitive basis, 55
- failed to comply with the provisions of this section, or the constitution, will or other written instrument under which it is established to the extent that it

- (v) verbied word om 'n skenking wat herroeplik op aandrang van die skenker is, vir ander redes as die wesenlike versuim om aan die aangewese oogmerke en voorwaardes van bedoelde skenking te voldoen; met inbegrip van enige wanvoorstelling met betrekking tot die belastingaftrekbaarheid daarvan ingevolge artikel 18A, te aanvaar nie: Met dien verstande dat 'n skenker nie enige voorwaarde mag oplê wat bedoelde skenker of enige verbonde persoon met betrekking tot bedoelde skenker in staat kan stel om enige direkte of indirekte voordeel uit die aanwending van die skenking te verkry nie; en
- (vi) verplig word om 'n afskrif van enige wysiging aan die konstitusie, testament of ander geskrewe stuk waarkragtens dit ingestel is, aan die Kommissaris te verstrek;
- (c) die Kommissaris tevrede is nie bewustelik 'n party is of was nie by, of nie bewustelik toelaat, of nie bewustelik toegelaat het nie, dat dit gebruik word as deel van 'n transaksie, handeling of skema waarvan die enigste hoofdoel die vermindering, uitstel of vermyding is van die aanspreeklikeid vir enige belasting, reg of heffing wat, by ontstentenis van bedoelde transaksie, handeling of skema, deur 'n persoon ingevolge hierdie Wet of enige ander Wet wat deur die Kommissaris geadministreer word, betaalbaar sou gewees het of geword het;
- (d) nie enige vergoeding aan enige werknemer, amptenaar, lid of ander persoon wat oormatig is, inaggenome wat algemeen as redelik geag word in die sektor en met betrekking tot die diens gelewer, betaal het nie;
- (e) aan die vereistes met betrekking tot verslagdoening wat deur die Kommissaris bepaal word, voldoen;
- (f) die Kommissaris tevrede is dat in die geval van 'n openbare weldaadsorganisasie wat fondse aan enige vereniging van persone in paragraaf (b)(iii) van die omskrywing van 'openbare weldaadsaktiwiteit' bedoel, voorsien, redelike stappe doen ten einde te verseker dat die fondse vir die doel waarvoor dit voorsien is, aangewend word; en
- (g) binne die tydperk wat die Kommissaris bepaal, ingevolge artikel 13(5) van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), registreer, en aan enige ander vereistes ingevolge daardie Wet opgelê, voldoen:
- Met dien verstande dat ondanks die bepalinge van subparagraaf (iv) van paragraaf (b), enige besigheidsonderneming of handelsaktiwiteit, of enige bate in bedoelde besigheidsonderneming of handelsaktiwiteit gebruik, deur bedoelde organisasie voor 1 Januarie 2001, verkry by wyse van skenking, bemaking of erflating, behou of voortgesit kan word, na gelang van die geval, in die vorm aldus verkry vir 'n tydperk van vyf jaar na daardie datum.
- (4) Waar die konstitusie, testament of ander skriftelike stuk nie aan die bepalinge van subartikel (3)(b) voldoen nie, word dit geag aldus te voldoen—
- (a) in die geval van 'n openbare weldaadsorganisasie wat ingevolge die bedinge van 'n testament, of enige konstitusie of ander skriftelike stuk wat nie verander kan word nie, opgerig is; of
- (b) in enige ander geval, vir 'n tydperk van hoogstens vyf jaar, indien die persoon wat in 'n fidusiêre hoedanigheid vir die fondse en bates van bedoelde organisasie verantwoordelik is 'n geskrewe onderneming aan die Kommissaris verstrek dat bedoelde organisasie ooreenkomstig die bepalinge van hierdie artikel geadministreer sal word.
- (5) Waar die Kommissaris—
- (a) tevrede is dat enige openbare weldaadsorganisasie ingevolge subartikel (3) goedgekeur gedurende 'n jaar van aanslag in enige wesenlike opsig; of
- (b) gedurende 'n jaar van aanslag tevrede is dat enige bedoelde openbare weldaadsorganisasie op 'n voortdurende of herhaaldelike basis, versuim het om aan die bepalinge van hierdie artikel of die konstitusie, testament of ander geskrewe stuk ingevolge waarvan dit ingestel is, te

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974, section 27 of Act 94 of 1983, section 24 of Act 121 of 1984 and section 32 of Act 53 of 1999

36. (1) Section 38 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (i) of subsection (2) of the following paragraph: 5

“(i) any unit portfolio referred to in paragraph (e)(i) of the definition of ‘company’ in section one.”.

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000.

Amendment of section 55 of Act 58 of 1962, as amended by section 25 of Act 90 of 1988 and section 22 of Act 28 of 1997 10

37. Section 55 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (k) of subsection (2) of the following paragraph:

“(k) There shall be no appearance by or on behalf of either party before the Board, whose decision shall be [final and shall be] communicated in duplicate to the Commissioner who shall forward one copy thereof to the donor.”. 15

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993, section 18 of Act 36 of 1996 and section 39 of Act 30 of 1998 20

38. (1) Section 56 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for paragraph (h) of subsection (1) of the following paragraph: 25

“(h) by or to any person (including any government) referred to in section 10(1)(a), (b), (cA), [(cB), (cC), (cD)](cE), [(cF), (cI), (cJ), (cL)](cN), (d) or (e) [or (fA)];” and

(b) by the deletion of paragraphs (i) and (j) of subsection (1). 30

(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*, and shall apply in respect of any donation made on or after that date.

Amendment of section 64B of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996, section 25 of Act 28 of 1997 and section 35 of Act 53 of 1999 35

39. (1) Section 64B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for the words preceding the proviso to subsection (3) of the following words: 40

“The net amount of any dividend referred to in subsection (2) shall be the amount by which such dividend declared by a company exceeds the sum of any dividends (other than any dividends contemplated in subsection (5)(b), (c), (d) and (f) or any foreign dividends as defined in section 9E, but including foreign dividends which are exempt in terms of section 9E(7)(a), (b), (c), (d) or (e)(ii)), which have during the dividend cycle in relation to such firstmentioned dividend accrued to the company.”; 45

(b) by the substitution for paragraph (d) of subsection (5) of the following paragraph:

“(d) so much of any dividend declared by a unit portfolio referred to in paragraph (e)(i) of the definition of ‘company’ in section 1 as represents a distribution of interest or of dividends referred to in section 11(s) received by or accrued to such unit portfolio;” 50

Wysiging van artikel 38 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1962, artikel 16 van Wet 90 van 1964, artikel 28 van Wet 89 van 1969, artikel 31 van Wet 85 van 1974, artikel 27 van Wet 94 van 1983, artikel 24 van Wet 121 van 1984 en artikel 32 van Wet 53 van 1999

- 5 **36.** (1) Artikel 38 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (i) van subartikel (2) deur die volgende paragraaf te vervang:

“*(i)* ’n effektegroep bedoel in paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel een.”.

(2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het.

- 10 **Wysiging van artikel 55 van Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 90 van 1988 en artikel 22 van Wet 28 van 1997**

37. Artikel 55 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (k) van subartikel (2) deur die volgende paragraaf te vervang:

- 15 “*(k)* Die partye of iemand namens hulle verskyn nie voor die Raad nie, en sy beslissing [**is afdoende en**] moet in duplo verstrek word aan die Kommissaris wat een afskrif daarvan aan die skenker aanstuur.”.

- Wysiging van artikel 56 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 90 van 1964, artikel 25 van Wet 55 van 1966, artikel 33 van Wet 89 van 1969, artikel 38 van Wet 85 van 1974, artikel 21 van Wet 113 van 1977, artikel 13 van**
20 **Wet 101 van 1978, artikel 23 van Wet 96 van 1981, artikel 31 van Wet 94 van 1983, artikel 4 van Wet 30 van 1984, artikel 28 van Wet 121 van 1984, artikel 18 van Wet 96 van 1985, artikel 21 van Wet 85 van 1987, artikel 26 van Wet 90 van 1988, artikel 28 van Wet 141 van 1992, artikel 32 van Wet 113 van 1993, artikel 18 van Wet 36 van 1996 en artikel 39 van Wet 30 van 1998**

- 25 **38.** (1) Artikel 56 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:

“*(h)* deur of aan enige persoon (insluitende enige regering) in artikel 10(1)(a), (b), (cA) [**(cB), (cC), (cD)**], (cE) [**(cF), (cI), (cJ), (cL)**], (cN), (d) of (e) [**of (fA)**] bedoel;”;

- 30 (b) deur paragraaf (i) en (j) van subartikel (1) te skrap.

(2) Subartikel (1) tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal en is van toepassing ten opsigte van enige skenking op of na daardie datum gemaak.

- Wysiging van artikel 64B van Wet 58 van 1962, soos ingevoeg deur artikel 34 van**
35 **Wet 113 van 1993 en gewysig deur artikel 12 van Wet 140 van 1993, artikel 24 van Wet 21 van 1994, artikel 29 van Wet 21 van 1995, artikel 21 van Wet 36 van 1996, artikel 13 van Wet 46 van 1996, artikel 25 van Wet 28 van 1997 en artikel 35 van Wet 53 van 1999**

- 40 **39.** (1) Artikel 64B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die woorde wat die voorbehoudsbepaling by subartikel (3) voorafgaan deur die volgende woorde te vervang:

“Die netto bedrag van ’n dividend bedoel in subartikel (2) is die bedrag waarmee daardie dividend deur ’n maatskappy verklaar die som van enige dividende (behalwe enige dividende beoog in subartikel (5)(b), (c), (d) en (f) of enige buitelandse dividende in artikel 9E omskryf, maar met inbegrip van buitelandse dividende wat ingevolge artikel 9E(7)(a), (b), (c), (d) of (e)(ii) vrygestel is), wat gedurende die dividendsiklus met betrekking tot bedoelde eersgenoemde dividend aan die maatskappy toeval, oorskry;”;

- 50 (b) deur paragraaf (d) van subartikel (5) deur die volgende paragraaf te vervang:

“*(d)* soveel van ’n dividend verklaar deur ’n effektegroep soos bedoel in paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel 1, as wat ’n verdeling van rente of dividende soos bedoel in artikel 11(s) ontvang deur of toegeval aan daardie effektegroep, verteenwoordig;”;

- (c) by the substitution for paragraph (j) of subsection (5) of the following paragraph:
 “(j) any dividend declared by a company contemplated in paragraph (e)(i) of the definition of ‘company’ in section 1.”;
- (d) by the substitution for paragraph (a) of subsection (6) of the following paragraph:
 “(a) If any dividend subject to the payment of secondary tax on companies has been declared by a company which derives profits from sources within and outside the Republic, the secondary tax on companies in respect of that dividend shall be calculated on an amount which bears to the net amount of that dividend the same ratio as the sum of the net annual profits of the company derived from sources within or deemed to be within the Republic in terms of section 9, [or] 9C or 9E bears to the total sum of its net annual profits derived from all sources.”; and
- (e) by the substitution for subparagraph (i) of paragraph (b) of subsection (6) of the following subparagraph:
 “(i) the net annual profits of a company shall be determined by excluding profits derived by way of dividends (other than taxable foreign dividends contemplated in section 9E); and”;
- (2) Subsection (1) shall be deemed to have come into operation on 23 February 2000, and shall apply in respect of any foreign dividend—
- (i) received by or accrued to any person on or after that date; or
 - (ii) which accrued to the person before 23 February 2000, but which is received on or after that date: Provided that the provisions of this paragraph shall not apply in respect of any dividend declared by a company before 23 February 2000, where—
 - (aa) such company is listed on a recognised stock exchange; or
 - (bb) in any other case, the chief executive officer and—
 - (A) an external auditor of the company; or
 - (B) where a company is situated in a country which does not require compulsory appointment of an external auditor, a registered public accountant of the same standing as a qualified chartered accountant, have declared under oath or affirmation that such dividend was actually declared by the company before 23 February 2000.

Amendment of section 64C of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 13 of Act 140 of 1993, section 25 of Act 21 of 1994, section 30 of Act 21 of 1995, section 22 of Act 36 of 1996, section 40 of Act 30 of 1998 and section 36 of Act 53 of 1999

40. (1) Section 64C of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for paragraph (b) of the definition of “recipient” in subsection (1) of the following paragraph:
 “(b) any [relative of such] connected person in relation to a shareholder; or”;
 and
 - (b) by the deletion of paragraph (c) of the definition of “recipient” in subsection (1).
- (2) Subsection (1) shall be deemed to have come into operation on 23 February 2000.

Amendment of section 66 of Act 58 of 1962, as amended by section 10 of Act 6 of 1963, section 19 of Act 90 of 1964, section 27 of Act 88 of 1971, section 22 of Act 91 of 1982, section 19 of Act 65 of 1986, section 23 of Act 85 of 1987, section 37 of Act 101 of 1990 and section 26 of Act 21 of 1994

41. Section 66 of the Income Tax Act, 1962, is hereby amended by the substitution for item (aa) of subparagraph (ii) of paragraph (b) of subsection (1) of the following item:
 “(aa) any amount derived by way of interest or taxable dividends [contemplated in section 19(5A)] if the aggregate of such interest and dividends [exceeded R2 000]—

- (c) deur paragraaf (j) van subartikel (5) deur die volgende paragraaf te vervang:
 “(j) ’n dividend verklaar deur ’n maatskappy beoog in paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel 1.”;
- 5 (d) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te vervang:
 “(a) Indien ’n dividend onderworpe aan die betaling van sekondêre belasting op maatskappye verklaar is deur ’n maatskappy wat winste verkry uit bronne binne en buite die Republiek, word die sekondêre belasting op maatskappye ten opsigte van daardie dividend bereken op ’n bedrag wat tot die netto bedrag van daardie dividend in dieselfde
 10 verhouding staan as wat die totaal van die netto jaarlikse winste van die maatskappy uit winste uit bronne binne die Republiek of ingevolge artikel 9, [of] 9C of 9E geag te wees binne die Republiek verkry, staan tot die totale som van sy netto jaarlikse winste uit alle bronne verkry.”;
 en
- 15 (e) deur subparagraaf (i) van paragraaf (b) van subartikel (6) deur die volgende subparagraaf te vervang:
 “(i) die netto jaarlikse winste van ’n maatskappy vasgestel deur die uitsluiting van winste verkry by wyse van dividende (behalwe belasbare buitelandse dividende in artikel 9E bedoel); en”.
- 20 (2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het en is van toepassing op enige buitelandse dividend—
 (i) op of na daardie datum ontvang deur of toegeval aan enige persoon; of
 (ii) wat voor 23 Februarie 2000 aan die persoon toegeval het, maar wat ontvang word op of na daardie datum: Met dien verstande dat die bepalinge van
 25 hierdie paragraaf nie van toepassing is nie ten opsigte van enige dividend voor 23 Februarie 2000 deur ’n maatskappy verklaar, waar—
 (aa) bedoelde maatskappy op ’n erkende aandelebeurs genoteer is; of
 (bb) in enige ander geval, die hoof uitvoerende beampte en—
 (A) ’n eksterne ouditeur van die maatskappy; of
 30 (B) waar ’n maatskappy geleë is in ’n land wat nie die verpligte aanstelling van ’n eksterne ouditeur vereis nie, ’n geregistreerde openbare rekenmeester met dieselfde status as ’n gekwalifiseerde geoktrooieerde rekenmeester,
 onder eed verklaar het of ’n bevestigende verklaring afgelê het dat die
 35 dividend werklik voor 23 Februarie 2000 deur die maatskappy verklaar is.

Wysiging van artikel 64C van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 113 van 1993 en gewysig deur artikel 13 van Wet 140 van 1993, artikel 25 van Wet 21 van 1994, artikel 30 van Wet 21 van 1995, artikel 22 van Wet 36 van 1996, artikel 40 van Wet 30 van 1998 en artikel 36 van Wet 53 van 1999

- 40 40. (1) Artikel 64C van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur paragraaf (b) van die omskrywing van “ontvanger” in subartikel (1) deur die volgende paragraaf te vervang:
 “(b) ’n [familielid van bedoelde] verbonde persoon met betrekking tot
 ’n aandeelhouer; of; en
- 45 (b) deur paragraaf (c) van die omskrywing van “ontvanger” in subartikel (1) te skrap.
- (2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het.

**Wysiging van artikel 66 van Wet 58 van 1962, soos gewysig deur artikel 10 van Wet 6 van 1963, artikel 19 van Wet 90 van 1964, artikel 27 van Wet 88 van 1971,
 50 artikel 22 van Wet 91 van 1982, artikel 19 van Wet 65 van 1986, artikel 23 van Wet 85 van 1987, artikel 37 van Wet 101 van 1990 en artikel 26 van Wet 21 van 1994**

41. Artikel 66 van die Inkomstebelastingwet, 1962, word hierby gewysig deur item (aa) van subparagraaf (ii) van paragraaf (b) van subartikel (1) deur die volgende item te vervang:
- 55 “(aa) ’n bedrag verkry by wyse van rente of belasbare dividende [bedoel in artikel 19(5A)] indien die totaal van daardie rente en dividende [**R2 000 oorskry het**]

- (A) in the case of any person who was or, had he lived would have been, at least 65 years of age on the last day of the year of assessment, exceeded R4 000; or
 (B) in any other case, exceeded R3 000; or”.

Amendment of section 70 of Act 58 of 1962, as amended by section 11 of Act 6 of 1963, section 20 of Act 90 of 1964, section 43 of Act 85 of 1974, section 24 of Act 69 of 1975, section 26 of Act 28 of 1997 and section 37 of Act 53 of 1999 5

42. Section 70 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Where, during any period of twelve months ending on the last day of February in any year, any cash or any asset the amount or value of which in whole or part constitutes a dividend as defined in section 1, is given to shareholders in any company or a company distributes to shareholders any amount which constitutes a dividend so defined, whether by way of an award of capitalization shares or bonus debentures or securities or otherwise, the company concerned shall, within thirty days after the end of the said period, or within such further period as the Commissioner may allow—

- (a) furnish the Commissioner with a return giving the full name and address of each shareholder and the amount of the dividend accruing to such shareholder; and
 (b) where such dividend represents an amount of any foreign dividend as determined in accordance with the provisions of section 9E and such company is a resident as defined in section 9C, notify each shareholder who is a resident of the amount of such foreign dividend.”.

Amendment of section 74C of Act 58 of 1962, as inserted by section 14 of Act 46 of 1996 and amended by section 28 of Act 28 of 1997 25

43. Section 74C of the Income Tax Act, 1962, is hereby amended—

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

“(b) have the same powers—

- (i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and
 (ii) relating to contempt committed during the proceedings,
as are vested in a President of the Special Court contemplated in section 83, and for those purposes sections 84 and 85 shall apply mutatis mutandis; and”.

- (b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to [a representative of his choice] have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall [not be public] be private and confidential and the presiding officer shall at any time on application [of] by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”;

- (c) by the substitution for subsection(15) of the following subsection:

“(15) The provisions with regard to the preservation of secrecy contained in section 4 shall mutatis mutandis apply to any person present

- (A) in die geval van 'n persoon wat op die laaste dag van die jaar van aanslag minstens 65 jaar oud is of sou wees indien hy gelewe het, R4 000 te bowe gegaan het; of
- (B) in enige ander geval, R3 000 te bowe gegaan het; of".

5 Wysiging van artikel 70 van Wet 58 van 1962, soos gewysig deur artikel 11 van Wet 6 van 1963, artikel 20 van Wet 90 van 1964, artikel 43 van Wet 85 van 1974, artikel 24 van Wet 69 van 1975, artikel 26 van Wet 28 van 1997 en artikel 37 van Wet 53 van 1999

42. Artikel 70 van die Inkomstebelastingwet, 1962, word hierby gewysig deur 10 subartikel (2) deur die volgende subartikel te vervang:

"(2) Waar, gedurende 'n tydperk van twaalf maande wat eindig op die laaste dag van Februarie in enige jaar, enige kontant of bate waarvan die bedrag of waarde, of 'n gedeelte daarvan, 'n dividend uitmaak soos in artikel 1 omskryf, aan aandeelhouders van 'n maatskappy gegee word, of 'n maatskappy 'n bedrag aan 15 aandeelhouders uitkeer wat 'n dividend uitmaak, soos aldus omskryf, hetsy by wyse van 'n toekenning van kapitalisasie-aandele of bonusobligasies of -effekte of andersins, moet die betrokke maatskappy binne dertig dae na die end van bedoelde tydperk, of binne die verdere tydperk wat die Kommissaris toelaat—

(a) 'n opgawe aan die Kommissaris verstrek waarin die volle naam en adres van elke aandeelhouer en die bedrag van die dividend wat aan daardie aandeelhouer toeval, aangegee word; en

(b) waar bedoelde dividend 'n bedrag van enige buitelandse dividend ooreen-
komstig die bepalings van artikel 9E bepaal, uitmaak en bedoelde
maatskappy 'n inwoner soos omskryf in artikel 9C is, elke aandeelhouer wat
'n inwoner is van die bedrag van bedoelde buitelandse dividend in kennis
stel.".

Wysiging van artikel 74C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 46 van 1996 en gewysig deur artikel 28 van Wet 28 van 1997

43. Artikel 74C van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

"(b) is met dieselfde bevoegdhede bekleed—

(i) om getuiens te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en

(ii) met betrekking tot minagting tydens die verrigtinge gepleeg,
as wat in 'n Voorsitter van die Spesiale Hof beoog in artikel 83,
vestig, en vir daardie doeleindes is artikels 84 en 85 *mutatis*
mutandis van toepassing; en";

(b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

"(11) Enige persoon wie se sake ondersoek word gedurende 'n ondervraging in hierdie artikel beoog, is geregtig om [deurgaans] by die ondervraging teenwoordig te wees gedurende die tyd wat sy sake
ondersoek word, tensy die voorsittende beampte op aansoek deur die persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen 45 van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

(12) 'n Persoon in subartikel (9) beoog, het die reg [op 'n verteen-
woordiger van sy keuse] om 'n regsverteenwoordiger teenwoordig te
hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

(13) 'n Ondervraging in hierdie artikel beoog, is [nie vir die publiek toeganklik nie] privaat en vertroulik en die voorsittende beampte moet
te eniger tyd op aansoek [van] deur die persoon wie se sake ondersoek
word of enige ander persoon wat getuienis lewer of die persoon in
subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir
die ondervraging nodig is nie, van so 'n ondervraging uitsluit of hulle
gelas om hulle daaraan te onttrek.";

(c) deur subartikel (15) deur die volgende subartikel te vervang:

"(15) Die bepalings met betrekking tot die bewaring van geheim-
houding in artikel 4 vervat, is *mutatis mutandis* van toepassing op enige

at the questioning of any person contemplated in subsection (9), including the person being questioned.”;

(d) by the addition of the following subsections:

“(16) Subject to subsection (17), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(17) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers, or a failure to answer questions lawfully put to him, fully and satisfactorily.

(18) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of such inquiry.”.

Amendment of section 75 of Act 58 of 1962, as amended by section 40 of Act 101 of 1990, section 34 of Act 129 of 1991, section 30 of Act 141 of 1992, section 35 of Act 113 of 1993, section 27 of Act 21 of 1994, section 15 of Act 46 of 1996 and section 39 of Act 53 of 1999

44. Section 75 of the Income Tax Act, 1962, is hereby amended by the substitution for the words following on paragraph (g) of subsection (1) of the following words:

“shall be guilty of an offence and liable on conviction to a fine [not exceeding R2 000] or to imprisonment for a period not exceeding 12 months [or to both such fine and such imprisonment].”.

Amendment of section 83 of Act 58 of 1962, as amended by section 21 of Act 90 of 1964, section 22 of Act 103 of 1976, section 15 of Act 104 of 1979, section 19 of Act 96 of 1985, section 16 of Act 70 of 1989, section 36 of Act 129 of 1991, section 36 of Act 113 of 1993 and section 30 of Act 28 of 1997

45. Section 83 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for paragraph (a) of subsection (19) of the following:

“[(a)] The President of the court may indicate which judgments or decisions of the court he considers ought to be published for general information, in such form as does not reveal the identity of the appellant.”; and

(b) by the deletion of paragraphs (b) and (c) of subsection (19).

Amendment of section 84 of Act 58 of 1962

46. Section 84 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If any person who has been duly subpoenaed to give evidence at the hearing of an appeal or to produce any book, record, document or thing in his possession or under his control, fails without reasonable cause to attend or to give evidence or to produce that book, record, document or thing according to the subpoena or, unless excused by the President of the court, to remain in attendance throughout the proceedings, the President of the court may, upon being satisfied upon oath or by the return of the person by whom the subpoena was served, that such person has been duly subpoenaed and that his reasonable expenses have been paid or offered

persoon wat by die ondervraging van 'n persoon in subartikel (9) bedoel, teenwoordig is, met inbegrip van die persoon wat ondervra word.”;

(d) deur die volgende subartikels by te voeg:

5 “(16) Behoudens die bepalings van subartikel (17), kan die getuienis onder eed of bevestigende verklaring afgelê by 'n ondervraging deur die Kommissaris in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word 'n party is of waarby 'n persoon wat met daardie persoon gehandel het 'n party is, gebruik word.

10 (17) (a) Geen persoon mag weier om tydens 'n ondervraging enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

(b) Geen inkriminerende getuienis aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuienis aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op 'n aanklag betreffende die oplê of aflê van 'n eed of die oplê of doen van 'n bevestiging of die aflê van valse getuienis of 'n vals verklaring met betrekking tot daardie vrae en antwoorde, of die versuim om vrae regtens aan hom gestel ten volle en bevredigend te beantwoord.

15 (18) 'n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

20 **Wysiging van artikel 75 van Wet 58 van 1962, soos gewysig deur artikel 40 van Wet 101 van 1990, artikel 34 van Wet 129 van 1991, artikel 30 van Wet 141 van 1992, artikel 35 van Wet 113 van 1993, artikel 27 van Wet 21 van 1994, artikel 15 van Wet 46 van 1996 en artikel 39 van Wet 53 van 1999**

44. Artikel 75 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat op paragraaf (g) van subartikel (1) volg deur die volgende woorde te

30 vervang:

“is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete [van hoogstens R2 000] of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande [of met sodanige boete sowel as sodanige gevangenisstraf].”.

35 **Wysiging van artikel 83 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1964, artikel 22 van Wet 103 van 1976, artikel 15 van Wet 104 van 1979, artikel 19 van Wet 96 van 1985, artikel 16 van Wet 70 van 1989, artikel 36 van Wet 129 van 1991, artikel 36 van Wet 113 van 1993 en artikel 30 van Wet 28 van 1997**

40 45. Artikel 83 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur paragraaf (a) van subartikel (19) deur die volgende te vervang:

“[(a)] Die Voorsitter van die hof kan aandui welke uitsprake of beslissings van die hof na sy mening vir algemene inligting gepubliseer behoort te word, in 'n vorm wat nie die identiteit van die appellant openbaar nie.”; en

45 (b) deur paragrafe (b) en (c) van subartikel (19) te skrap.

Wysiging van artikel 84 van Wet 58 van 1962

46. Artikel 84 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

50 “(2) Indien iemand wat behoorlik gedagvaar is om by die verhoor van 'n appèl getuienis af te lê of 'n boek, aantekening, dokument of voorwerp in sy besit of onder sy beheer oor te lê, sonder redelike oorsaak versuim om te verskyn of om getuienis af te lê of om daardie boek, aantekening, dokument of voorwerp ooreenkomstig die dagvaarding oor te lê, of om, sonder dat die Voorsitter van die hof hom verskoon het, aanwesig te bly solank die verrigtings duur, kan die

55 Voorsitter van die hof, indien hy op grond van 'n beëdigde verklaring of van die relaas van die persoon wat die dagvaarding bestel het, oortuig is dat so iemand behoorlik gedagvaar is en dat sy redelike koste aan hom betaal of aangebied is, so

to him, impose upon the said person a fine [**not exceeding fifty rand**] or in default of payment imprisonment for a period not exceeding three months.”.

Amendment of section 85 of Act 58 of 1962

47. Section 85 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) If during the sitting of a special court, any person wilfully insults a member of the court or any officer of the court attending at the sitting, or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where the court is held, the President of the court may make an order committing that person to imprisonment for any period not exceeding three months or order that person to pay a fine [**not exceeding one hundred rand**] or in default of payment thereof to be imprisoned for such a period.”. 10

Substitution of section 99 of Act 58 of 1962

48. The following section is hereby substituted for section 99 of the Income Tax Act, 1962: 15

“Power to appoint agent

99. The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act and may be required to make payment of any tax, interest or penalty due from any moneys, including pensions, salary, wages or any other remuneration, which may be held by him or due by him to the person whose agent he has been declared to be.”. 20

Amendment of section 101 of Act 58 of 1962, as amended by section 29 of Act 90 of 1962, section 22 of Act 52 of 1970, section 39 of Act 94 of 1983, section 40 of Act 129 of 1991 and section 27 of Act 36 of 1996 25

49. (1) Section 101 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Every company carrying on business or having an office in the Republic and every unit portfolio constituting a company in terms of paragraph (e)(i) of the definition of ‘company’ in section one, shall at all times be represented by an individual residing therein.”. 30

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000.

Amendment of section 104 of Act 58 of 1962

50. Section 104 of the Income Tax Act, 1962, is hereby amended by the substitution for the words following on paragraph (d) of subsection (1) of the following words: 35

“shall be guilty of an offence and liable on conviction to a fine [**not exceeding one thousand rand**] or to imprisonment for a period not exceeding two years [**or to both such fine and such imprisonment**].”.

Amendment of section 106 of Act 58 of 1962, as substituted by section 29 of Act 69 of 1975 and amended by section 26 of Act 103 of 1976 40

51. (1) Section 106 of the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (ii) of paragraph (d) of subsection (2) of the following subparagraph:

“(ii) if left with some adult person apparently residing at or occupying or employed at the place appointed by the company under subsection (5) of section 101 or, in the case of any unit portfolio referred to in paragraph (e)(i) of the definition of ‘company’ in section 1, the public officer of which is the trustee referred to in the said subsection (5), by such trustee, or where no such place has been 45

iemand 'n boete [**van hoogstens vyftig rand**] of by wanbetaling gevangenisstraf vir 'n tydperk van hoogstens drie maande oplê.”.

Wysiging van artikel 85 van Wet 58 van 1962

47. Artikel 85 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien iemand gedurende 'n sitting van 'n spesiale hof opsetlik 'n lid van die hof of 'n by die sitting aanwesige beampte van die hof beledig, of opsetlik die verrigtings van die hof onderbreek of hom op ander wyse aan wangedrag skuldig maak in die plek waar die hofsitting gehou word, kan die Voorsitter van die hof by bevel so iemand vir 'n tydperk van hoogstens drie maande na die gevangenis verwys of gelas dat hy 'n boete [**van hoogstens honderd rand**] betaal of by wanbetaling vir so 'n tydperk gevange gesit word.”.

Vervanging van artikel 99 van Wet 58 van 1962

48. Artikel 99 van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

“Bevoegdheid om agent aan te stel

99. Die Kommissaris kan, indien hy dit nodig ag, 'n persoon tot agent van 'n ander persoon verklaar, en die persoon aldus tot agent verklaar, is die agent vir die doeleindes van hierdie Wet, en van hom kan vereis word om 'n verskuldigde belasting, rente of boete te betaal uit gelde, met inbegrip van pensioene, salaris, lone of ander besoldiging, wat deur hom gehou mag word vir of deur hom verskuldig mag wees aan die persoon van wie hy tot agent verklaar is.”.

Wysiging van artikel 101 van Wet 58 van 1962, soos gewysig deur artikel 29 van Wet 90 van 1962, artikel 22 van Wet 52 van 1970, artikel 39 van Wet 94 van 1983, artikel 40 van Wet 129 van 1991 en artikel 27 van Wet 36 van 1996

49. (1) Artikel 101 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Elke maatskappy wat in die Republiek besigheid dryf of 'n kantoor het en elke effektegroep wat ingevolge paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel een 'n maatskappy is, word te alle tye deur 'n in die Republiek woonagtige individu verteenwoordig.”.

(2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het.

Wysiging van artikel 104 van Wet 58 van 1962

50. Artikel 104 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat op paragraaf (d) van subartikel (1) volg deur die volgende woorde te vervang:

“is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete [**van hoogstens duisend rand**] of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar [**of met sodanige boete sowel as sodanige gevangenisstraf**].”.

Wysiging van artikel 106 van Wet 58 van 1962, soos vervang deur artikel 29 van Wet 69 van 1975 en gewysig deur artikel 26 van Wet 103 van 1976

51. (1) Artikel 106 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (ii) van paragraaf (d) van subartikel (2) deur die volgende subparagraaf te vervang:

“(ii) indien gelaat by 'n volwasse persoon wat oënskynlik die plek ingevolge subartikel (5) van artikel 101 deur die maatskappy of, in die geval van 'n effektegroep bedoel in paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel 1, waarvan die openbare amptenaar die trustee bedoel in genoemde subartikel (5) is, deur bedoelde trustee, aangedui, bewoon of okkupeer of aldaar in diens is, of, waar so 'n plek nie deur die maatskappy of trustee, na

appointed by the company or trustee, as the case may be, if left with some adult person apparently residing at or occupying or employed at the last known office or place of business of the company or trustee, as the case may be, in the Republic; or”.

(2) Subsection (1) shall be deemed to have come into operation on 23 February 2000. 5

Amendment to paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997 and section 52 of Act 30 of 1998 10

52. (1) Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended— 15

(a) by the addition to the definition of “employee” of the following paragraphs:

“(e) any personal service company; and

(f) any personal service trust;”;

(b) by the substitution for the definition of “labour broker” of the following definition: 20

“‘labour broker’ means any person who conducts or carries on any business whereby such person for reward provides a client of such business with other persons [(other than any person who qualifies as a labour broker under this definition)] to render a service or perform work for such client, or procures such other persons for the client, for which services or work such other persons are remunerated by such person;”;

(c) by the insertion after the definition of “labour broker” of the following definitions: 25

“‘personal service company’ means any company (other than a company which is a labour broker), where any service rendered on behalf of such company to a client of such company is rendered personally by any person who is a connected person in relation to such company, and— 30

(a) such person would be regarded as an employee of such client if such service was rendered by such person directly to such client, other than on behalf of such company; or 35

(b) such person or such company is subject to the control or supervision of such client as to the manner in which, or hours during which, the duties are performed or are to be performed in rendering such service; or 40

(c) the amounts paid or payable in respect of such service consist of, or include, earnings of any description which are payable at regular daily, weekly, monthly or other intervals; or

(d) where more than 80 per cent of the income of such company during the year of assessment, from services rendered, consists of or is likely to consist of amounts received directly or indirectly from any one client of such company, or any associated institution as defined in the Seventh Schedule to this Act, in relation to such client, 45

except where such company throughout the year of assessment, employs more than three full-time employees who are on a full-time basis engaged in the business of such company of rendering any such service, other than any employee who is a shareholder or member of the company or is a connected person in relation to such person; 50

‘personal service trust’ means any trust (other than a trust which is a labour broker), where any service rendered on behalf of such trust to a client of such trust is rendered personally by any person who is a connected person in relation to such trust, and— 55

gelang van die geval, aangedui is nie, indien gelaat by 'n volwasse persoon wat oënskynlik die laasbekende kantoor of besigheidsplek van die maatskappy of trustee, na gelang van die geval, in die Republiek bewoon of okkupeer of aldaar in diens is; of”.

- 5 (2) Subartikel (1) word geag op 23 Februarie 2000 in werking te getree het.

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, artikel 6 van Wet 30 van 10 1984, artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991, artikel 33 van Wet 141 van 1992, artikel 48 van Wet 113 van 1993, artikel 16 van Wet 140 van 1993, artikel 37 van Wet 21 van 1995, artikel 34 van Wet 36 van 1996, artikel 44 van Wet 28 van 1997 en artikel 52 van Wet 30 van 1998

- 15 52. Paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur die omskrywing van “arbeidsmakelaar” deur die volgende omskrywing te vervang:

20 “ ‘arbeidsmakelaar’ ’n persoon wat ’n besigheid drywe of voortsit waardeur daardie persoon teen vergoeding ’n kliënt van daardie besigheid van ander persone voorsien [(behalwe ’n persoon wat ingevolge hierdie omskrywing as ’n arbeidsmakelaar kwalifiseer)] om vir daardie kliënt ’n diens te lewer of werk te doen of daardie ander persone vir die kliënt werf, vir welke dienste of werk daardie ander persone deur daardie persoon vergoed word;”;

- 25 (b) deur die volgende omskrywings na die omskrywing van “besoldiging” in te voeg:

30 “ ‘persoonlike diensmaatskappy’ enige maatskappy (behalwe ’n maatskappy wat ’n arbeidsmakelaar is); waar enige diens namens bedoelde maatskappy aan ’n kliënt van bedoelde maatskappy persoonlik deur enige persoon wat ’n verbonde persoon met betrekking tot bedoelde maatskappy is, gelewer word, en—

- 35 (a) bedoelde persoon as ’n werknemer van bedoelde kliënt geag sou gewees het indien daardie diens direk aan bedoelde kliënt deur bedoelde persoon gelewer is, anders as namens bedoelde maatskappy; of

- (b) bedoelde persoon of bedoelde maatskappy onderworpe is aan die beheer of toesig van bedoelde kliënt met betrekking tot die wyse waarop, of werksure waartydens, die pligte verrig word of verrig staan te word ter lewering van bedoelde diens; of

- 40 (c) die bedrae betaal of wat betaalbaar is ten opsigte van bedoelde dienste, bestaan uit of insluit, verdienste, hoe ook al beskryf, wat betaalbaar is by gereelde daaglikse, weeklikse, maandelikse of ander tussenposes; of

- 45 (d) waar meer as 80 persent van die inkomste van bedoelde maatskappy gedurende die jaar van aanslag vir dienste gelewer, bestaan uit of waarskynlik sal bestaan uit bedrae direk of indirek ontvang van enige een kliënt van bedoelde maatskappy, of enige verwante inrigting soos in die Sewende Bylae by hierdie Wet omskryf, met betrekking tot bedoelde kliënt,

50 behalwe waar bedoelde maatskappy gedurende die hele jaar van aanslag meer as drie voltydse werknemers in diens het wat op ’n voltydse basis betrokke is by die besigheid van bedoelde maatskappy om bedoelde diens te lewer, behalwe enige werknemer wat ’n aandeelhouer of lid van die maatskappy is of ’n verbonde persoon met betrekking tot bedoelde persoon is;

55 ‘persoonlike dienstrust’ enige trust (behalwe ’n trust wat ’n arbeidsmakelaar is), waar enige diens namens bedoelde trust aan ’n kliënt van bedoelde trust persoonlik deur enige persoon wat ’n verbonde persoon met betrekking tot bedoelde trust is, gelewer word, en—

60

- (a) such person would be regarded as an employee of such client if such service was rendered by such person directly to such client other than on behalf of such trust; or
- (b) such person or such trust is subject to the control or supervision of such client as to the manner in which, or hours during which, the duties are performed or are to be performed in rendering such service; or
- (c) the amounts paid or payable in respect of such service consist of, or include, earnings of any description which are payable at regular daily, weekly, monthly or other intervals; or
- (d) where more than 80 per cent of the income of such trust during the year of assessment, from services rendered, consists of or is likely to consist of amounts received directly or indirectly from any one client of such trust, or associated institution as defined in the Seventh Schedule to this Act, in relation to such client, except where such trust throughout the year of assessment, employs more than three full-time employees who are on a full-time basis engaged in the business of such trust of rendering any such service, other than any employee who is a connected person relation to such person or such trust;.”

(2) (a) Subsection (1)(a) shall come into operation on 1 August 2000.

(b) Subsection (1)(b) shall be deemed to have come into operation on 1 July 2000.

(c) Subsection (1)(c) shall be deemed to have come into operation on 1 April 2000, and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995 and section 45 of Act 28 of 1997

53. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the addition to item (a) of subparagraph (5) of the following proviso:

“Provided that the Commissioner shall not issue a certificate of exemption if—

- (aa) more than 80 per cent of the gross income of such person during the year of assessment consists of, or is likely to consist of, an amount or amounts received from any one client of such person, or any associated institution as defined in the Seventh Schedule to this Act in relation to such client;
- (bb) such labour broker provides to any of its clients the services of any other labour broker; or
- (cc) such labour broker is contractually obliged to provide a specified employee of such labour broker to render any service to such client.”

(2) Subsection (1) shall be deemed to have come into operation on 1 July 2000, and shall apply in respect of any application for a certificate of exemption received on or after that date.

- (a) bedoelde persoon as 'n werknemer van bedoelde kliënt geag sou gewees het indien daardie diens direk aan bedoelde kliënt deur bedoelde persoon gelewer is anders as namens bedoelde trust; of
- 5 (b) bedoelde persoon of bedoelde trust onderworpe is aan die beheer of toesig van bedoelde kliënt met betrekking tot die wyse waarop, of werksure waartydens, die pligte verrig word of verrig staan te word ter lewering van bedoelde diens; of
- 10 (c) die bedrae betaal of wat betaalbaar is ten opsigte van bedoelde dienste, bestaan uit of insluit, verdienste, hoe ook al beskryf, wat betaalbaar is by gereelde daaglikse, weeklikse, maandelikse of ander tussenposes; of
- 15 (d) waar meer as 80 persent van die inkomste van bedoelde trust gedurende die jaar van aanslag vir dienste gelewer, bestaan uit of waarskynlik sal bestaan uit bedrae direk of indirek ontvang van enige een kliënt van bedoelde trust, of enige verwante inrigting soos in die Sewende Bylae by hierdie Wet omskryf, met betrekking tot bedoelde kliënt,
- 20 behalwe waar bedoelde trust gedurende die hele jaar van aanslag meer as drie voltydse werknemers in diens het wat op 'n voltydse basis betrokke is by die besigheid van bedoelde trust om bedoelde diens te lewer, behalwe enige werknemer wat 'n verbonde persoon met betrekking tot bedoelde persoon of bedoelde trust is;"; en
- (c) deur die volgende paragrawe by die omskrywing van "werknemer" te voeg:
- 25 "(e) 'n persoonlike diensmaatskappy; en
(f) 'n persoonlike dienstrust;".
- (2) (a) Subartikel (1)(a) word geag op 1 Julie 2000 in werking te getree het.
- (b) Subartikel (1)(b) word geag op 1 April 2000 in werking te getree het en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum 'n aanvang neem.
- 30 (c) Subartikel (1)(c) tree op 1 Augustus 2000 in werking.

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 28 van Wet 113 van 1977, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995 en artikel 45 van Wet 28 van 1997

53. (1) Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende voorbehoudsbepaling by item (a) van subparagraaf 40 (5) te voeg:

"Met dien verstande dat die Kommissaris nie 'n vrystellingsertifikaat uitreik nie indien—

- 45 (aa) meer as 80 persent van die bruto inkomste van bedoelde persoon gedurende die jaar van aanslag bestaan uit of waarskynlik sal bestaan uit, 'n bedrag of bedrae ontvang vanaf enige een kliënt van bedoelde persoon, of enige verwante inrigting soos in die Sewende Bylae by hierdie Wet omskryf, met betrekking tot bedoelde kliënt;
- (bb) bedoelde arbeidsmakelaar aan enige van sy kliënte die dienste van enige ander arbeidsmakelaar voorsien; of
- 50 (cc) bedoelde arbeidsmakelaar kontraktueel verplig is om 'n gespesifiseerde werknemer van bedoelde arbeidsmakelaar te verskaf om enige diens aan bedoelde kliënt te lewer."

(2) Subartikel (1) word geag op 1 Julie 2000 in werking te getree het en is van toepassing ten opsigte van enige aansoek om 'n vrystellingsertifikaat op of na daardie 55 datum ontvang.

Amendment of paragraph 1 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 26 of Act 96 of 1985, Government Notice No. R.2706 of 29 November 1985, section 33 of Act 65 of 1986, Government Notice No. R.2683 of 19 December 1986, section 28 of Act 85 of 1987, Government Notice No. R.714 of 14 April 1989, section 24 of Act 70 of 1989, Government Notice No. R.763 of 29 March 1990, section 55 of Act 101 of 1990, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993, section 30 of Act 21 of 1994 and section 40 of Act 36 of 1996 5

54. Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the definition of "official rate of interest" of the following definition: 10

"'official rate of interest' means [a] the rate of interest [of 14,5 per cent per annum] fixed by the Minister from time to time by notice in the Gazette."

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 van 1984 and amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994, section 49 of Act 28 of 1997 and section 55 of Act 30 of 1998 15

55. Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (b) of subparagraph (4) of the following item: 20

"(b) in any other case, an amount calculated [**at the rate of R100 per person per day for each day during which the accommodation was so occupied or**] at the prevailing rate per day at which such accommodation [**would**] could normally be let to any person who is not an employee of the employer or of any associated institution in relation to the employer [**whichever rate is lower**]." 25

Substitution of paragraph 19 of Seventh Schedule to Act 58 of 1962, as substituted by section 27 of Act 70 of 1989

56. The following paragraph is hereby substituted for paragraph 19 of the Seventh Schedule to the Income Tax Act, 1962: 30

"**19.** Any person who makes or issues or causes to be made or issued or knowingly possesses or uses or causes to be used any certificate referred to in paragraph 17(1) which is false, shall be guilty of an offence and liable on conviction to a fine [**not exceeding R400**] or to imprisonment for a period not exceeding [**six**] twelve months [**or to both such fine and such imprisonment**]." 35

Amendment of paragraph 20 of Seventh Schedule to Act 58 of 1962, as amended by section 39 of Act 96 of 1985 and section 34 of Act 21 of 1994

57. Paragraph 20 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion of item (a) of subparagraph (1); 40
- (b) by the substitution for item (e) of subparagraph (1) of the following item:
 - "(e) the provisions of paragraph [9(3)(b)] 9(3)(a) so as to vary the amount and quantities specified therein;"
- (c) by the deletion of items (f) and (g) of subparagraph (1); and
- (d) by the substitution for item (i) of subparagraph (1) of the following item: 45
 - "(i) the provisions of paragraph 10(2)[(d)] so as to vary the amount specified therein; and".

Wysiging van paragraaf 1 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 26 van Wet 96 van 1985, Goewermentskennisgewing No. R.2706 van 29 November 1985, artikel 33 van Wet 65 van 1986, Goewermentskennisgewing No. R.2683 van 19 Desember 1986, artikel 28 van Wet 85 van 1987, Goewermentskennisgewing No. R.714 van 14 April 1989, artikel 24 van Wet 70 van 1989, Goewermentskennisgewing No. R.763 van 29 Maart 1990, artikel 55 van Wet 101 van 1990, artikel 35 van Wet 141 van 1992, artikel 52 van Wet 113 van 1993, artikel 30 van Wet 21 van 1994 en artikel 40 van Wet 36 van 1996

- 10 54. Paragraaf 1 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van "amptelike rentekoers" deur die volgende omskrywing te vervang:

"'amptelike rentekoers' [’n] die rentekoers [van 14,5 persent per jaar] wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant vasstel;"

- 15 Wysiging van paragraaf 9 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur by artikel 46 van Wet 121 van 1984 en gewysig deur artikel 31 van Wet 96 van 1985, artikel 34 van Wet 65 van 1986, artikel 29 van Wet 85 van 1987, artikel 59 van Wet 101 van 1990, artikel 53 van Wet 113 van 1993, artikel 33 van Wet 21 van 1994, artikel 49 van Wet 28 van 1997 en artikel 55 van Wet 30 van 1998

- 20 55. Paragraaf 9 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur item (b) van subparagraaf (4) deur die volgende item te vervang:

"(b) in enige ander geval, 'n bedrag bereken [teen 'n tarief van R100 per persoon per dag vir elke dag waartydens die huisvesting aldus bewoon was of] teen die heersende tarief per dag waarteen bedoelde huisvesting normaalweg aan iemand verhuur [sou] kon word wat nie 'n werknemer van die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer is nie [watter tarief ook al die laagste is]."

25

Vervanging van paragraaf 19 van Sewende Bylae by Wet 58 van 1962, soos vervang deur artikel 27 van Wet 70 van 1989

- 30 56. Paragraaf 19 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby deur die volgende paragraaf vervang:

"19. Iemand wat 'n in paragraaf 17(1) bedoelde sertifikaat wat vals is, gee of uitreik of laat gee of uitreik of dit wetens besit of gebruik of laat gebruik, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete [van hoogstens R400] of met gevangenisstraf vir 'n tydperk van hoogstens [ses] twaaalf maande [of met bedoelde boete sowel as bedoelde gevangenisstraf]."

35

Wysiging van paragraaf 20 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 39 van Wet 96 van 1985 en artikel 34 van Wet 21 van 1994

- 40 57. Paragraaf 20 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur item (a) van subparagraaf (1) te skrap;

(b) deur item (e) van subparagraaf (1) deur die volgende item te vervang:

"(e) die bepalinge van paragraaf [9(3)(b)] 9(3)(a) wysig om die daarin gespesifiseerde bedrag en grootheid te verander;"

45 (c) deur items (f) en (g) van subparagraaf (1) te skrap; en

(d) deur item (i) van subparagraaf (1) deur die volgende item te vervang:

"(i) die bepalinge van paragraaf 10(2)[(d)] wysig om die daarin gespesifiseerde bedrag te verander; en"

Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987, section 1 of Act 68 of 1989, section 1 of Act 59 of 1990, section 1 of Act 19 of 1994, section 57 of Act 30 of 1998 and section 46 of Act 53 of 1999 5

58. Section 1 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding the definition of “agricultural distiller” of the following words:
- “In this Act, unless the context otherwise indicates, any reference to customs and excise or matters relating thereto, shall be deemed to include a reference to—
- (a) surcharge and fuel levy or matters relating thereto;
- (b) air passenger tax or matters relating thereto in so far as those provisions can be applied and subject to the provisions of section 47B, and—; and 10 15
- (c) by the substitution for the definition of “duty” of the following definition:
- “‘duty’ means any duty leviable under this Act and, subject to the provisions of section 47B, any passenger tax leviable under that section;” 20

Insertion of section 47B in Act 91 of 1964

59. (1) The following section is hereby inserted after section 47A of the Customs and Excise Act, 1964:

“Air passenger tax

- 47B.** (1) For the purposes of this section, unless the context otherwise indicates— 25
- ‘agent’ means an agent contemplated in subsection (5)(c);
- ‘airline’ means any air transport enterprise offering or operating an international air service;
- ‘airport’ means a customs and excise airport specified in item 200.04 of the Schedule to the rules; 30
- ‘carriage’ means carriage by air;
- ‘chargeable aircraft’ means an aircraft designed or adapted to carry any person in addition to the flight crew;
- ‘chargeable passenger’, subject to the provisions of subsection (3), means every passenger on a chargeable aircraft departing from an airport in the Republic to a destination in a territory outside the Republic; 35
- ‘flight’, in relation to any chargeable passenger, means the carriage of such passenger from an airport in the Republic on a chargeable aircraft to any destination in a territory outside the Republic; 40
- ‘operator’, in relation to a chargeable aircraft, means the person having the management of the aircraft for the time being, and includes any airline or any person who owns or hires such aircraft or in whose name the aircraft is registered in terms of the regulations made under the Aviation Act, 1962 (Act No. 74 of 1962); 45
- ‘passenger’, in relation to any chargeable aircraft, means—
- (a) where the operator is an air transport undertaking, any person carried on the aircraft other than—
- (i) a member of the flight crew;
- (ii) a cabin attendant; or 50
- (iii) a person not carried for reward who is an employee of the operator and who satisfies such other requirements as may be prescribed by rule; and
- (b) in any other case, any person carried for reward;
- ‘reward’, in relation to the carriage of any person, includes any form of consideration received or to be received wholly or partly in connection with the carriage, irrespective of the person by whom or to whom the consideration has been given or is to be given; 55

Wysiging van artikel 1 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 95 van 1965, artikel 1 van Wet 57 van 1966, artikel 1 van Wet 105 van 1969, artikel 1 van Wet 98 van 1970, artikel 1 van Wet 71 van 1975, artikel 1 van Wet 112 van 1977, artikel 1 van Wet 110 van 1979, artikels 1 en 15 van Wet 98 van 1980, artikel 1 van Wet 89 van 1984, artikel 1 van Wet 84 van 1987, artikel 1 van Wet 68 van 1989, artikel 1 van Wet 59 van 1990, artikel 1 van Wet 19 van 1994, artikel 57 van Wet 30 van 1998 en artikel 46 van Wet 53 van 1999

58. Artikel 1 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat die woordbepaling van “doeanereg” voorafgaan deur die volgende woorde te vervang:
- “Tensy uit die samehang anders blyk, word ’n verwysing in hierdie Wet na doeane en aksyns of aangeleenthede met betrekking daartoe geag ’n verwysing in te sluit na—
- (a) bobelasting en brandstofheffing of aangeleenthede met betrekking daartoe [in te sluit];
- (b) lugpassassiersbelasting of aangeleenthede met betrekking daartoe, in die mate wat daardie bepalinge toegepas kan word en behoudens die bepalinge van artikel 47B, en beteken in hierdie Wet—”; en
- (b) deur die woordbepaling van “reg” deur die volgende woordbepaling te vervang:
- “‘reg’ enige reg hefbaar ingevolge hierdie Wet en, behoudens die bepalinge van artikel 47B, enige lugpassassiersbelasting wat kragtens daardie artikel hefbaar is;”.

Invoeging van artikel 47B in Wet 91 van 1964

59. (1) Die volgende artikel word hierby na artikel 47A in die Doeane- en Aksynswet, 1964, ingevoeg:

“Lugpassassiersbelasting

- 47B.** (1) By die toepassing van hierdie artikel, tensy uit die samehang anders blyk, beteken—
- ‘agent’ ’n agent in subartikel (5)(c) beoog;
- ‘belasbare lugvaartuig’ ’n lugvaartuig ontwerp of aangepas om enige persoon benewens die vlugbemanning te vervoer;
- ‘belasbare passassier’, behoudens die bepalinge van subartikel (3), elke passassier op ’n belasbare lugvaartuig wat vanaf ’n lughawe in die Republiek na ’n bestemming in ’n gebied buite die Republiek vertrek;
- ‘belasting’ lugpassassiersbelasting;
- ‘lughawe’ ’n doeane- en aksynslughawe in item 200.04 van die Bylae by die reëls vermeld;
- ‘lugredery’ ’n lugvervoeronderneming wat ’n internasionale lugdiens aanbied of onderneem;
- ‘ondernemer’, met betrekking tot ’n belasbare lugvaartuig, die persoon wat tot tyd en wyl die bestuur van die lugvaartuig behartig, en ook ’n lugredery of ’n persoon wat sodanige lugvaartuig besit of huur of in wie se naam die lugvaartuig ingevolge die regulasies uitgevaardig kragtens die Lugvaartwet, 1962 (Wet No. 74 van 1962), geregistreer is;
- ‘passassier’, met betrekking tot ’n belasbare lugvaartuig—
- (a) waar die ondernemer ’n lugvervoeronderneming is, enige persoon wat op die lugvaartuig vervoer word, behalwe—
- (i) ’n lid van die vlugbemanning;
- (ii) ’n kajuitbediener; of
- (iii) ’n persoon wat nie teen vergoeding vervoer word nie wat ’n werknemer van die ondernemer is en voldoen aan die ander vereistes wat by reël voorgeskryf word; en
- (b) in enige ander geval, ’n persoon wat teen vergoeding vervoer word; ‘vergoeding’, met betrekking tot die vervoer van enige persoon, ook enige vorm van teenprestasie ontvang of ontvang te word geheel of gedeeltelik in verband met die vervoer, ongeag die persoon deur wie of aan wie die teenprestasie gegee is of gegee staan te word;

'tax' means air passenger tax.

(2) (a) A tax known as air passenger tax shall be charged in accordance with this section on the carriage on a chargeable aircraft of any chargeable passenger.

(b) (i) The tax shall be charged at the rate of R100 on the carriage of each chargeable passenger departing on a flight: Provided that the Minister may by notice in the *Gazette* lower the rate, and by like notice amend any rate so lowered, in respect of any flight of which the final destination is any country in Africa.

(ii) In considering the lowering or amendment of the rate, the Minister shall take into account—

(aa) the distance between an airport in a country concerned and an airport in the Republic;

(bb) any agreement existing between the Republic and any of the countries concerned;

(cc) the price of the flight ticket; and

(dd) any other ground which may be regarded as reasonable in the circumstances.

(iii) The provisions of section 48(6) shall apply *mutatis mutandis* to any notice referred to in the proviso to subparagraph (i).

(c) The chargeable passenger shall be liable for the tax which shall be collected by the operator or his agent.

(d) Subject to the provisions of this section and the rules, the tax—

(i) becomes due when the aircraft first takes off on the passenger's flight;

(ii) shall be paid—

(aa) for the benefit of the National Revenue Fund;

(bb) in respect of each chargeable passenger, by the operator or the agent;

(cc) in accordance with the rules as contemplated in subsection (7)(b)(i).

(e) Subject to the provisions of this section and except for the purposes of any customs union agreement concluded under section 51, the tax shall be deemed to be a duty leviable under this Act.

(3) (a) A child who—

(i) has not attained the age of two years; and

(ii) is not allocated a separate seat before boarding the aircraft, is not a chargeable passenger.

(b) A passenger is not a chargeable passenger if—

(i) not carried for reward—

(aa) in pursuance of any requirement imposed under any law; or

(bb) for the purposes only of inspecting matters relating to the aircraft or the flight crew;

(ii) whether or not carried for reward, in pursuance of any international agreement, convention or obligation, subject to the approval of the Commissioner and such conditions as he may impose in each case;

(c) Any passenger, who is in transit through the Republic and departs from the transit area of the airport on a flight without entering the Republic by passing through immigration, is not a chargeable passenger.

(4) (a) The Commissioner shall keep a register of operators.

(b) (i) The operator of a chargeable aircraft used for the carriage of

'vervoer' lugvervoer;

'vlug', met betrekking tot 'n belasbare passassier, die vervoer van sodanige passassier vanaf 'n lughawe in die Republiek op 'n belasbare lugvaartuig ná enige bestemming in 'n gebied buite die Republiek.

5 (2) (a) 'n Belasting bekend as lugpassassiersbelasting moet ooreenkomstig hierdie artikel op die vervoer van enige belasbare passassier op 'n belasbare lugvaartuig gehef word.

10 (b) (i) Die belasting word teen die koers van R100 gevorder op die vervoer van elke belasbare passassier wat op 'n vlug vertrek: Met dien verstande dat die Minister by kennisgewing in die *Staatskoerant* die koers kan verlaag, en by derglike kennisgewing enige koers aldus verlaag kan wysig, ten opsigte van enige vlug waarvan die finale bestemming enige land in Afrika is.

15 (ii) By oorweging van die verlaging of wysiging van die koers, moet die Minister in aanmerking neem—

(aa) die afstand tussen 'n lughawe in 'n betrokke land en 'n lughawe in die Republiek;

(bb) enige bestaande ooreenkoms tussen die Republiek en enige van die betrokke lande;

20 (cc) die prys van die vliegkaartjie; en

(dd) enige ander grond wat in die omstandighede as redelik beskou kan word.

25 (iii) Die bepaling van artikel 48(6) is *mutatis mutandis* van toepassing op enige kennisgewing in die voorbehoudsbepaling by subparagraaf (i) bedoel.

(c) Die belasbare passassier is aanspreeklik vir die belasting wat deur die ondernemer of sy agent ingevorder moet word.

(d) Behoudens die bepalinge van hierdie artikel en die reëls—

30 (i) word die belasting verskuldig wanneer die lugvaartuig vir die eerste keer op die passassier se vlug opstyg;

(ii) moet die belasting betaal word—

(aa) ten bate van die Nasionale Inkomstefonds;

(bb) ten opsigte van elke belasbare passassier deur die ondernemer of die agent;

35 (cc) ooreenkomstig die reëls soos in subartikel (7)(b)(i) beoog.

40 (e) Behoudens die bepalinge van hierdie artikel en behalwe by die toepassing van enige doeane-unie ooreenkoms wat kragtens artikel 51 aangegaan is, word die belasting geag 'n reg hefbaar kragtens hierdie Wet te wees.

(3) (a) 'n Kind wat—

(i) nog nie die ouderdom van twee jaar bereik het nie; en

(ii) nie 'n aparte sitplek toegeken word voordat aan boord gegaan word nie,

45 is nie 'n belasbare passassier nie.

(b) 'n Passassier is nie 'n belasbare passassier nie, indien—

(i) nie teen vergoeding vervoer nie—

(aa) ter nakoming van enige vereiste kragtens enige wet opgelê; of

50 (bb) vir slegs die doeleindes om aangeleenthede ten opsigte van die lugvaartuig of die vlugpersoneel te inspekteer;

55 (ii) hetsy vervoer teen vergoeding al dan nie, ter nakoming van enige internasionale ooreenkoms, konvensie of verpligting, behoudens die goedkeuring van die Kommissaris en die voorwaardes wat hy in elke geval oplê.

60 (c) Enige passassier wat onderweg is deur die Republiek en vanaf die deurgang-gebied van die lughawe op 'n vlug vertrek sonder om die Republiek binne te gaan deur immigrasie te gaan, is nie 'n belasbare passassier nie.

(4) (a) Die Kommissaris moet 'n register van ondernemers hou.

(b) (i) Die ondernemer van 'n belasbare lugvaartuig wat gebruik word

any chargeable passenger shall be liable to be registered under this section.

(ii) Application for registration shall be in such form and manner and contain such information as may be prescribed by rule.

(c) Any person liable to be registered under this section ceases to be so liable if the Commissioner is, on good cause shown, satisfied that— 5

- (i) such person no longer operates any chargeable aircraft; or
- (ii) no chargeable aircraft operated by such person will be used for the carriage of chargeable passengers.

(d) Any person who is not registered and who has not applied for registration shall, if he becomes liable to be registered at any time, give notice of that fact to the Commissioner and apply for registration in writing within seven days of the time of becoming so liable. 10

(e) Every pilot of a chargeable aircraft shall, for the purposes of section 7(3), produce together with the report outwards— 15

- (i) proof of registration of the operator; or
- (ii) a certificate from the Commissioner that the operator is not liable to be registered; and
- (iii) a passenger manifest in such form and containing such particulars as may be prescribed by rule. 20

(5) (a) An operator who—

- (i) is, or is liable to be, registered; and
- (ii) does not meet the requirements contemplated in paragraph (b), shall appoint an agent whose place of business is in the Republic as the South African representative of the operator. 25

(b) A person meets the requirements of this subsection if such person—

- (i) has any business establishment or other fixed establishment in the Republic; or
- (ii) is an individual and is usually resident in the Republic. 30

(c) The Commissioner may register any duly appointed agent of an operator, and if so registered, the agent may act on behalf of the operator for the purposes of this Act.

(d) The Commissioner may by rule prescribe the following:

- (i) The persons who may be appointed as agent;
- (ii) the manner and conditions in or on which a person is to be appointed as agent for an operator; 35
- (iii) the conditions on which agents are registered by the Commissioner; and
- (iv) any other matter which is required or permitted in terms of this section to be prescribed by rule. 40

(e) (i) The Commissioner may refuse to register an agent appointed by an operator or cancel or suspend the registration of any agent.

(ii) For the purposes of subparagraph (i), the provisions of section 60(2) shall apply *mutatis mutandis*.

(f) The provisions of sections 44A, 98 and 99(1) shall apply *mutatis mutandis* to an operator and his agent. 45

(6) (a) No—

- (i) operator who is liable to be registered; or
- (ii) agent appointed by an operator,

may conduct any business contemplated in this section unless such operator or agent has furnished such security as the Commissioner may require. 50

(b) The Commissioner may at any time require that the form, nature or amount of such security be altered in such a manner as he may determine.

(7) (a) Any operator who is registered or liable to be registered and any agent of such operator shall— 55

- (i) keep accounts in such form and such manner; and

vir die vervoer van enige belasbare passassier is aanspreeklik om ingevolge hierdie artikel geregistreer te word.

(ii) Aansoek om registrasie moet in die vorm en op die wyse wees en die inligting bevat soos by reël voorgeskryf word.

5 (c) Enige persoon wat aanspreeklik is om onder hierdie artikel geregistreer te word, hou op om aldus aanspreeklik te wees indien die Kommissaris op goeie gronde aangetoon van oordeel is dat—

(i) sodanige persoon nie langer die bestuur van enige belasbare lugvaartuie behartig nie; of

10 (ii) geen belasbare lugvaartuig waarvan die bestuur deur sodanige persoon behartig word, gebruik sal word vir die vervoer van belasbare passassiers nie.

(d) Enige persoon wat nie geregistreer is nie en wat nie aansoek gedoen het om registrasie nie, moet, indien hy te eniger tyd aanspreeklik word om geregistreer te word, van daardie feit aan die Kommissaris kennis gee en binne sewe dae vanaf die tyd wat hy aldus aanspreeklik word, skriftelik om registrasie aansoek doen.

(e) Enige loods van 'n belasbare vliegtuig moet vir die doeleindes van artikel 7(3), saam met die uitwaartse rapport—

20 (i) bewys van registrasie van die ondernemer; of

(ii) 'n sertifikaat van die Kommissaris dat die ondernemer nie aanspreeklik is om geregistreer te word nie; en

(iii) 'n passassiersmanifes in die vorm en wat die besonderhede bevat wat by reël voorgeskryf word,

25 voorlê.

(5) (a) 'n Ondernemer wat—

(i) geregistreer is of aanspreeklik is om geregistreer te word; en

(ii) nie voldoen aan die vereistes in paragraaf (b) beoog nie,

30 moet 'n agent wie se besigheidsplek in die Republiek is as Suid-Afrikaanse verteenwoordiger van die ondernemer aanstel.

(b) 'n Persoon voldoen aan die vereistes van hierdie subartikel indien sodanige persoon—

(i) enige besigheidsinstelling of ander vaste instelling in die Republiek het; of

35 (ii) 'n individu is en gewoonlik woonagtig in die Republiek is.

(c) Die Kommissaris kan enige behoorlik aangestelde agent van 'n ondernemer registreer, en indien aldus geregistreer, kan die agent namens die ondernemer vir die doeleindes van hierdie Wet optree.

(d) Die Kommissaris kan by reël die volgende voorskryf:

40 (i) Die persone wat as agent aangestel kan word;

(ii) die wyse en die voorwaardes waarop 'n persoon as agent van 'n ondernemer aangestel moet word;

(iii) die voorwaardes waarop agente deur die Kommissaris geregistreer word; en

45 (iv) enige ander aangeleentheid wat ingevolge hierdie artikel by reël voorgeskryf moet of kan word.

(e) (i) Die Kommissaris kan weier om 'n agent wat deur 'n ondernemer aangestel is, te registreer of die registrasie van enige agent kanselleer of opskort.

50 (ii) By die toepassing van subparagraaf (i), is die bepalinge van artikel 60(2) *mutatis mutandis* van toepassing.

(f) Die bepalinge van artikels 44A, 98 en 99(1) is *mutatis mutandis* op 'n ondernemer en sy agent van toepassing.

(6) (a) Geen—

55 (i) ondernemer wat aanspreeklik is om geregistreer te word; of

(ii) agent aangestel deur 'n ondernemer,

mag enige sake in hierdie artikel beoog, doen nie tensy sodanige ondernemer of agent die sekerheid stel wat die Kommissaris vereis.

60 (b) Die Kommissaris kan te eniger tyd vereis dat die vorm, aard of bedrag van sodanige sekerheid gewysig word op die wyse wat hy bepaal.

(7) (a) Enige ondernemer wat geregistreer is of wat aanspreeklik is om geregistreer te word en enige agent van sodanige ondernemer moet—

(i) rekeninge hou in die vorm en op die wyse; en

- (ii) render tax accounts at such time, in such manner and for such periods,
as may be prescribed by rule.
- (b) (i) Any operator or agent of such operator shall pay any tax due at such time, in such manner and at such place as may be prescribed by rule. 5
- (ii)(aa) Any tax due and not accounted for and not paid in accordance with the provisions of this subsection, shall be paid upon demand by the Commissioner.
- (bb) If such tax is not paid within 14 days after demand for payment was made, it shall be recoverable in terms of the provisions of this Act as if it were a duty payable under this Act. 10
- (iii) Interest on any outstanding tax shall be payable as provided in section 105.
- (iv) Any amounts of tax overpaid shall be refundable in the circumstances and on compliance with such conditions as may be prescribed by rule. 15
- (8) (a) Any person who—
- (i) is knowingly a party to the fraudulent evasion of tax or attempts to commit such evasion or assists any other person in taking steps with a view to such fraudulent evasion; or 20
- (ii) in connection with tax makes a statement he knows to be false or recklessly makes a statement that is false, or, with intent to deceive produces or makes use of a book, account, return or other document that is false,
- shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or three times the value of the tax to which the offence relates, whichever is the greater, or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment, and the aircraft in respect of which the fraudulent act took place or false statements were made shall be liable to forfeiture in accordance with this Act.”. 25 30
- (2) Subsection (1) shall come into operation on 1 November 2000, and shall apply to any carriage of a chargeable passenger on any flight which commences on or after that date.

Amendment of section 49 of Act 91 of 1964, as substituted by section 55 of Act 53 of 1999 35

60. (1) Section 49 of the Customs and Excise Act, 1964, is hereby amended—
- (a) by the substitution for the words following subparagraph (iv) of paragraph (a) of subsection (1) of the following words:
- “such agreement or any protocol or other part or provision thereof is enacted into law as part of this Act when published by notice in the *Gazette* in accordance with the provisions of subsections (1) and (1A) of section 48 or subsection (5) or (5B) of this section.”; 40
- (b) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:
- “(i) Any amendment of such agreement or any protocol or other part or provision thereof, any regulations for facilitating implementation, any agreed list of processing relating to originating status of goods, any other matter agreed upon between governments or by any committee of, or a body established by, the parties to such agreement or any decision or condition imposed by such committee or body, is likewise enacted into law as part of this Act when published in accordance with the provisions of subsections (1) and (1A) of section 48 or subsection (5) or (5B) of this section by notice in the *Gazette* as an amendment of such agreement or protocol or part or provision, as the case may be, with effect from any date that may be specified in such notice.”; and 45 50 55
- (c) by the insertion after subsection (5A) of the following subsection:

- (ii) belastingrekeninge lewer op die tydstip en op die wyse en vir die tydperke, wat by reël voorgeskryf word.
- (b) (i) Enige ondernemer of agent van sodanige ondernemer moet enige belasting verskuldig op die tydstip, op die wyse en op die plek betaal wat by reël voorgeskryf word.
- (ii) (aa) Enige belasting verskuldig en nie verklaar en betaal ooreenkomstig die bepalings van hierdie subartikel nie, moet op aanvraag deur die Kommissaris, betaal word.
- (bb) Indien sodanige belasting nie binne 14 dae na aanvraag om betaling gedoen is, betaal word nie, is dit verhaalbaar ingevolge die bepalings van hierdie Wet asof dit 'n reg is wat kragtens hierdie Wet betaalbaar is.
- (iii) Rente op enige uitstaande belasting is betaalbaar soos in artikel 105 bepaal word.
- (iv) Enige bedrae belasting wat te veel betaal is, is terugbetaalbaar in die omstandighede en by voldoening aan die voorwaardes wat by reël voorgeskryf word.
- (8) (a) Enige persoon wat—
- (i) bewustelik 'n party by die bedrieglike ontduiking van belasting is of poog om sodanige ontduiking te pleeg of enige ander persoon help om stappe te doen met die oog op sodanige bedrieglike ontduiking; of
- (ii) in verband met belasting 'n verklaring maak wat hy weet vals is of roekeloos 'n verklaring maak wat vals is, of, met die opset om te mislei 'n boek, rekening, opgawe of ander dokument wat vals is, voorlê of daarvan gebruik maak,
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 000 of drie keer die bedrag van die belasting waarop die misdryf betrekking het, na gelang van watter die hoogste is, of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar, of met sowel sodanige boete as sodanige gevangenisstraf, en die lugvaartuig ten opsigte waarvan die bedrieglike handeling plaasgevind het of valse verklarings gemaak is, is ooreenkomstig hierdie Wet aan verbeuring onderhewig.”
- (2) Subartikel (1) tree in werking op 1 November 2000 en is van toepassing op die vervoer van 'n belasbare passasier op 'n vlug wat op of na daardie datum begin.

Wysiging van artikel 49 van Wet 91 van 1964, soos vervang deur artikel 55 van Wet 53 van 1999

60. (1) Artikel 49 van die Doeane- en Aksynswet, 1964, word hierby gewysig—
- (a) deur die woorde wat volg op subparagraaf (iv) van paragraaf (a) van subartikel (1) deur die volgende woorde te vervang:
- “word sodanige ooreenkoms of enige protokol of ander deel of bepaling daarvan regtens as deel van hierdie Wet verorden wanneer by kennisgewing in die *Staatskoerant* ooreenkomstig die bepalings van subartikels (1) en (1A) van artikel 48 of subartikel (5) of (5B) van hierdie artikel afgekondig.”;
- (b) deur subparagraaf (i) van paragraaf (b) van subartikel (1) deur die volgende subparagraaf te vervang:
- “(i) Enige wysiging van sodanige ooreenkoms of enige protokol of ander deel of bepaling daarvan, enige regulasies om implementering te vergemaklik, enige ooreengekome lys van prosessering met betrekking tot die oorsprongverkreë status van goedere, enige ander aangeleentheid waarop ooreengekom is tussen regerings of deur enige komitee van of liggaam gestig deur die partye by sodanige ooreenkoms of enige besluit of voorwaarde deur sodanige komitee of liggaam opgelê, word insgeelyks regtens as deel van hierdie Wet verorden wanneer ingevolge die bepalings van subartikels (1) en (1A) van artikel 48 of subartikel (5) of (5B) van hierdie artikel afgekondig by kennisgewing in die *Staatskoerant* as 'n wysiging aan sodanige ooreenkoms of protokol of deel of bepaling, na gelang van die geval, met ingang van enige datum wat in sodanige kennisgewing bepaal word.”; en
- (c) deur die volgende subartikel na subartikel (5A) in te voeg:

“(5B) Notwithstanding the provisions of subsection (5), the Minister may include in any notice published under that subsection, the full text of any such agreement or protocol except any protocol or other part thereof, as the case may be, published under subsection 48(1A), and if so included, the whole agreement or protocol, as the case may be, shall be enacted into law as part of this Act as contemplated in subsection (1)(a).”

(2) Subsection (1) shall be deemed to have come into operation on 24 November 1999.

Amendment of section 75 of Act 91 of 1964, as amended by section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 25 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973 section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 28 of Act 93 of 1978, section 10 of Act 110 of 1979, section 19 of Act 86 of 1982, section 6 of Act 89 of 1984, section 11 of Act 101 of 1985, section 9 of Act 52 of 1986, section 23 of Act 84 of 1987, section 8 of Act 69 of 1988, section 13 of Act 68 of 1989, section 29 of Act 59 of 1990, section 13 of Act 61 of 1992, section 7 of Act 98 of 1993, section 10 of Act 19 of 1994 and section 53 of Act 45 of 1995

61. (1) Section 75 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) any imported goods described in Schedule No. 4 shall be admitted under rebate of any customs duties or fuel levy applicable in respect of such goods at the time of entry for home consumption thereof, to the extent stated in, and subject to compliance with the provisions of, the item of Schedule No. 4 in which such goods are specified;”

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1987.

Amendment of section 76 of Act 91 of 1964, as substituted by section 30 of Act 59 of 1990 and amended by section 5 of Act 105 of 1992 and section 54 of Act 45 of 1995

62. Section 76 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the deletion of the word “or” at the end of paragraph (f) of subsection (2);

(b) by the addition of the word “or” at the end of paragraph (g) of subsection (2); and

(c) by the addition to subsection (2) of the following paragraph:

“(h) duty having been paid, notwithstanding the provisions of section 49(9), on any goods at the general rate of duty specified in respect thereof in any heading or subheading in Part 1 of Schedule No. 1 and proof is produced that the goods concerned qualify for a preferential rate of duty specified for such heading or subheading in the said Part 1 of the said Schedule No. 1.”

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2000.

Amendment of section 105 of Act 91 of 1964, as substituted by section 2 of Act 111 of 1991 and amended by section 65 of Act 45 of 1995, section 72 of Act 30 of 1998 and section 6 of Act 32 of 1999

63. Section 105 of the Customs and Excise Act, 1964, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) the interest so payable shall be paid at [the rate of 14,5 per cent per annum, or such other] a rate which the Minister of Finance may from time to time fix by notice in the *Gazette*;”

Amendment of Schedule No. 1 to Act 91 of 1964

64. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Schedule 2 to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, subsection (1) shall be deemed to have come into operation on 23 February 2000.

“(5B) Ondanks die bepalings van subartikel (5), kan die Minister in enige kennisgewing wat kragtens daardie subartikel afgekondig word, die volle teks van sodanige ooreenkoms of protokol, behalwe enige protokol of ander deel daarvan, na gelang van die geval, wat kragtens artikel 48(1A) afgekondig is, insluit, en indien aldus ingesluit, word die hele ooreenkoms of protokol, na gelang van die geval, regtens as deel van hierdie Wet verorden soos in subartikel (1)(a) beoog.”

(2) Subartikel (1) word geag op 24 November 1999 in werking te getree het.

Wysiging van artikel 75 van Wet 91 van 1964, soos gewysig deur artikel 13 van Wet 95 van 1965, artikel 10 van Wet 57 van 1966, artikel 8 van Wet 85 van 1968, artikel 25 van Wet 105 van 1969, artikel 8 van Wet 103 van 1972, artikel 2 van Wet 68 van 1973 artikel 9 van Wet 71 van 1975, artikel 27 van Wet 112 van 1977, artikel 28 van Wet 93 van 1978, artikel 10 van Wet 110 van 1979, artikel 19 van Wet 86 van 1982, artikel 6 van Wet 89 van 1984, artikel 11 van Wet 101 van 1985, artikel 9 van Wet 52 van 1986, artikel 23 van Wet 84 van 1987, artikel 8 van Wet 69 van 1988, artikel 13 van Wet 68 van 1989, artikel 29 van Wet 59 van 1990, artikel 13 van Wet 61 van 1992, artikel 7 van Wet 98 van 1993, artikel 10 van Wet 19 van 1994 en artikel 53 van Wet 45 van 1995

61. (1) Artikel 75 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) enige ingevoerde goedere in Bylae No. 4 vermeld met korting op enige doeaneregte of brandstofheffing wat ten opsigte van sodanige goedere ten tyde van klaring vir binnelandse verbruik daarvan van toepassing is, toegelaat, in die mate vermeld in, en onderworpe aan nakoming van die bepalings van, die item van Bylae No. 4 waarin bedoelde goedere vermeld word;”.

(2) Subartikel (1) word geag op 1 Julie 1987 in werking te getree het.

Wysiging van artikel 76 van Wet 91 van 1964, soos vervang deur artikel 30 van Wet 59 van 1990 en gewysig deur artikel 5 van Wet 105 van 1992 en artikel 54 van Wet 45 van 1995

62. Artikel 76 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

(a) deur die woord “of” aan die einde van paragraaf (f) van subartikel (2) te skrap;

(b) deur die woord “of” aan die einde van paragraaf (g) van subartikel (2) by te voeg; en

(c) deur die volgende paragraaf by subartikel (2) te voeg:

“(h) reg op enige goedere betaal is, ondanks die bepalings van artikel 49(9), teen die algemene skaal van reg wat ten opsigte daarvan in enige pos of subpos in Deel 1 van Bylae No. 1 vermeld word en bewys voorgelê word dat die betrokke goedere kwalifiseer vir ’n voorkeurskaal van reg wat vir sodanige pos of subpos in genoemde Deel 1 van genoemde Bylae No. 1 vermeld word.”.

(2) Subartikel (1) word geag op 1 Januarie 2000 in werking te getree het.

Wysiging van artikel 105 van Wet 91 van 1964, soos vervang deur artikel 2 van Wet 111 van 1991 en gewysig deur artikel 65 van Wet 45 van 1995, artikel 72 van Wet 30 van 1998 en artikel 6 van Wet 32 van 1999

63. Artikel 105 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) word die rente aldus betaalbaar, betaal teen [die koers van 14,5 persent per jaar, of die ander] ’n koers wat die Minister van Finansies van tyd tot tyd by kennisgewing in die Staatskoerant bepaal;”.

Wysiging van Bylae No. 1 by Wet 91 van 1964

64. (1) Bylae No. 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig soos in Bylae 2 by hierdie Wet uiteengesit.

(2) Behoudens die bepalings van artikel 58(1) van die Doeane- en Aksynswet, 1964, word subartikel (1) geag op 23 Februarie 2000 in werking te getree het.

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

65. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, to the Customs and Excise Act, 1964, made under section 48, 56 or 75(15) of that Act during the calendar year ending on 31 December 1999 shall not lapse by virtue of the provisions of section 48(6), 56(3) or 75(16) of that Act. 5

(2) The amendments of Part 5 of Schedule No. 1 to the Customs and Excise Act, 1964, made under section 48 of that Act by Government Notice No. R.321 of 3 April 2000, shall not lapse by virtue of the provisions of section 48(6) of that Act.

Substitution of long title of Act 91 of 1964, as substituted by section 42 of Act 59 of 1990 10

66. The long title of the Customs and Excise Act, 1964, is hereby substituted by the following long title:

“ACT

To provide for the levying of customs and excise duties and a surcharge; for a fuel levy and for an air passenger tax; the prohibition and control of the importation, export, [or] manufacture or use of certain goods; and for matters incidental thereto.”. 15

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, section 13 of Act 97 of 1993 and section 78 of Act 30 of 1998 20

67. (1) Section 4 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion of subparagraph (iv) of paragraph (b) of subsection (1); 25
- (b) by the substitution for subparagraph (i) of paragraph (f) of subsection (1) of the following subparagraph:

“(i) a [religious, charitable or educational institution of a public character] public benefit organisation which is exempt from tax in terms of section [10(1)(f)] 10(1)(cN) of the Income Tax Act, 1962 (Act 58 of 1962) [and any fund which is exempt from tax in terms of section 10(1)(fA) of the said Act]; or”; 30

- (c) by the deletion of subparagraphs (ii) and (iii) of paragraph (f) of subsection (1); and
- (d) by the substitution for the words following on subparagraph (iii) of paragraph (f) of subsection (1) of the following words: 35

“if the duty thereon would be legally payable and borne by such [institution, fund, company, society, trust or other association, as the case may be] public benefit organisation;”;

- (e) by the addition to subsection (1) of the following paragraph: 40

“(h) any instrument transferred by any public benefit organisation, which is exempt from tax in terms of section 10(1)(cN) of the Income Tax Act, 1962, to any other entity which is controlled by such public benefit organisation in order to comply with the provisions of the proviso to section 30(3) of that Act.”.

(2) (a) Subsection (1)(a) shall be deemed to have come into operation on 1 January 2000. 45

(b) Subsection (1)(b), (c), (d) and (e) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Voortduring van sekere wysigings van Bylae Nos. 1 tot 6 by Wet 91 van 1964

65. (1) Elke wysiging of intrekking van of invoeging in Bylaes Nos. 1 tot en met 6, by die Doeane- en Aksynswet, 1964, kragtens artikel 48, 56 of 75(15) van daardie Wet aangebring gedurende die kalenderjaar wat op 31 Desember 1999 geëindig het, verval nie uit hoofde van die bepalings van artikel 48(6), 56(3) of 75(16) van daardie Wet nie.

(2) Die wysigings van Deel 5 van Bylae No. 1 by die Doeane- en Aksynswet, 1964, wat kragtens artikel 48 van daardie Wet by Goewermentskennisgewing No. R.321 van 3 April 2000 aangebring is, verval nie uit hoofde van die bepalings van artikel 48(6) van daardie Wet nie.

10 Vervanging van die lang titel van Wet 91 van 1964, soos vervang deur artikel 42 van Wet 59 van 1990

66. Die lang titel van die Doeane- en Aksynswet, 1964, word hierby deur die volgende lang titel vervang:

“WET

15 Om voorsiening te maak vir die heffing van doeane- en aksynsregte en 'n bobelasting; vir 'n brandstofheffing en vir 'n lugpassassiersbelasting; die verbod van en beheer oor die invoer, uitvoer, [of] vervaardiging of gebruik van sekere goedere; en vir aangeleenthede wat daarmee in verband staan.”.

20 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 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, 25 artikel 5 van Wet 136 van 1992, artikel 13 van Wet 97 van 1993 en artikel 78 van Wet 30 van 1998

67. (1) Artikel 4 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur subparagraaf (iv) van paragraaf (b) van subartikel (1) te skrap;

30 (b) deur subparagraaf (i) van paragraaf (f) van subartikel (1) deur die volgende subparagraaf te vervang:

35 “(i) 'n [godsdiensstige, liefdadigheids- of opvoedkundige inrigting van 'n openbare aard] openbare weldaadsorganisasie wat ingevolge artikel [10(1)(f)] 10(1)(cN) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van belasting vrygestel is [en 'n fonds wat ingevolge artikel 10(1)(fA) van genoemde Wet van belasting vrygestel is]; of”;

(c) deur subparagraaf (ii) en (iii) van paragraaf (f) van subartikel (1) te skrap;

40 (d) deur die woorde wat op subparagraaf (iii) van paragraaf (f) van subartikel (1) volg deur die volgende woorde te vervang:

“verly word, indien die seëlreg daarop wettiglik deur dié [inrigting, fonds, maatskappy, genootskap, trust of ander vereniging na gelang van die geval] openbare weldaadsorganisasie betaalbaar sou wees en gedra sou moes word;”;

(e) deur die volgende paragraaf by subartikel (1) te voeg:

45 “(h) enige instrument of bate oorgedra deur enige openbare weldaadsorganisasie, wat ingevolge artikel 10(1)(cN) van die Inkomstebelastingwet, 1962, van belasting vrygestel is, aan enige ander entiteit wat deur bedoelde openbare weldaadsorganisasie beheer word, ten einde aan die bepalings van die voorbehoudsbepaling by artikel 30(3) van daardie Wet te voldoen.”.

(2) (a) Subartikel (1)(a) word geag op 1 Januarie 2000 in werking te getree het.

(b) Subartikel (1)(b), (c), (d) en (e) tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

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 79 of Act 30 of 1998

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

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

“The payment of any duty or of any penalty incurred under section 9 shall, save as is otherwise specially provided in this Act, be denoted by means of adhesive revenue stamps for the amount of such duty or adhesive penalty stamps for the amount of such penalty **[where the amount of such duty or penalty does not exceed an amount of R400]**, and such stamps shall be affixed to the instrument chargeable with the duty or penalty and be defaced as prescribed by this Act.”; and 10

(b) by the deletion of subsection (1A). 15

Amendment of section 27 of Act 77 of 1968, as amended by section 28 of Act 87 of 1988

69. Section 27 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution for the words following on paragraph (k) of subsection (1) of the following words: 20

“or who causes or procures any of the acts mentioned in any of paragraphs (a) to (k), inclusive, to be done or knowingly aids, abets or assists any person in doing any such act, shall be guilty of an offence and liable on conviction to a fine **[not exceeding R10 000]** or to imprisonment for a period not exceeding two years **[or to both such fine and such imprisonment]**.”; and 25

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

“shall be guilty of an offence and liable on conviction to a fine **[not exceeding R4 000]** or to imprisonment for a period not exceeding six months **[or to both such fine and such imprisonment]**.”. 30

Amendment of section 28A of Act 77 of 1968, as inserted by section 12 of Act 88 of 1974 and amended by section 29 of Act 87 of 1988

70. Section 28A of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words following on paragraph (c) of subsection (1) of the following words: 35

“shall be guilty of an offence and on conviction liable to a fine **[not exceeding R4 000]** or to imprisonment for a period not exceeding six months **[or to both such fine and such imprisonment]**.”.

Amendment of section 31C of Act 77 of 1968, as inserted by section 18 of Act 46 of 1996 40

71. Section 31C of the Stamp Duties Act, 1968, is hereby amended—

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

“(b) have the same powers—

(i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and 45

(ii) relating to contempt committed during the proceedings, as are vested in a President of the Special Court contemplated in section

Wysiging van artikel 5 van Wet 77 van 1968, soos gewysig deur artikel 9 van Wet 89 van 1972, artikel 7 van Wet 66 van 1973, artikel 9 van Wet 114 van 1977, artikel 5 van Wet 118 van 1984, artikel 10 van Wet 86 van 1987, artikel 19 van Wet 87 van 1988, artikel 6 van Wet 136 van 1991, artikel 6 van Wet 136 van 1992 en artikel 5 79 van Wet 30 van 1998

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

(a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan deur die volgende woorde te vervang:

10 “Die betaling van ’n seëlreg of van ’n boete wat ingevolge artikel 9 opgeloopt is, moet, behalwe vir sover hierdie Wet uitdruklik anders bepaal, aangedui word deur middel van inkomsteplakseëls vir die bedrag van bedoelde seëlreg of boeteplakseëls vir die bedrag van bedoelde boete [waar die bedrag van bedoelde seëlreg of boete nie ’n

15 **bedrag van R400 te bowe gaan nie**], en bedoelde seëls moet op die aan die seëlreg of boete onderhewige stuk vasgeplak word en volgens voorskrif van hierdie Wet gerojear word.”; en

(b) deur subartikel (1A) te skrap.

Wysiging van artikel 27 van Wet 58 van 1962, soos gewysig deur artikel 28 van Wet 87 van 1988

20 69. Artikel 27 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur die woorde wat op paragraaf (k) van subartikel (1) volg deur die volgende woorde te vervang:

25 “of wat ’n handeling in die een of ander van paragrawe (a) tot en met (k) vermeld, bewerkstellig of laat verrig of wetens aan so ’n handeling deur iemand anders medepligtig is of hom daarmee behulpsaam is, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete [van hoogstens R10 000] of met gevangenisstraf vir ’n tydperk van hoogstens twee jaar [of met sowel sodanige boete as sodanige gevangenisstraf].”; en

30 (b) deur die woorde wat op paragraaf (b) van subartikel (2) volg deur die volgende woorde te vervang:

35 “koop of ontvang of wetens in sy besit of bewaring het, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete [van hoogstens R4 000] of met gevangenisstraf vir ’n tydperk van hoogstens ses maande [of met sowel sodanige boete as sodanige gevangenisstraf].”.

Wysiging van artikel 28A van Wet 77 van 1968, soos ingevoeg deur artikel 12 van Wet 88 van 1974 en gewysig deur artikel 29 van Wet 87 van 1988

40 70. Artikel 28A van die Wet op Seëlregte, 1968, word hierby gewysig deur die woorde wat op paragraaf (c) van subartikel (1) volg deur die volgende woorde te vervang:

45 “is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete [van hoogstens R4 000] of met gevangenisstraf vir ’n tydperk van hoogstens ses maande [of met daardie boete sowel as daardie gevangenisstraf].”.

Wysiging van artikel 31C van Wet 77 van 1968, soos ingevoeg deur artikel 18 van Wet 46 van 1996

71. Artikel 31C van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

50 “(b) is met dieselfde bevoegdhede bekleed—

(i) om getuies te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en

(ii) met betrekking tot minagting tydens die verrigtinge gepleeg,

55 as wat in ’n Voorsitter van die Spesiale Hof beoog in artikel 83 van die Inkomstebelastingwet, 1962, vestig, en vir daardie doeleindes

83 of the Income Tax Act, 1962, and for those purposes sections 84 and 85 of that Act shall apply *mutatis mutandis*; and”;

- (b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.”

(12) Any person contemplated in subsection (9) has the right to [a representative of his choice] have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall [not be public] be private and confidential and the presiding officer shall at any time on application [of] by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”;

- (c) by the addition of the following subsections:

“(15) Subject to subsection (16), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.”

(16) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers or a failure to answer questions lawfully put to him, fully and satisfactorily.

(17) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of that inquiry.”.

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 van 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 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, section 86 of Act 30 of 1998 and section 79 of Act 53 of 1999

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

- (a) by the deletion of paragraph (d) under the heading “*Exemptions from the duty under paragraph (1) or (2)*”; and
(b) by the deletion of paragraph (u) under the heading “*Exemptions from the duty under paragraph (3)*”.

is artikels 84 en 85 van daardie Wet *mutatis mutandis* van toepassing; en”;

(b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

5 “(11) Enige persoon wie se sake ondersoek word gedurende ’n ondervraging in hierdie artikel beoog, is geregtig om [deurgaans] by die ondervraging teenwoordig te wees gedurende die tyd wat sy sake ondersoek word, tensy die voorsittende beampte op aansoek deur die persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

(12) ’n Persoon in subartikel (9) beoog, het die reg [op ’n verteenwoordiger van sy keuse] om ’n regsverteenvoorder teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

15 (13) ’n Ondervraging in hierdie artikel beoog, is [nie vir die publiek toeganklik nie] privaat en vertroulik en die voorsittende beampte moet te eniger tyd op aansoek [van] deur die persoon wie se sake ondersoek word of enige ander persoon wat getuie is lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so ’n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”;

(c) deur die volgende subartikels by te voeg:

25 “(15) Behoudens subartikel (16) kan die getuie onder eed of bevestigende verklaring afgelê by ’n ondervraging, deur die Kommissaris in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word ’n party is of waarby ’n persoon wat met daardie persoon gehandel het ’n party is, gebruik word.

(16) (a) Geen persoon mag weier om tydens ondervraging enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

30 (b) Geen inkriminerende getuie aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuie aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op ’n aanklag betreffende die oplê of aflê van ’n eed of die oplê of doen van ’n bevestiging of die aflê van valse getuie of ’n valse verklaring in verband met daardie vrae en antwoorde of die versuim om vrae regtens aan hom gestel ten volle en bevredigend te beantwoord.

35 (17) ’n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

45 Wysiging van Item 15 van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 13 van Wet 89 van 1972 en gewysig deur artikel 16 van Wet 66 van 1973, artikel 21 van Wet 88 van 1974, artikel 3 van Wet 104 van 1976, artikel 20 van Wet 114 van 1977, artikel 8 van Wet 95 van 1978, artikel 8 van Wet 102 van 1979, artikel 21 van Wet 106 van 1980, artikel 9 van Wet 99 van 1981, artikel 7 van Wet 87 van 1982, artikel 14 van Wet 92 van 1983, artikel 11 van Wet 118 van 1984, artikel 11 van Wet 81 van 1985, artikel 5 van Wet 71 van 1986, artikel 13 van Wet 108 van 1986, artikel 11 van Wet 86 van 1987, artikel 33 van Wet 87 van 1988, artikel 14 van Wet 69 van 1989, artikel 9 van Wet 136 van 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993, artikel 17 van Wet 140 van 1993, artikel 8 van Wet 20 van 1994, artikel 86 van Wet 30 van 1998 en artikel 79 van Wet 53 van 1999

55 72. Item 15 van die Bylae by die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur paragraaf (d) onder die opskrif “*Vrystellings van die seëlreg ingevolge paragraaf (1) of (2)*” te skrap; en

(b) deur paragraaf (u) onder die opskrif “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” te skrap.

Amendment of Item 18 of Schedule 1 to Act 77 of 1968, as amended by section 26 of Act 103 of 1969, section 18 of Act 66 of 1973, section 34 of Act 87 of 1988, section 84 of Act 89 of 1991 and section 18 of Act 97 of 1993

73. Item 18 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution for the words preceding subitem (1) of the following words:

“Policy of insurance, including any other instrument which constitutes a long-term policy [of insurance] under the Long-term Insurance Act, [1943 (Act No. 27 of 1943)] 1998 (Act No. 52 of 1998):”;
 - (b) by the substitution for paragraph (2A) of the following paragraph:

“(2A) Policy of insurance against accident to a person or in respect of any bodily injury to or any incapacity or sickness of any person or the like, if such insurance is provided for in a policy which is mainly a policy of life insurance subject to duty under paragraph (1) or (2) *0 50*

 - [(a) where such policy of life insurance is a home service policy or industrial policy as contemplated in the Insurance Act, 1943 (Act No. 27 of 1943)* *0 20*
 - (b) in any other case* *0 50]*”; and
 - (c) by the deletion of paragraph (6)(a).

Amendment of Item 20 of Schedule 1 to Act 77 of 1968, as amended by section 27 of Act 103 of 1969, section 19 of Act 66 of 1973, section 24 of Act 88 of 1974, section 17 of Act 92 of 1983, section 35 of Act 87 of 1988 and section 36 of Act 9 of 1989

74. Item 20 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (b) under the heading “Exemptions” of the following paragraph:

“(b) Where such document of security or pledge or such act of suretyship, indemnity or guarantee constitutes a long-term policy [of insurance] under the Long-term Insurance Act, [1943 (Act 27 of 1943)] 1998 (Act No. 52 of 1998).”.

Insertion of section 24 in Act 40 of 1987

75. (1) The following section is hereby inserted after section 23 of the Eskom Act, 1987:

“Taxation of receipts and accruals of Eskom and subsidiaries

- 24.** (1) The provisions of section 10(1)(cA) of the Income Tax Act, 1962 (Act No. 58 of 1962), shall not apply in respect of the receipts and accruals of—
- (a) Eskom; and
 - (b) any South African company of which all the shares are held by Eskom, if the operations of such company are ancillary or complementary to the objects of Eskom referred to in section 3.
- (2) The Minister of Finance shall, after consultation with the Minister and the Minister of Minerals and Energy, determine the tax values of the capital assets owned on 1 January 2000 by Eskom and any company contemplated in subsection (1)(b) for the purpose of calculating any wear and tear or depreciation allowances contemplated in the Income Tax Act, 1962.
- (3) When—
- (a) Eskom is incorporated as a company as contemplated in section 2A (hereinafter referred to as the converted company); or
 - (b) any asset, liability, right, obligation or any business of Eskom has been transferred to any company (hereinafter referred to as the transferee company),

Wysiging van Item 18 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 26 van Wet 103 van 1969, artikel 18 van Wet 66 van 1973, artikel 34 van Wet 87 van 1988, artikel 84 van Wet 89 van 1991 en artikel 18 van Wet 97 van 1993

73. Item 18 van die Bylae by die Wet op Seëlregte, 1968, word hierby gewysig—
- 5 (a) deur die woorde wat paragraaf (1) voorafgaan deur die volgende woorde te vervang:
- “*Versekeringspolis*, met inbegrip van enige ander stuk wat ingevolge die [*Versekeringswet, 1943 (Wet No. 27 van 1943) ’n versekerings-*
- 10 *polis*] *Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), ’n langtermynpolis* uitmaak.”;
- (b) deur paragraaf (2A) deur die volgende paragraaf te vervang:
- “(2A) Polis van versekering waarby iemand teen ’n ongeluk verseker word of ten opsigte van liggaamlike besering aan of ongeskiktheid of siekte van iemand of iets dergeliks, indien voorsiening vir die versekering gemaak word in ’n polis wat
- 15 hoofsaaklik ’n lewensversekeringspolis is wat ingevolge paragraaf (1) of (2) aan seëlreg onderhewig is 0 50
- [(a) waar bedoelde lewensversekeringspolis ’n tuisdienspolis of nywerheidspolis is soos beoog in die *Versekeringswet, 1943 (Wet No. 27 van 1943)* 0 20
- 20 (b) in enige ander geval. 0 50]”; en
- (c) deur paragraaf (6)(a) te skrap.

Wysiging van Item 20 van Bylae 1 by Wet 77 van 1968, soos gewysig deur artikel 27 van Wet 103 van 1969, artikel 19 van Wet 66 van 1973, artikel 24 van Wet 88 van 1974, artikel 17 van Wet 92 van 1983, artikel 35 van Wet 87 van 1988 en

25 **artikel 36 van Wet 9 van 1989**

74. Item 20 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (b) onder die opskrif “*Vrystellings*” deur die volgende paragraaf te vervang:
- “(b) Waar bedoelde dokument van waarborg of verpanding of akte van borgtog of skadeloosstelling of waarborg ingevolge die [*Versekeringswet, 1943 (Wet*
- 30 *No. 27 van 1943) ’n versekeringspolis*] *Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), ’n langtermynpolis* uitmaak.”.

Invoeging van artikel 24 in Wet 40 van 1987

75. (1) Die volgende artikel word hierby na artikel 23 van die Eskomwet, 1987, ingevoeg:

“Belasting van ontvangste en toevallings van Eskom en filiale

24. (1) Die bepalinge van artikel 10(1)(cA) van die *Inkomstebelastingwet, 1962 (Wet No. 58 van 1962)*, is nie van toepassing nie ten opsigte van die ontvangste en toevallings van—
- (a) Eskom; en
- 40 (b) enige Suid-Afrikaanse maatskappy waarvan al die aandele deur Eskom gehou word, indien die werksaamhede van so ’n maatskappy bykomstig of aanvullend is tot die oogmerke van Eskom in artikel 3 bedoel.
- (2) Die Minister van Finansies moet, na oorlegpleging met die Minister en die Minister van Minerale en Energie, die belastingwaardes van die kapitale bates op 1 Januarie 2000 deur Eskom en enige ander maatskappy beoog in subartikel (1)(b) gehou, vir die doel van die berekening van enige slytasie of waardeverminderingtoelaes in die *Inkomstebelastingwet, 1962*, beoog.
- 45 (3) Wanneer—
- (a) Eskom as ’n maatskappy ingelyf is soos in artikel 2A beoog (hieronder die omgeskakelde maatskappy genoem); of
- (b) enige bate, verpligting, reg, aanspreeklikheid of enige besigheid van Eskom aan enige maatskappy (hieronder die oordragnemende
- 50 maatskappy genoem), oorgedra is,
- 55

Eskom and the converted company or the transferee company, as the case may be, shall, subject to such adjustments as may be necessary, for the purposes of the provisions of the Income Tax Act, 1962, be deemed to be one and the same entity.

(4) No tax, duty or levy shall be payable in respect of the transfer of any asset from Eskom to any company contemplated in subsection (3).” 5

(2) Subsection shall be deemed to have come into operation on 1 January 2000.

Amendment of section 1 of the Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 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, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997 and section 81 of Act 53 of 1999 10

76. Section 1 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in the definition of “motor car” for the words preceding paragraph (a) of the following words:

“ ‘motor car’ includes a motor car, station wagon, minibus, double cab light delivery vehicle and any other motor vehicle of a kind normally used on public roads, which has three or more wheels and is constructed or adapted wholly or mainly for the carriage of passengers, but does not include—” 15

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, paragraph 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997, section 89 of Act 30 of 1998 and section 85 of Act 53 of 1999 20

77. Section 11 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the addition in subsection (2) of the word “or” at the end of paragraph (q); and 25

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

“(r) the services comprise of the vocational training of employees (other than educational services contemplated in section 12(h)) for an employer who is not a resident of the Republic and who is not a vendor.”.

Amendment of section 27 of Act 89 of 1991, as amended by section 34 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 28 of Act 136 of 1992 30

78. (1) Section 27 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the addition to subsection (1) of the following definition:

“ ‘Category E’ means the category of vendors whose tax periods are periods of twelve months ending on the last day of their ‘year of assessment’ as defined in section 1 of the Income Tax Act or where any vendor falling within this category makes written application therefor, on the last day of such other month as the Commissioner may approve.”; 35

(b) by the substitution for paragraph (a) of subsection (2) of the following paragraph: 40

“(a) Every vendor, not being a vendor who falls within Category C, [or] D or E as contemplated in subsection (3), [or] (4) or (4A), shall fall within Category A or Category B.”;

(c) by the substitution for the proviso to subsection (3) of the following proviso: 45

“Provided that a vendor falling within Category C shall cease to fall within that Category with effect from the commencement of a future period notified by the Commissioner, if the vendor has applied in writing to be placed within Category A, B, [or] D or E and the Commissioner is

word Eskom en die omgeskakelde maatskappy of die oordragnemende maatskappy, na gelang van die geval, behoudens die aanpassings wat nodig mag wees, by die toepassing van die bepalings van die Inkomste-belastingwet, 1962, geag dieselfde entiteit te wees.

- 5 (4) Geen belasting, reg of heffing is betaalbaar ten opsigte van die oordrag van enige bate van Eskom na enige maatskappy in subartikel (3) beoog nie.”.

(2) Subartikel (1) word geag op 1 Januarie 2000 in werking te getree het.

- 10 **Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, paragraaf 1 van Goewermentskennisgewing 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, artikel 18 van Wet 37 van 1996, artikel 23 van Wet 27 van 1997 en artikel 81 van Wet 53 van 1999**

- 15 **76.** Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in die omskrywing van “motor” die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

20 “ ‘motor’ ook ’n motor, stasiewa, minibas, dubbelkajuit-ligte-aflêerings-voertuig en enige ander motorvoertuig van ’n soort wat normaalweg op openbare paaie gebruik word, wat drie of meer wiele het en geheel en al of hoofsaaklik vir die vervoer van passasiers gekonstrueer of aangepas is, maar met uitsluiting van—”.

- 25 **Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, paragraaf 6 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993, artikel 13 van Wet 20 van 1994, artikel 28 van Wet 27 van 1997, artikel 89 van Wet 30 van 1998 en artikel 85 van Wet 53 van 1999**

77. Artikel 11 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig:

- 30 (a) deur in subartikel (2) die woord “of” aan die einde van paragraaf (q) by te voeg; en

(b) deur die volgende paragraaf by subartikel (2) te voeg:
 35 “(r) die dienste bestaan uit beroepsopleiding van werknemers (behalwe opvoedkundige dienste beoog in artikel 12(h)) vir ’n werkgewer wat nie ’n inwoner van die Republiek is nie en wat nie ’n ondernemer is nie.”.

Wysiging van artikel 27 van Wet 89 van 1991, soos gewysig deur artikel 34 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991 en artikel 28 van Wet 136 van 1992

- 40 **78.** (1) Artikel 27 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur die volgende omskrywing by subartikel (1) te voeg:
 45 “ ‘Kategorie E’ die kategorie van ondernemers wie se belastingtydperke tydperke van twaalf maande is wat eindig op die laaste dag van hul ‘jaar van aanslag’ soos omskryf in artikel 1 van die Inkomstebelastingwet of, waar ’n ondernemer wat in hierdie kategorie val skriftelik daarvoor aansoek doen, op die laaste dag van die ander maand as wat die Kommissaris mag goedkeur.”;

(b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 50 “(a) Elke ondernemer wat nie ’n ondernemer is wat in Kategorie C, [of] D of E val soos in subartikel (3), [of] (4) of (4A) beoog nie, val in Kategorie A of Kategorie B.”;

(c) deur die voorbehoudsbepaling by subartikel (3) deur die volgende voorbe-
 houdsbepaling te vervang:

55 “Met dien verstande dat ’n ondernemer wat in Kategorie C val, ophou om in daardie Kategorie te val met ingang van die begin van ’n toekomstige tydperk deur die Kommissaris aangekondig, indien die ondernemer skriftelik aansoek gedoen het om in Kategorie A, B, [of] D

satisfied that by reason of a change in the vendor's circumstances he satisfies the requirements of this section for placing within Category A, B, [or] D or E.”;

- (d) by the substitution for the proviso to subsection (4) of the following proviso: 5
 “Provided that a vendor falling within Category D shall cease to fall within that Category with effect from the commencement of a future period notified by the Commissioner, if written application is made by the person who made the application referred to in paragraph (e) for the vendor to be placed within Category A, B, [or] C or E or the Commissioner is satisfied that by reason of a change in circumstances that vendor should be placed within Category A, B, [or] C or E.”; 10

- (e) by the insertion after subsection (4) of the following subsection:

“(4A) A vendor shall fall within Category E if—

- (a) the vendor is a company or a trust fund;
- (b) the vendor's enterprise consists solely of one or more of the activities of— 15
 - (i) letting of fixed property or the renting of movable goods to; or
 - (ii) the administration or management of, companies which are connected persons in relation to the vendor;
- (c) the recipients of those supplies are all registered vendors and are entitled to deductions of the full amount of tax in respect of those supplies; 20
- (d) tax invoices are issued once a year and payments of consideration for these supplies, by agreement between the parties, only become due once a year at the end of the ‘year of assessment’ as defined in section 1 of the Income Tax Act of the vendor making the supplies; 25
 and
- (e) the vendor has made written application to the Commissioner in such form as the Commissioner may prescribe, to be placed in Category E, 30
 and the Commissioner has directed that, with effect from a date which he considers appropriate, the vendor shall fall within Category E: Provided that a vendor falling within Category E shall cease to fall within that Category with effect from a date notified by the Commissioner if— 35
 - (i) written application is made by the person who made the application referred to in paragraph (e) for the vendor to be placed in a different Category; or
 - (ii) the Commissioner is satisfied that by reason of a change in circumstances, that vendor should be placed in Category A, B, C or D; or 40
 - (iii) the vendor's placing in Category E results in any financial loss (including any loss of interest) to the State.”; and

- (f) by the substitution for paragraph (ii) of the proviso to subsection (6) of the following paragraph:

“(ii) any tax period ending on the last day of a month, as applicable in respect of the relevant Category, may, instead of ending on such last day, end on a fixed day approved by the Commissioner, which day shall fall within 10 days before or after such last day;”.

(2) Subsection (1)(f) shall come into operation on 1 November 2000, and shall apply in respect of any tax period commencing on or after that date. 50

of E geplaas te word en die Kommissaris oortuig is dat omrede 'n verandering van die ondernemer se omstandighede hy aan die vereistes van hierdie artikel voldoen om in Kategorie A, B, [of] D of E geplaas te word.”;

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

“Met dien verstande dat 'n ondernemer wat in Kategorie D val, ophou om in daardie Kategorie te val met ingang van die begin van 'n toekomstige tydperk deur die Kommissaris aangekondig, indien 'n skriftelike aansoek gedoen word deur die persoon wat die in paragraaf (e) bedoelde aansoek gedoen het om in Kategorie A, B, [of] C of E geplaas te word of die Kommissaris oortuig is dat omrede 'n verandering van omstandighede die ondernemer in Kategorie A, B, [of] C of E geplaas behoort te word.”;

- 15 (e) deur die volgende subartikel na subartikel 4 in te voeg:

“(4A) 'n Ondernemer val in Kategorie E indien—

- (a) die ondernemer 'n maatskappy of 'n trustfonds is;
(b) die ondernemer se onderneming uitsluitlik bestaan uit een of meer van die aktiwiteite van—

(i) die verhuring van vaste eiendom of die verhuring van roerende eiendom aan; of

(ii) die administrasie of bestuur van, maatskappye wat verbonde persone is met betrekking tot die ondernemer;

- (c) die ontvangers van daardie lewerings almal geregistreerde ondernemers is en geregtig is op aftrekkings van die volle bedrag belasting ten opsigte van daardie lewerings;

(d) belastingfakture een maal per jaar uitgereik word en betaling van vergoeding vir daardie lewerings, volgens ooreenkoms tussen die partye, slegs een maal per jaar, aan die einde van die ‘jaar van aanslag’ soos omskryf in artikel 1 van die Inkomstebelastingwet van die ondernemer wat die lewerings maak, betaalbaar word; en

- (e) die ondernemer skriftelik by die Kommissaris aansoek gedoen het in die vorm wat die Kommissaris voorskryf, om in Kategorie E geplaas te word,

en die Kommissaris gelas het dat, met ingang vanaf 'n datum wat hy toepaslik ag, die ondernemer in Kategorie E val: Met dien verstande dat 'n ondernemer wat in Kategorie E val ophou om in daardie Kategorie te val met ingang van 'n datum deur die Kommissaris kennis van gegee indien—

(i) 'n skriftelike aansoek gedoen word deur die persoon wat die in paragraaf (e) bedoelde aansoek gedoen het dat die ondernemer in 'n ander Kategorie geplaas word; of

(ii) die Kommissaris oortuig is dat omrede 'n verandering van omstandighede, die ondernemer in Kategorie A, B, C of D geplaas behoort te word; of

(iii) die ondernemer se plasing in Kategorie E enige finansiële verlies (met inbegrip van 'n verlies aan rente) vir die Staat veroorsaak.”; en

- (f) deur paragraaf (ii) van die voorbehoudsbepaling by subartikel (6) deur die volgende paragraaf te vervang:

“(ii) 'n belastingtydperk wat op die laaste dag van 'n maand eindig, soos van toepassing ten opsigte van die betrokke Kategorie, in plaate van dit op daardie laaste dag eindig, op 'n vasgestelde dag wat deur die Kommissaris goedgekeur is, welke dag binne 10 dae voor of na daardie laaste dag moet val, kan eindig.”;

(2) Subartikel (1)(f) tree in werking op 1 November 2000 en is van toepassing ten opsigte van enige belastingtydperk wat op of na daardie datum 'n aanvang neem.

Amendment of section 28 of Act 89 of 1991, as amended by section 29 of Act 136 of 1992

79. Section 28 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for the proviso to subsection (1) of the following proviso:

“Provided that—

- (i) where the last day of any period within which a return shall be furnished and payment shall be made falls on a Saturday, Sunday or a public holiday, such return shall be furnished and such payment shall be made not later than the last business day falling prior to such Saturday, Sunday or public holiday;
- (ii) where payment of the full amount of the tax is effected by means of an electronic transfer and the requirements for the transfer of the tax have been met by the vendor, such electronic transfer shall not be effected prior to the last business day of the month during which the said twenty-fifth day falls and the period within which the tax is required to be paid shall be deemed to end on the last business day of such month.”

Amendment of section 31 of Act 89 of 1991

80. Section 31 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after subsection (5) of the following subsection:

“(5A) If it appears to the Commissioner that any person is for any reason unable to furnish an accurate return as contemplated in section 28, 29 or 30, the Commissioner may agree in writing with such person as to the amount upon which tax shall be payable, and to the extent that an assessment is issued upon an amount so agreed to, such assessment shall not be subject to objection.”

Amendment of section 43 of Act 89 of 1991, as amended by section 99 of Act 30 of 1998 and section 97 of Act 53 of 1999

81. Section 43 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (a) of subsection 1 of the following paragraph:

“(a) who has been convicted of any offence under this Act, or any other Act administered by the Commissioner, or who has repeatedly failed to pay amounts of tax due by him or to carry out other obligations imposed upon him by this Act, or any other Act administered by the Commissioner; or”.

Amendment of section 57C of Act 89 of 1991, as inserted by section 24 of Act 46 of 1996 and amended by section 48 of Act 27 of 1997

82. Section 57C of the Value-Added Tax Act, 1991, is hereby amended—

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

“(b) have the same powers—

- (i) to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material; and
 - (ii) relating to contempt committed during the proceedings,
as are vested in a President of the Special Court contemplated in section 83 of the Income Tax Act, and for those purposes section 84 and 85 of that Act shall apply *mutatis mutandis*; and”.
- (b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present [throughout] at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in

Wysiging van artikel 28 van Wet 89 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1992

79. Artikel 28 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbe-
5 houdsbepaling te vervang:

“Met dien verstande dat—

- (i) waar die laaste dag van die tydperk waarbinne 'n opgawe verstrek moet word en betaling gemaak moet word op 'n Saterdag, Sondag of openbare vakansiedag val, bedoelde opgawe verstrek word en betaling gemaak word
10 nie later nie as die laaste besigheidsdag wat voor bedoelde Saterdag, Sondag of openbare vakansiedag val;
- (ii) waar betaling van die volle bedrag van die belasting deur die Kommissaris deur middel van 'n elektroniese oordrag bewerkstellig word en die vereistes vir die oordrag van die belasting deur die ondernemer nagekom is, bedoelde elektroniese oordrag nie voor die laaste besigheidsdag van die maand waarin
15 die genoemde vyf-en-twintigste dag val bewerkstellig word nie en die tydperk waarin die belasting betaal moet word geag word op die laaste besigheidsdag van bedoelde maand te eindig.”.

Wysiging van artikel 31 van Wet 89 van 1991

20 80. Artikel 31 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikel na subartikel (5) in te voeg:

- “(5A) Indien dit vir die Kommissaris blyk dat enige persoon om enige rede nie in staat is om 'n akkurate opgawe soos beoog in artikel 28, 29 of 30 te verstrek nie, kan die Kommissaris skriftelik met so 'n persoon ooreenkom
25 omtrent die bedrag waarop belasting betaalbaar is, en in die mate wat 'n aanslag uitgereik is op 'n bedrag waarop so ooreengekom is, is so 'n aanslag nie onderhewig aan beswaar nie.”.

Wysiging van artikel 43 van Wet 89 van 1991, soos gewysig deur artikel 99 van Wet 30 van 1998 en artikel 97 van Wet 53 van 1999

30 81. Artikel 43 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

- “(a) wat skuldig bevind is aan 'n misdryf kragtens hierdie Wet, of enige ander Wet wat deur die Kommissaris uitgevoer word, of wat herhaalde-
35 lik versuim het om bedrae aan belasting te betaal wat deur hom verskuldig is of om ander verpligtinge na te kom wat hom deur hierdie Wet, of enige ander Wet wat deur die Kommissaris uitgevoer word, opgelê word; of”.

Wysiging van artikel 57C van Wet 89 van 1991, soos ingevoeg deur artikel 24 van Wet 46 van 1996 en gewysig deur artikel 48 van Wet 27 van 1997

40 82. Artikel 57C van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

“(b) is met dieselfde bevoegdhede bekleed—

- (i) om getuies te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en
- (ii) met betrekking tot minagting tydens die verrigtinge ge-
45 pleeg,
as wat in 'n Voorsitter van die Spesiale Hof beoog in artikel 83 van die Inkomstebelastingwet, vestig, en vir daardie doeleindes
50 is artikels 84 en 85 van daardie Wet mutatis mutandis van toepassing; en”;

- (b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

“(11) Enige persoon wie se sake ondersoek word gedurende 'n ondervraging in hierdie artikel beoog, is geregtig om [deurgaans] by
55 die ondervraging teenwoordig te wees gedurende die tyd wat sy sake

subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to [a representative of his choice] have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall [not be public] be private and confidential and the presiding officer shall at any time on application [of] by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”;

(c) by the substitution for subsection (15) of the following subsection:

“(15) The provisions with regard to the preservation of secrecy contained in section 6 shall mutatis mutandis apply to any person present at the questioning of any person contemplated in subsection (9), including the person being questioned.”;

(d) by the addition of the following subsections:

“(16) Subject to subsection (17), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(17) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers or a failure to answer questions lawfully put to him, fully and satisfactorily.

(18) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person identified in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of that inquiry.”.

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

83. The supply of any goods or services by the International Telecommunication Union in connection with “Africa Telecom 2001” 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, section 34 of Act 37 of 1995, section 55 of Act 27 of 1997, section 105 of Act 30 of 1998 and section 107 of Act 53 of 1999

84. Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution for subparagraph (i) of paragraph (a) of subsection (5) of the following subparagraph:

“(i) not to be a dividend for the purposes of **[Parts III and] Part VII** of Chapter II of that Act; and”.

ondersoek word, tensy die voorsittende beampte op aansoek deur die persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen van hulle, nadelig vir die effektiewe verloop van die ondervraging sal wees.

(12) 'n Persoon in subartikel (9) beoog, het die reg **[op 'n verteenwoordiger van sy keuse]** om 'n regsverteenwoordiger teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

(13) 'n Ondervraging in hierdie artikel beoog, is **[nie vir die publiek toeganklik nie]** privaat en vertroulik en die voorsittende beampte moet te eniger tyd op aansoek **[van]** deur die persoon wie se sake ondersoek word of enige ander persoon wat getuienis lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so 'n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”;

(c) deur subartikel (15) deur die volgende subartikel te vervang:

“(15) Die bepalings met betrekking tot die bewaring van geheimhouding in artikel 6 vervat, is *mutatis mutandis* van toepassing op enige persoon wat by die ondervraging van 'n persoon in subartikel (9) bedoel, teenwoordig is, met inbegrip van die persoon wat ondervra word.”;

(d) deur die volgende subartikels by te voeg:

“(16) Behoudens die bepalings van subartikel (17) kan die getuienis onder eed of bevestigende verklaring afgelê by 'n ondervraging deur die Kommissaris in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word 'n party is of waarby 'n persoon wat met daardie persoon gehandel het 'n party is, gebruik word.

(17) (a) Geen persoon mag tydens 'n ondervraging weier om enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

(b) Geen inkriminerende getuienis aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuienis aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op 'n aanklag betreffende die oplê of aflê van 'n eed of die oplê of doen van 'n bevestiging of die aflê van valse getuienis of die aflegging van 'n vals verklaring met betrekking tot daardie vrae en antwoorde, of die versuim om vrae regtens aan hom gestel ten volle en bevredigend te beantwoord.

(18) 'n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

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

83. Die lewering van goed of dienste deur die Internasionale Telekommunikasie Unie in verband met “Afrika Telekom 2001” is van 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, artikel 34 van Wet 37 van 1995, artikel 55 van Wet 27 van 1997, artikel 105 van Wet 30 van 1998 en artikel 107 van Wet 53 van 1999

84. (1) Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig deur subparagraaf (i) van paragraaf (a) van subartikel (5) deur die volgende subparagraaf te vervang:

“(i) geag nie 'n dividend by die toepassing van **[Dele III en]** Deel VII van Hoofstuk II van daardie Wet te wees nie; en”.

Amendment of section 1 of Act 38 of 1996

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

- (a) by the substitution for paragraph (b) of the definition of “actuarial value” of the following paragraph:

“(b) in the case of an untaxed policyholder fund, by the insurer’s [valuator] 5
actuary appointed in terms of section 20 of the Long-term Insurance Act,
[1943 (Act 27 of 1943)] 1998 (Act No. 52 of 1998), in terms of the latest
valuation on the basis as required [in terms of the last-mentioned Act]
for the purpose of the definition of ‘value of liabilities’ in section 29A of
the Income Tax Act, 1962, with a valuation date before the commence- 10
ment of the relevant tax period [and particulars of which shall be
lodged with the Financial Services Board before the end of the
relevant tax period and found acceptable by such Board];”;

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

“insurer” means any [company registered to carry on long-term 15
insurance business as defined in section 1 of the Insurance Act, 1943
(Act 27 of 1943)] long-term insurer as defined in section 1 of the
Long-term Insurance Act, 1998 (Act No. 52 of 1998).

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2000, and shall apply in respect of any tax period commencing on or after that date. 20

Amendment of section 3 of Act 38 of 1996

86. Section 3 of the Tax on Retirement Funds Act, 1996, is hereby amended—

- (a) by the substitution for the formula of the following formula:

“ $A = I + (R - E) + D$ ”;

- (b) by the deletion of “and” at the end of paragraph (c); 25

- (c) by the addition of “and” at the end of paragraph (d); and

- (d) by the addition of the following paragraph:

“(e) ‘D’ represents the amount of any foreign dividends received by or
accrued to such fund during such tax period as determined in accordance
with the provisions of section 9E of the Income Tax Act, 1962 (Act No. 30
58 of 1962).”.

Amendment of section 6 of Act 31 of 1998, as amended by section 15 of Act 32 of 1999

87. Section 6 of the Uncertificated Securities Tax Act, 1998, is hereby amended—

- (a) by the deletion of subparagraph (ii) of paragraph (a) of subsection (1); and 35
(b) by the deletion of subparagraph (vii) of paragraph (b) of subsection (1).

Amendment of section 16 of Act 31 of 1998

88. Section 16 of the Uncertificated Securities Tax Act, 1998, is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (8) of the following paragraph: 40

“(b) have the same powers—

- (i) to enforce the attendance of witnesses and to compel them to give
evidence or to produce evidential material; and

- (ii) relating to contempt committed during the proceedings, 45
as are vested in a President of the Special Court contemplated in section
83 of the Income Tax Act, 1962 (Act No. 58 of 1962), and for those

Wysiging van artikel 1 van Wet 38 van 1996

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

5 (a) deur paragraaf (b) van die omskrywing van “aktuariële waarde” deur die volgende omskrywing te vervang:

“(b) in die geval van ’n onbelaste polishouerfonds, deur die [waardeerder] aktuaris van die versekeraar aangestel ingevolge artikel 20 van die [Versekeringswet, 1943 (Wet No. 27 van 1943)] Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), ingevolge die jongste waardasie op die grondslag soos vereis [ingevolge laasgenoemde Wet] by die toepassing van die omskrywing van ‘waarde van verpligtinge’ in artikel 29A van die Inkomstebelastingwet, 1962, met ’n waardasiedatum voor die aanvang van die betrokke belastingtydperk [en waarvan besonderhede by die Raad op Finansiële Dienste ingedien is voor die einde van die betrokke belastingtydperk en deur bedoelde Raad aanvaarbaar bevind moet wees];

15 (b) deur die omskrywing van “versekeraar” deur die volgende omskrywing te vervang:

20 “‘versekeraar’ ’n [maatskappy geregistreer om langtermynversekeringsbesigheid soos omskryf in artikel 1 van die Versekeringswet, 1943 (Wet No. 27 van 1943), te bedryf] langtermynversekeraar soos in artikel 1 van die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), omskryf.

25 (2) Subartikel (1) word geag op 1 Maart 2000 in werking te getree het en is van toepassing ten opsigte van enige belastingtydperk wat op of na daardie datum ’n aanvang neem.

Wysiging van artikel 3 van Wet 38 van 1996

86. Artikel 3 van die Wet op Belasting op Uittreefondse, 1996, word hierby 30 gewysig—

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

$$A = I + (R - E) + D$$

(b) deur “en” aan die einde van paragraaf (c) te skrap;

(c) deur “en” aan die einde van paragraaf (d) te voeg; en

35 (d) deur die volgende paragraaf by te voeg:

“(e) ‘D’ die bedrag van enige buitelandse dividende ontvang deur of toegeval aan bedoelde fonds gedurende bedoelde belastingperiode soos bereken ooreenkomstig die bepalinge van artikel 9E van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), verteenwoordig.”.

Wysiging van artikel 6 van Wet 31 van 1998, soos gewysig deur artikel 15 van Wet 32 van 1999

87. Artikel 6 van die Wet op Belasting op Sertifikaatlose Aandele, 1998, word hierby gewysig—

45 (a) deur subparagraaf (ii) van paragraaf (a) van subartikel (1) te skrap; en

(b) deur subparagraaf (vii) van paragraaf (b) van subartikel (1) te skrap.

Wysiging van artikel 16 van Wet 31 van 1998

88. Artikel 16 van die Wet op Belasting op Sertifikaatlose Aandele, 1998, word hierby gewysig—

50 (a) deur paragraaf (b) van subartikel (8) deur die volgende paragraaf te vervang:

“(b) is met dieselfde bevoegdhede bekleed—

(i) om getuies te verplig om teenwoordig te wees en om getuienis te lewer of bewysmateriaal oor te lê; en

55 (ii) met betrekking tot minagting tydens die verrigtinge gepleeg,

as wat in ’n Voorsitter van die Spesiale Hof beoog in artikel 83 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), vestig, en

purposes sections 84 and 85 of that Act shall apply *mutatis mutandis*; and”;

- (b) by the substitution for subsections (11), (12) and (13) of the following subsections:

“(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present **[throughout]** at the inquiry during such time as his affairs are investigated, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to **[a representative of his choice]** have a legal representative present during the time that he appears before the presiding officer.

(13) An inquiry contemplated in this section shall **[not be public]** be private and confidential and the presiding officer shall at any time on application **[of]** by the person whose affairs are investigated or any other person giving evidence or the person contemplated in subsection (1), exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.”;

- (c) by the addition of the following subsections:

“(15) Subject to subsection (16), the evidence given under oath or solemn declaration at an inquiry may be used by the Commissioner in any subsequent proceedings to which the person whose affairs are investigated is a party or to which a person who had dealings with such person is a party.

(16) (a) No person may refuse to answer any question during an inquiry on the grounds that it may incriminate him.

(b) No incriminating evidence so obtained shall be admissible in any criminal proceedings against the person giving such evidence, other than in proceedings where that person stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers or a failure to answer questions lawfully put to him, fully and satisfactorily.

(17) An inquiry in terms of this section shall proceed notwithstanding the fact that any civil or criminal proceedings are pending or contemplated against or involving any person contemplated in subsection (6)(c) or any witness or potential witness or any person whose affairs may be investigated in the course of that inquiry.”.

Insertion of section 7A in Act 50 of 1998

89. The following section is hereby inserted after section 7 of the Demutualisation Levy Act, 1998:

“Exemption from income tax

7A. There shall be exempt from income tax the receipts and accruals of the Umsobomvu Fund.”.

Amendment of section 3 of Act 126 of 1998

90. (1) Section 3 of the Eskom Amendment Act, 1998, is hereby amended—

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

“(1) **[Subject to subsections (2) and (3)]** Section 24 of the principal Act is hereby repealed.”; and

- (b) by the deletion of subsections (2) and (3).

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2000.

vir daardie doeleindes is artikels 84 en 85 van daardie Wet *mutatis mutandis* van toepassing; en”;

(b) deur subartikels (11), (12) en (13) deur die volgende subartikels te vervang:

5 “(11) Enige persoon wie se sake ondersoek word gedurende ’n ondervraging in hierdie artikel beoog, is geregtig om **[deurgaans]** by die ondervraging teenwoordig te wees gedurende die tyd wat sy sake ondersoek word, tensy die voorsittende beampte op aansoek deur die persoon beoog in subartikel (1) anders gelas op grond daarvan dat die teenwoordigheid van die persoon en sy verteenwoordiger, of enigeen

10

(12) ’n Persoon in subartikel (9) beoog, het die reg **[op ’n verteenwoordiger van sy keuse]** om ’n regsverteenvoortwoordiger teenwoordig te hê gedurende die tyd wat hy voor die voorsittende beampte verskyn.

15

(13) ’n Ondervraging in hierdie artikel beoog, is **[nie vir die publiek toeganklik nie]** privaat en vertroulik en die voorsittende beampte moet te eniger tyd op aansoek **[van]** deur die persoon wie se sake ondersoek word of enige ander persoon wat getuie is lewer of die persoon in subartikel (1) bedoel, alle of enige persone wie se aanwesigheid nie vir die ondervraging nodig is nie, van so ’n ondervraging uitsluit of hulle gelas om hulle daaraan te onttrek.”;

20

(c) deur die volgende subartikels by te voeg:

25 “(15) Behoudens die bepalings van subartikel (16) kan die getuie onder eed of bevestigende verklaring afgelê by ’n ondervraging deur die Kommissaris in enige daaropvolgende verrigtinge waarby die persoon wie se sake ondersoek word ’n party is of waarby ’n persoon wat met daardie persoon gehandel het ’n party is, gebruik word.

25

(16) (a) Geen persoon mag tydens ’n ondervraging weier om enige vraag te beantwoord op grond daarvan dat dit hom kan inkrimineer nie.

30

(b) Geen inkriminerende getuie aldus verkry, is toelaatbaar in enige strafregtelike verrigtinge teen die persoon wat daardie getuie aflê nie, behalwe in verrigtinge waar daardie persoon teregstaan op ’n aanklag betreffende die oplê of aflê van ’n eed of die oplê of doen van ’n bevestiging of die aflê van valse getuie of ’n valse verklaring in verband met daardie vrae en antwoorde of die versuim om vrae regtens

35

(17) ’n Ondervraging ingevolge hierdie artikel gaan voort ondanks die feit dat enige siviele of strafregtelike verrigtinge hangende is of beoog word teen of aangaande enige persoon in subartikel (6)(c) bedoel of enige getuie of potensiele getuie of enige persoon wie se sake tydens daardie ondervraging ondersoek word.”.

40

Invoeging van artikel 7A in Wet 50 van 1998

89. Die volgende artikel word hierby na artikel 7 van die Demutualiseringsheffingswet, 1998, ingevoeg:

45 “Vrystelling van inkomstebelasting

7A. Die ontvangste en toevallings van die Umsobomvufonds is van inkomstebelasting vrygestel.”.

Wysiging van artikel 3 van Wet 126 van 1998

90. (1) Artikel 3 van die Eskomwysigingswet, 1998, word hierby gewysig—

50

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

“(1) **[Behoudens die bepalings van subartikels (2) en (3) word]**

Artikel 24 van die Hoofwet word hierby herroep.”; en

(b) deur subartikels (2) en (3) te skrap.

(2) Subartikel (1) word geag op 1 Januarie 2000 in werking te getree het.

Amendment of section 4 of Act 9 of 1999, as amended by section 112 of Act 53 of 1999

91. Section 4 of the Skills Development Levies Act, 1999, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) any **[religious or charitable institution]** public benefit organisation contemplated in section [10(1)(f)] 10(1)(cN) of the Income Tax Act, [or any fund contemplated in section 10(1)(fA) of the Income Tax Act, established solely to provide funds to any such institution] which solely carries on any religious or charitable public benefit activity determined by the Minister of Finance in terms of section 30 of that Act or any public benefit organisation which provides funds solely to such public benefit organisation which so carries on such public benefit activity; or”.

Amendment of section 5 of Act 9 of 1999

92. (1) Section 5 of the Skills Development Levies Act, 1999, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) Any employer that is exempt from the payment of the levy as contemplated in section 4(a), (c), **[and]** (d) and (e), must register in terms of subsection (1).”.

(2) Subsection (1) shall be deemed to have come into operation on 24 November 1999.

Amendment of section 13 of Act 9 of 1999

93. (1) Section 13 of the Skills Development Levies Act, 1999, is hereby amended by the substitution for paragraph (g) of the following paragraph:

“(g) representative taxpayers **[as contained in the Fourth Schedule to the Income Tax Act]**”.

(2) Subsection (1) shall be deemed to have come into operation on 1 September 1999.

Short title and commencement

94. (1) This Act shall be called the Taxation Laws Amendment Act, 2000.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2001.

Wysiging van artikel 4 van Wet 9 van 1999, soos gewysig deur artikel 112 van Wet 53 van 1999

91. Artikel 4 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

“(c) noma [isiphi isikhungo senkolo noma isikhungo sesihle] inhlangano yosizo lwesihle lomphakathi esicatshangwe kusigaba [10(1)(f)] 10(1)(cN) soMthetho weNtela wemali eNgenayo noma [noma isikhwanma esicatshangwe kusigaba 10(1)(fA) soMthetho weNtela wemali eNgenayo, esimiswe ukuhlinzeka izimali kunoma isiphi isikhungo esinjalo] eqhuba kuphela owenkolo noma owesihle umsebenzi wosizo lomphakathi enqunywe nguNgqongqoshe wezeZimali njengokuyala kwesigaba 30 salowo Mthetho noma iyiphi inhlangano yosizo lwesihle lomphakathi eqhuba kanjalo lowo msebenzi wosizo lwesihle lomphakathi; noma”.

Wysiging van artikel 5 van Wet 9 van 1999

92. (1) Artikel 5 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Noma imuphi umqashi okhululiwe ekukhokheni isibizontela njen-gokuba kucatshangwe kusigaba 4(a), [ne] (c), (d) kanye no (e) makarejiste njengokuyala kwesigatshana (1).”.

(2) Subartikel (1) word geag op 24 November 1999 in werking te getree het.

25 Wysiging van artikel 13 van Wet 9 van 1999

93. (1) Artikel 13 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur paragraaf (g) deur die volgende paragraaf te vervang:

“(g) abamele abakhoni bentela [njengoba kuqukethwe kuSheduli yesiNe kuMthetho weNtela wemali eNgenayo];”.

(2) Subartikel (1) word geag op 1 September 1999 in werking te getree het.

Kort titel en inwerkingtreding

94. (1) Hierdie Wet heet die Wysigingswet op Belastingwette, 2000.

(2) Behalwe vir sover in hierdie Wet anders bepaal of uit die samehang anders blyk, word die wysigings aan die Inkomstebelastingwet, 1962, by hierdie Wet aangebring, vir die doeleindes van aanslae ten opsigte van normale belasting ingevolge die Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 Januarie 2001 eindig.

Schedule 1**RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2001 AND 30 JUNE 2001, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2001**

(Section 12)

1. The rates of normal tax referred to in section 12 of this Act in respect of persons (other than companies) are as follows:

- (a) In respect of the taxable income of any person (other than a company or a person in respect of which subparagraph (b) applies), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income— does not exceed R35 000	18 per cent of each R1 of the taxable income;
exceeds R35 000 but does not exceed R45 000	R6 300 plus 26 per cent of the amount by which the taxable income exceeds R35 000;
" R45 000 " " " " " R60 000	R8 900 plus 32 per cent of the amount by which the taxable income exceeds R45 000;
" R60 000 " " " " " R70 000	R13 700 plus 37 per cent of the amount by which the taxable income exceeds R60 000;
" R70 000 " " " " " R200 000	R17 400 plus 40 per cent of the amount by which the taxable income exceeds R70 000;
" R200 000	R69 400 plus 42 per cent of the amount by which the taxable income exceeds R200 000.

- (b) in respect of the taxable income of any trust (other than a special trust), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income— does not exceed R100 000	32 per cent of each R1 of the taxable income;
exceeds R100 000	R32 000 plus 42 per cent of the amount by which the taxable income exceeds R100 000.

2. The rates of normal tax referred to in section 12 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:

- (a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f), (g) and (h)), 30 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 38 cents;
- (b) in respect of the taxable income of any company which qualifies as a small business corporation, on each rand of the taxable income as does not exceed R100 000, 15 cents, and on each rand of the taxable income of such company as exceeds R100 000, 30 cents;

Bylae 1

SKALE VAN NORMALE BELASTING BETAALBAAR DEUR PERSONE (BEHALWE MAATSKAPPE) TEN OPSIGTE VAN DIE JARE VAN AANSLAG EINDIGENDE OP 28 FEBRUARIE 2001 EN 30 JUNIE 2001, EN DEUR MAATSKAPPE TEN OPSIGTE VAN JARE VAN AANSLAG WAT EINDIG GEDURENDE DIE TYDPERK VAN 12 MAANDE EINDIGENDE OP 31 MAART 2001

(Artikel 12)

1. Die skale van normale belasting bedoel in artikel 12 van hierdie Wet ten opsigte van persone (behalwe maatskappe) is soos volg:

- (a) Ten opsigte van die belasbare inkomste van 'n persoon (behalwe 'n maatskappy of 'n persoon ten opsigte waarvan subparagraaf (b) van toepassing is), 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare inkomste	Skale van belasting
Waar die belasbare inkomste—	
R35 000 nie te bowe gaan nie	18 persent van elke R1 van die belasbare inkomste;
R35 000 te bowe gaan, maar nie R45 000 nie	R6 300 plus 26 persent van die bedrag waarmee die belasbare inkomste R35 000 oorskry;
R45 000 " " " " " R60 000 "	R8 900 plus 32 persent van die bedrag waarmee die belasbare inkomste R45 000 oorskry;
R60 000 " " " " " R70 000 "	R13 700 plus 37 persent van die bedrag waarmee die belasbare inkomste R60 000 oorskry;
R70 000 " " " " " R200 000 "	R17 400 plus 40 persent van die bedrag waarmee die belasbare inkomste R70 000 oorskry;
R200 000 te bowe gaan.....	R69 400 plus 42 persent van die bedrag waarmee die belasbare inkomste R200 000 oorskry.

- (b) ten opsigte van die belasbare inkomste van 'n trust (behalwe 'n spesiale trust), 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare Inkomste	Skale van Belasting
Waar die belasbare inkomste—	
R100 000 nie te bowe gaan nie	32 persent van elke R1 van die belasbare inkomste;
R100 000 te bowe gaan.....	R32 000 plus 42 persent van die bedrag waarmee die belasbare inkomste R100 000 oorskry.

2. Die skale van normale belasting bedoel in artikel 12 van hierdie Wet ten opsigte van maatskappe is, behoudens die bepalings van paragraaf 4 soos volg:

- (a) Op elke rand van die belasbare inkomste van 'n maatskappy (met uitsondering van belasbare inkomste in subparagrafe (b), (c), (d), (e), (f), (g) en (h) bedoel), 30 sent, of, in die geval van 'n maatskappy wat vir goud myn op 'n goudmyn en wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappe vrygestel is, 38 sent;
- (b) ten opsigte van die belasbare inkomste van 'n maatskappy wat as 'n kleinsakekorporasie kwalifiseer, op elke rand van die belasbare inkomste wat nie R100 000 te bowe gaan nie, 15 sent, en op elke rand van die belasbare inkomste wat R100 000 te bowe gaan, 30 sent;

- (c) on each rand of the taxable income of any employment company, 35 cents;
- (d) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of the Income Tax Act, 1962), a percentage determined in accordance with the formula:

$$y = 37 - \frac{185}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 46 - \frac{230}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 30 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of its individual policyholder fund, company policyholder fund and corporate fund, 30 cents;
- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 35 cents;
- (h) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (h), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. That the rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax Act, 1962.

4. For the purposes of—

- (a) paragraph 1, a "special trust" means a trust created solely for the benefit of a person who suffers from—

- (c) op elke rand van die belasbare inkomste van 'n werknemersmaatskappy, 35 sent;
- (d) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die myn van goud op 'n goudmyn verkry word (met uitsluiting van soveel van die belasbare inkomste as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, maar na die verrekening van enige vasgestelde verlies ingevolge artikel 20(1) van die Inkomstebelastingwet, 1962), 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 37 - \frac{185}{x}$$

of, in die geval van 'n maatskappy wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vasgestel is, ooreenkomstig die formule:

$$y = 46 - \frac{230}{x}$$

in welke formules y bedoelde persentasie voorstel en x die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreeë belasbare inkomste (met genoemde uitsluiting, maar voor die verrekening van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde goudmyn toeskryfbaar is nie) staan tot die aldus verkreeë inkomste (met genoemde uitsluiting);

- (e) op elke rand van die belasbare inkomste van 'n maatskappy wie se enigste of vernaamste besigheid in die Republiek die myn van goud is of was en waarvan die vasstelling van die belasbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by sy bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, 'n skaal gelyk aan die gemiddelde skaal van normale belasting of 30 sent, watter ook al die hoogste is: Met dien verstande dat by die toepassing van hierdie subparagraaf die normale belasting (met uitsondering van die belasting wat vir die tydperk van aanslag ooreenkomstig hierdie subparagraaf vasgestel is) wat deur die maatskappy betaal is ten opsigte van sy totale belasbare inkomste uit die myn van goud vir die tydperk vanaf 1 Julie 1916 tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal rande wat genoemde totale belasbare inkomste bevat;
- (f) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die dryf van langtermynversekeringsbesigheid verkry word ten opsigte van sy individuele polishouerfonds, maatskappypolishouerfonds en korporatiewe fonds, 30 sent;
- (g) op elke rand van die belasbare inkomste (uitgesonderd belasbare inkomste bedoel in subparagrafe (b), (c), (d), (e), (f) en (h)) wat deur 'n maatskappy verkry word wie se plek van effektiewe bestuur buite die Republiek geleë is en wat 'n bedryf deur 'n tak of agentskap binne die Republiek beoefen, 35 sent;
- (h) op elke rand van die belasbare inkomste wat deur 'n kwalifiserende maatskappy, soos beoog in artikel 37H van die Inkomstebelastingwet, 1962, verkry word, behoudens die bepalinge van gemelde artikel, nul sent:

Met dien verstande dat die belasting ooreenkomstig enige van subparagrafe (a) tot en met (h) vasgestel, benewens die belasting vasgestel ooreenkomstig enige ander van genoemde subparagrafe betaalbaar is.

3. Dat die skale uiteengesit in paragrafe 1 en 2 die skale is wat deur die Parlement ooreenkomstig die bepalinge van artikel 5(2) van die Inkomstebelastingwet, 1962, vasgestel moet word.

4. By die toepassing van—

- (a) paragraaf 1, beteken 'n "spesiale trust" 'n trust geskep alleenlik vir die voordeel van 'n persoon wat aan—

- (i) any "mental illness" as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973); or
- (ii) any serious physical disability, where such illness or disability incapacitates such person from earning sufficient income for the maintenance of such person: Provided that where the person for whose benefit the trust was so created dies before or on 28 February 2001, such trust shall be deemed not to be a special trust for the purposes of paragraph 1;
- (b) paragraph 2(b) and (c)—
 - (i) "small business corporation" means any close corporation or any company incorporated as a private company in terms of the Companies Act, 1973 (Act No. 61 of 1973), the entire shareholding of which is at all times during the year of assessment held by shareholders or members that are natural persons, where—
 - (aa) the gross income of the close corporation or company for the year of assessment does not exceed R1 million;
 - (bb) none of the shareholders or members at any time during the year of assessment of the company or close corporation holds any shares or has any interest in the equity of any other company as defined in section 1 of the Income Tax Act, 1962 (other than a company listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any unit portfolio contemplated in paragraph (e) of the definition of "company" in section 1 of the said Act); and
 - (cc) not more than 20 per cent of the gross income of the company or close corporation consists collectively of investment income and income from the rendering of a personal service;
 - (dd) such company is not an employment company;
 - (ii) "personal service" means any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, broking, commercial arts, consulting, draftsmanship, education, engineering, entertainment, health, information technology, journalism, law, management, performing arts, real estate, research, secretarial services, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the company or close corporation referred to in the definition of "small business corporation";
 - (iii) "investment income" means any investment income as defined in section 9C of the Income Tax Act, 1962, and includes—
 - (aa) dividends; and
 - (bb) any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property;
 - (iv) "employment company" means any company—
 - (aa) which is a labour broker as defined in the Fourth Schedule to the said Act, other than a labour broker in respect of which a certificate of exemption has been issued in terms of paragraph 2(5) of the said Schedule; or
 - (bb) which is a personal service company as defined in the Fourth Schedule to the said Act; and
- (c) paragraph 2(d) and (e), income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any other income which results directly from mining for gold.

5. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned.

- (i) 'n "geestesongesteldheid" soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973); of
- (ii) 'n ernstige liggaamsgebrek,
 ly, waar sodanige ongesteldheid of gebrek daardie persoon buite staat stel om genoegsame inkomste vir daardie persoon se onderhoud te verdien: Met dien verstande dat waar die persoon vir wie se voordeel die trust aldus geskep is voor of op 28 Februarie 2001 te sterwe kom, bedoelde trust geag word nie 'n spesiale trust vir die doeleindes van paragraaf 1 te wees nie; en
- (b) paragraaf 2(b) en (c), beteken—
 - (i) "kleinsakekorporasie" enige beslote korporasie of enige maatskappy wat as 'n private maatskappy ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf is waarvan al die aandele gedurende die volle jaar van aanslag deur aandeelhouders of lede wat natuurlike persone is, gehou is, waar—
 - (aa) die bruto inkomste van die beslote korporasie of maatskappy vir die jaar van aanslag nie R1 miljoen te bowe gaan nie;
 - (bb) nie een van die aandeelhouders of lede te eniger tyd gedurende die jaar van aanslag van die maatskappy of beslote korporasie enige aandele of enige belang in die ekwiteit van enige ander maatskappy in artikel 1 van die Inkomstebelastingwet, 1962, omskryf (behalwe 'n maatskappy wat op 'n aandeelbeurs soos in die Wet op Beheer van Aandeelbeurse, 1985 (Wet No. 1 van 1985), omskryf, genoteer is, of 'n effektegroep in paragraaf (e) van die omskrywing van 'maatskappy' in artikel 1 van genoemde Wet bedoel) hou nie; en
 - (cc) nie meer as 20 persent van die bruto inkomste van die maatskappy of beslote korporasie gesamentlik uit beleggingsinkomste en inkomste uit hoofde van die lewering van 'n persoonlike diens, verkry is nie;
 - (dd) bedoelde maatskappy nie 'n werknemersmaatskappy is nie;
 - (ii) "persoonlike diens" enige diens in die veld van afslaery, aktuariële wetenskap, argitektuur, bestuurswese, eiendomsmakelary, gesondheid, ingenieurswese, inligtingstechnologie, joernalistiek, makelary, navorsing, onderrig, opmeting, ouditering, raadgewende dienste, regte, rekeningkunde, reklamekuns, tekenkuns, sekretariële dienste, sport, uitsaaiery, uitvoerende kunste, veeartsenykunde, vermaaklikheid, vertaling of waardering wat persoonlik deur 'n persoon wat enige belang in die maatskappy of beslote korporasie in die omskrywing van "kleinsakekorporasie" bedoel hou, uitgevoer word.
- (iii) "beleggingsinkomste" enige beleggingsinkomste in artikel 9C van die Inkomstebelastingwet, 1962, omskryf, en ook—
 - (aa) dividende; en
 - (bb) enige opbrengs verkry uit die belegging of handeldryf in finansiële instrumente (met inbegrip van termyntransaksies, opsies en ander afgeleide instrumente), handelseffekte of onroerende eiendom;
- (iv) "werknemersmaatskappy" enige maatskappy—
 - (aa) wat 'n arbeidsmakelaar soos in die Vierde Bylae by genoemde Wet omskryf, is, behalwe 'n arbeidsmakelaar ten opsigte waarvan 'n vrystellingsertifikaat ingevolge paragraaf 2(5) van genoemde Bylae uitgereik is; of
 - (bb) wat 'n persoonlike diensmaatskappy soos in die Vierde Bylae by genoemde Wet omskryf, is; en
- (c) paragraaf 2(d) en (e), sluit inkomste uit die myn van goud verkry inkomste in wat verkry is van silwer, osmiridium, uraan, piriet of ander minerale wat in die loop van die myn van goud gewin word, en enige ander inkomste wat regstreeks uit die myn van goud voortvloei.

5. In hierdie Bylae, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan daar in die Inkomstebelastingwet, 1962, 'n betekenis toegeskryf is, die betekenis aldus daaraan toegeskryf.

Act No. 30, 2000

TAXATION LAWS AMENDMENT ACT, 2000

Schedule 2**AMENDMENT OF SCHEDULE NO. 1 TO THE CUSTOMS AND
EXCISE ACT, 1964**

(Section 64)

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)	8c/l	8c/l
.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)	8c/l	8c/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)	8c/l	8c/l
104.10	22.03	BEER MADE FROM MALT	2 239c/l of absolute alcohol	2 239c/l of absolute alcohol

Bylae 2

WYSIGING VAN BYLAE NO. 1 BY DIE DOEANE- EN AKSYNSWET, 1964
(Artikel 64)

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 KAKAOPOEIER BEVAT NIE OF WAT KAKAOPOEIER 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 KAKAOPOEIER BEVAT NIE OF WAT KAKAOPOEIER 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)	8c/l	8c/l
.20		Limonade en gegeurde mineraalwater, met inbegrip van gegeurde 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)	8c/l	8c/l
.30		Nie-alkoholiese drankie 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 drankie wat in plastiekbuisies of dergelike houers verpak is en wat normaalweg in 'n bevrore toestand verbruik word)	8c/l	8c/l
104.10	22.03	BIER VAN MOUT GEMAAK	2 239c/l absolute alkohol	2 239c/l absolute alkohol

Act No. 30, 2000

TAXATION LAWS AMENDMENT ACT, 2000

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	6 790c/ 100l	6 790c/ 100l
.40		Fortified still wine	15 360c/ 100l	15 360c/ 100l
.50		Other still fermented beverages, unfortified	11 398c/ 100l	11 398c/ 100l
.60		Other still fermented beverages, fortified	20 213c/ 100l	20 213c/ 100l
.70		Sparkling wine	18 811c/ 100l	18 811c/ 100l
.80		Other fermented beverages (excluding sorghum beer)	24 041c/ 100l	24 041c/ 100l
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:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	303 365c/ 100l of absolute alcohol	-
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	303 365c/ 100l of absolute alcohol	-
.25		Spirits, manufactured in the Republic by the distillation of any grain product	303 365c/ 100l of absolute alcohol	-
.29		Other spirits, manufactured in the Republic	303 365c/ 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		293 752c/ 100l of absolute alcohol or 126 313c/ 100l
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances		293 752c/ 100l of absolute alcohol.
104.30	24.02	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES		

WYSIGINGSWET OP BELASTINGWETTE, 2000

Wet No. 30, 2000

104.15	22.04	WYN VAN VARS DRUIWE, MET INBEGRIIP VAN GEFORTIFISEERDE WYN; DRUIWE-MOS; BEHALWE 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, PEERSIDER 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	6 790c/100l	6 790c/100l
.40		Gefortifiseerde nie-vonkelende wyn	15 360c/100l	15 360c/100l
.50		Ander nie-vonkelende gegiste drank, ongefortifiseerd	11 398c/100l	11 398c/100l
.60		Ander nie-vonkelende gegiste drank, gefortifiseerd	20 213c/100l	20 213c/100l
.70		Vonkelwyn	18 811c/100l	18 811c/100l
.80		Ander gegiste drank (uitgesonderd sorghumbier)	24 041c/100l	24 041c/100l
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		
.10		Wynspiritus, in die Republiek vervaardig deur die distillering van wyn	303 365c/100l absolute alkohol	-
.15		Spiritus, in die Republiek vervaardig deur die distillering van enige suikerrietproduk	303 365c/100l absolute alkohol	-
.25		Spiritus, in die Republiek vervaardig deur die distillering van enige graanproduk	303 365c/100l absolute alkohol	-
.29		Ander spiritus, in die Republiek vervaardig	303 365c/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	-	293 752c/100l absolute alkohol of 126 313c/100l
.70		Spiritus van enige aard in ingevoerde likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat, met of sonder geurende bestanddele	-	293 752c/100l absolute alkohol
104.30	24.02	SIGARE, SEROETE, SIGARILLOS EN SIGARETTE, VAN TABAK OF TABAKSURROGATE		
.10		Sigare	56 989c/kg netto	56 989c/kg netto

Act No. 30, 2000

TAXATION LAWS AMENDMENT ACT, 2000

.10		Cigars	56 989c/ kg net	56 989c/ kg net
.20		Cigarettes	141,5c/10 cigarettes	141,5c/10 cigarettes
104.35	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, 'HOMOGENISED' OR 'RECONSTITUTED' TO- BACCO EXTRACTS AND ESSENCES:		
.10		Cigarette tobacco	6 412c/ kg	6 412c/ kg
.20		Pipe tobacco	3 893c/ kg net	3 893c/ kg net

WYSIGINGSWET OP BELASTINGWETTE, 2000

Wet No. 30, 2000

.20		Sigarette	141,5c/10 sigarette	141,5c/10 sigarette
104.35	24.03	ANDER BEWERKTE TABAK EN BEWERKTE TABAKSURROGATE, 'GEHOMOGENISEER- DE' OF 'HERSAAMGESTELDE' TABAK- EKSTRAKTE EN ESSENSE:		
.10		Sigarettabak	6 412c/kg	6 412c/kg
.20		Pyptabak	3 893c/kg netto	3 893c/kg netto".

