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GOVERNMENT GAZETTE

STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1346.

28 June 1978.

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

No. 103 of 1978: Sales Tax Act, 1978.

No. 1346.

28 Junie 1978.

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

No. 103 van 1978: Verkoopbelastingwet, 1978.

Wet No. 103, 1978

VERKOOPBELASTINGWET, 1978.

ALGEMENE VERDUIDELIKENDE NOTA:

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

WET

Om voorsiening te maak vir die heffing van verkoopbelasting; om die Insolvensiewet, 1936, te wysig ten einde voorsiening te maak vir 'n voorkeur ten opsigte van verkoopbelasting; om die Wet op Registrasie van Verkopers, 1978, te herroep; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 20 Junie 1978.)

INDELING VAN ARTIKELS*Artikel*

1. Woordbepaling.

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2. Wet word deur Sekretaris uitgevoer.
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6. Vrystellings.
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12. Registrasie van ondernemers.
13. Geldigheid van registrasiesertifikaat.
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16. Belastingtydperk.
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18. Beraming van belasting by versuim deur geregistreerde ondernemer om opgawe te verstrek.
19. Aanslae.

SALES TAX ACT, 1978.

Act No. 103, 1978

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To provide for the levying of sales tax; to amend the Insolvency Act, 1936, so as to provide for a preference in respect of sales tax; to repeal the Registration of Vendors Act, 1978; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 20 June 1978.)

ARRANGEMENT OF SECTIONS*Section*

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3. Exercise of powers and performance of duties.
4. Secrecy.

PART II*Sales Tax*

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6. Exemptions.
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8. Date on which tax is deemed to have become payable.
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10. Recovery of tax from purchaser by auctioneer or vendor.
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PART IV*Returns, payments and assessments*

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18. Estimate of tax on failure of registered vendor to furnish return.
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SCHEDULE 2

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BYLAE 4

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Vrystellings: Sekere goed in die Republiek ingevoer

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woordbepaling.

1. In hierdie Wet, tensy die samehang anders aandui, beteken—
 - (i) „aanvangsdatum” 3 Julie 1978; (iv) 5
 - (ii) „afslaer” ’n persoon wat ’n saak dryf in die gewone loop waarvan goed per veiling of uit die hand verkoop word ten behoeve van ander persone, en ook ’n plaaslike bestuur, vereniging of genootskap of ’n ander persoon wat gereeld of periodiek ten behoeve van ander persone, openbare veilings van goed hou of dit uit die hand verkoop, en enige persoon wat ’n openbare veiling van goed hou by die uitvoering van ’n hofbevel of in die loop van die likwidasië van die boedel van ’n oorlede of insolvente persoon of die likwidasië van ’n maatskappy; 15
 - (iii) „belasbare diens” enige diens wat ingevolge Bylae 1 geag word ’n belasbare diens te wees; (xxxiii)
 - (iv) „belasbare waarde” ’n belasbare waarde wat ingevolge artikel 7 bepaal is; (xxxiv) 20
 - (v) „belasting” die belasting wat kragtens hierdie Wet hefbaar is; (xxxii)
 - (vi) „belastingtydperk” ’n belastingtydperk ingevolge artikel 16 bepaal; (xxxv)
 - (vii) „bruikhuur” ’n ooreenkoms wat ingevolge paragraaf 1 van Bylae 4 geag word ’n bruikhuur te wees; (xii) 25
 - (viii) „geregisteerde ondernemer” ’n ondernemer wat die besitter is van ’n registrasiesertifikaat uitgereik ingevolge artikel 12; (xxv)
 - (ix) „goed”— 30
 - (a) liggaamlike roerende goed, met inbegrip van ’n aandeel in die eiendomsreg op enige bedoelde goed, maar uitgesonderd—
 - (i) munte wat Republikeinse munte is ooreenkomstig die betekenis van daardie uitdrukking soos in artikel 1 van die Wet op die Suid-Afrikaanse Munt en Munte, 1964 (Wet No. 78 van 1964), omskryf, en enige papiergeld wat ingevolge die Wet op die Suid-Afrikaanse Reserwebank, 1944 (Wet No. 29 van 1944), ’n wettige betaalmiddel is; 35
 - (ii) enige wissel, bankwissel, posorder, poswissel of verhandelbare effekte;
 - (iii) ’n seël, vorm of kaart wat ’n geldwaarde het en deur die Staat verkoop of uitgereik is vir die doeleindes van die betaling van posgeld of ’n belasting of reg gehef ingevolge ’n Wet van die Parlement, behalwe wanneer, nadat dit verkoop of uitgereik is, dit as ’n versamelstuk besit of verkoop word; 40 50
 - (b) seëls, koepons of tekens wanneer verkoop deur ’n handelaar ingevolge ’n plan waarkragtens die waarde van bedoelde seëls, by die teruggawe van bedoelde seëls aan die handelaar, gebruik staan te word as betaling van die koopprys van handelsware wat deur die besitter van die seëls van die handelaar gekoop is of gekoop staan te word, maar 55

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SCHEDULE 3

Construction activities.

SCHEDULE 4

Financial leases and rental agreements.

SCHEDULE 5

Exemptions: Certain goods imported into the Republic.

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

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

- 5 (i) "accommodation enterprise" means any business ,
carried on in the Republic by any person in the course of
which accommodation in any room, house, flat or
apartment or on any caravan or camping site is regularly
or systematically, without meals, let for residential
10 purposes by such person to other persons for continuous
periods not exceeding 45 days, in the case of each
occupant; (xii)
- 15 (ii) "auctioneer" means any person carrying on a business
in the ordinary course of which goods are sold by
auction or out of hand on behalf of other persons, and
includes any local authority, society or association
20 which or any other person who regularly or periodically
conducts public auctions or out-of-hand sales of goods
on behalf of other persons, and any person conducting a
sale of goods by public auction in the execution of an
order of court or in the course of the liquidation of the
estate of a deceased or insolvent person or the
liquidation of any company; (ii)
- 25 (iii) "charitable institution" means any institution or organiz-
ation of a public character which is registered or
deemed to be registered as a welfare organization under
the National Welfare Act, 1965 (Act No. 79 of 1965),
and carries on charitable activities consisting of the
30 provision of food, meals, board, lodging, clothing or
other necessities, comforts or amenities to aged persons,
children or physically or mentally handicapped per-
sons; (xx)
- (iv) "commencement date" means 3 July 1978; (i)
- 35 (v) "company" means a company as defined in section 1 of
the Income Tax Act; (xxii)
- (vi) "connected person" means—
(a) in relation to any other person (other than a
company)—
40 (i) any relative of that person contemplated in the
definition of "relative" in section 1 of the
Income Tax Act; or
(ii) any company which is recognized as a private
company under section 38 of the Income Tax
45 Act and of which the said person is a
shareholder, and any other company which is
a connected person in relation to such a
private company; or
(b) in relation to a company (hereinafter referred to as
the specified company)—
50 (i) any person in relation to whom the specified
company is under the provisions of paragraph
(a) (ii) a connected person; or
(ii) any company which is under the provisions of
section 1 (3) of the Companies Act, 1973 (Act

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- uitgesonderd enige seëls, koepons of tekens wat bestem is vir gebruik as geskenkbewyse of wat deur 'n handelaar gegee word aan 'n klant by wyse van 'n korting op aankope gemaak deur die klant;
- (c) 'n bate bedoel in paragraaf 2 van Bylae 3 wanneer verskaf deur 'n persoon soos in daardie paragraaf beoog; (xvi) 5
- (x) „hierdie Wet” ook die regulasies; (xxxvi)
- (xi) „hotelonderneming” 'n hotel, losieshuis of ander inrigting in die Republiek waarin kos (bestaande uit minstens een maaltyd per dag) en inwoning gereeld of normaalweg verskaf word aan vyf of meer persone teen 'n daaglikse, weeklikse, maandelikse of ander periodieke vergoeding, maar nie ook nie—
- (a) 'n losiesinstelling wat deur 'n liefdadigheidsinrigting uitsluitlik of hoofsaaklik vir die voordeel van bejaarde persone, kinders of liggaamlik of geestelik gestremde persone bedryf word; 15
- (b) 'n losiesinstelling wat deur 'n opvoedkundige inrigting van 'n openbare aard uitsluitlik of hoofsaaklik vir die voordeel van leerlinge of studente van daardie inrigting bedryf word; 20
- (c) 'n losiesinstelling wat deur 'n werkgewer uitsluitlik of hoofsaaklik vir die voordeel van sy werknemers of hul afhanklikes bedryf word, mits bedoelde instelling nie bedryf word vir die doel om wins vir die werkgewer te maak nie; 25
- (d) 'n losiesinstelling bedryf deur 'n plaaslike bestuur anders as vir die doel om wins te maak;
- (e) 'n hospitaal, verpleeginrigting of kraaminrigting wat ingevolge 'n wet ingestel of geregistreer is; (xvii) 30
- (xii) „huisvestingsonderneming” 'n saak in die Republiek gedryf deur 'n persoon in die loop waarvan huisvesting in 'n kamer, huis, woonstel of vertrek of op 'n woon- of kampeerplek deur bedoelde persoon aan ander persone gereeld of stelselmatig, sonder maaltye, vir onafgebroke tydperke van nie langer as 45 dae nie, in die geval van elke bewoner, vir woondoeleindes verhuur word; (i) 35
- (xiii) „huuronderneming” 'n onderneming in die loop waarvan huurvergoedings uitsluitlik of hoofsaaklik verkry word van persone wat nie verbonde persone is nie met betrekking tot die persoon wat bedoelde onderneming bedryf; (xxviii) 40
- (xiv) „huurooreenkoms” 'n ooreenkoms wat ingevolge paragraaf 4 (a) van Bylae 4 geag word 'n huurooreenkoms te wees; (xxvi) 45
- (xv) „huurvergoeding” 'n huurvergoeding soos omskryf in paragraaf 4 (b) van Bylae 4; (xxvii)
- (xvi) „Inkomstebelastingwet” die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), soos van tyd tot tyd gewysig; (xviii) 50
- (xvii) „konstruksiebedrywigheid” 'n bedrywigheid wat ingevolge Bylae 3 geag word 'n konstruksiebedrywigheid te wees; (vii) 55
- (xviii) „konstruksie-ooreenkoms” enige ooreenkoms vir sover dit voorsiening maak vir die uitvoering van 'n konstruksiebedrywigheid; (viii)
- (xix) „koper”, met betrekking tot enige verkoop of bruikhuur of huurvergoeding of belasbare diens of kos en inwoning of huisvesting, die koper of ander persoon wat goed ingevolge bedoelde verkoop verkry of die huurder ingevolge bedoelde bruikhuur of die persoon wat vir die betaling van bedoelde huurvergoeding aanspreeklik is of die persoon aan wie bedoelde diens gelever word of aan wie bedoelde kos en inwoning of huisvesting verskaf word, na gelang van die geval; (xxiv) 60
- (xx) „liefdadigheidsinrigting” 'n inrigting of organisasie van 'n openbare aard wat ingevolge die Nasionale Welsynswet, 1965 (Wet No. 79 van 1965), as 'n welsynsorgani- 65

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- No. 61 of 1973), deemed to be a subsidiary company of the specified company or of which the specified company is under the provisions of section 1 (4) of the said Act deemed to be a holding company; or
- 5 (iii) any company which is under the said section 1 (3) deemed to be a subsidiary company of a company which is under the said section 1 (4) deemed to be a holding company of the specified company;
- 10 (c) in relation to a partnership, any member of such partnership and any person who is a connected person in relation to such member;
- 15 (d) in relation to a member of a partnership or a person who is a connected person in relation to such member, such partnership; (xxxii)
- (vii) "construction activity" means any activity which is in terms of Schedule 3 deemed to be a construction activity; (xvii)
- 20 (viii) "construction agreement" means any agreement to the extent that it provides for the carrying out of any construction activity; (xviii)
- (ix) "consumption" includes the incorporation of goods into any building or other structure or work of a permanent nature; (xxxiii)
- 25 (x) "enterprise" means any commercial, industrial, farming, fishing or other enterprise of a continuing nature carried on in the Republic or partly in the Republic, in the ordinary course of which—
- 30 (a) sales of goods are concluded, lease considerations are derived under financial leases, rental considerations are derived under rental agreements, taxable services are rendered, or board and lodging or accommodation is supplied; or
- 35 (b) goods are manufactured or assembled for sale or any process of manufacture is undertaken for reward; or
- (c) mining or quarrying operations or pastoral, agricultural, forestry or other farming operations or fishing operations are undertaken in order to derive income; or
- 40 (d) the activities of an auctioneer are undertaken; (xxv)
- (xi) "exported", in relation to any goods, means—
- 45 (a) sold and consigned or sold and delivered to a purchaser at an address outside the Republic; or
- (b) sold and delivered to the owner or charterer of any foreign-going ship or foreign-going aircraft for use in such ship or aircraft; or
- 50 (c) sold and delivered to any person in the Republic for conveyance forthwith to any place outside the Republic, if such person satisfies the seller of such goods so delivered that he carries on business at the said place and that such goods are required for such business and are intended for resale, use or consumption at that place; or
- 55 (d) shipped or conveyed to the Republic for transshipment or conveyance to any place outside the Republic; (xxxi)
- (xii) "financial lease" means an agreement which is in terms of paragraph 1 of Schedule 4 deemed to be a financial lease; (vii)
- 60 (xiii) "foreign-going aircraft" means an aircraft plying between an airport in the Republic and an airport in another country; (xxi)

- sasie geregistreer is of geag word geregistreer te wees en liefdadigheidsbedrywighede voortsit wat bestaan uit die voorsiening van kos, maaltye, losies, inwoning, klerasie of ander noodsaaklikhede, geriewe of genietinge aan bejaarde persone, kinders of liggaamlik of geestelik 5 gestremde persone; (iii)
- (xxi) „lugvaartuig op vreemde vaart” ’n lugvaartuig wat tussen ’n lughawe in die Republiek en ’n lughawe in ’n ander land vlieg; (xiii)
- (xxii) „maatskappy” ’n maatskappy soos omskryf in artikel 1 10 van die Inkomstebelastingwet; (v)
- (xxiii) „Minister” die Minister van Finansies; (xxi)
- (xxiv) „ondernemer” enige persoon wat enige onderneming bedryf; (xxxvii)
- (xxv) „onderneming” ’n handels-, nywerheids-, boerdery-, 15 visserij- of ander onderneming van ’n voortdurende aard wat in die Republiek of gedeeltelik in die Republiek bedryf word, in die gewone loop waarvan—
- (a) verkope van goed gesluit, bruikhuurvergoedings ingevolge bruikhure verkry, huurvergoedings in- 20 gevolge huurooreenkomste verkry, belasbare dienste gelewer of kos en inwoning of huisvesting verskaf word; of
- (b) goed vir verkoop vervaardig of gemonteer word of ’n vervaardigingsproses teen vergoeding onder- 25 neem word; of
- (c) mynbou- of steengroefbedrywighede of veeboerdery-, landbou-, bosbou- of ander boerderybedrywighede of visserijbedrywighede onderneem word ten einde inkomste te verkry; of 30
- (d) die bedrywighede van ’n afslaer onderneem word; (x)
- (xxvi) „persoon” ook die Staat en die boedel van ’n oorlede of insolvente persoon; (xxiii)
- (xxvii) „plaaslike bestuur” ’n afdelingsraad, landelike raad, 35 munisipale raad, stadsraad, dorpsraad, stadskomitee, plaaslike bestuursraad, dorpsbestuursraad of gesondheidskomitee of ’n distriksraad of ’n plaaslike of algemene raad ingestel of geag ingestel te wees ingevolge die bepalings van die Wet op Bantoesake, 40 1959 (Wet No. 55 van 1959), of ’n Bantoesake-administrasieraad ingestel ingevolge die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971); (xx)
- (xxviii) „Sekretaris” die Sekretaris van Binnelandse Inkomste; 45 (xxx)
- (xxix) „skip op vreemde vaart” ’n skip wat tussen ’n hawe in die Republiek en ’n hawe in ’n ander land vaar; (xiv)
- (xxx) „toevallige verkoop” ’n verkoop van goed (behalwe ’n verkoop van goed wat ’n bate van die verkoper se 50 onderneming, besigheid of professionele praktyk uitmaak of ’n verkoop van goed per veiling of uit die hand deur ’n afslaer in die loop van sy afslaersbesigheid of ’n verkoop van goed waarop die bepalings van artikel 35 van toepassing is) wat nie een is nie van ’n reeks 55 verkope wat in getal, omvang en aard voldoende is om ’n gereelde bedrywigheid van bedoelde persoon uit te maak; (xxii)
- (xxxi) „uitgevoer”, met betrekking tot goed—
- (a) verkoop en versend of verkoop en gelewer aan ’n 60 koper by ’n adres buite die Republiek; of
- (b) verkoop en gelewer aan die eienaar of bevrager van ’n skip op vreemde vaart of lugvaartuig op vreemde vaart vir gebruik in sodanige skip of 65 lugvaartuig; of
- (c) verkoop en gelewer aan ’n persoon in die Republiek vir onmiddellike vervoer na ’n plek buite die Republiek, mits bedoelde persoon die verkoper van bedoelde aldus gelewerde goed tevrede stel dat hy op bedoelde plek sake doen en dat bedoelde goed

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- (xiv) "foreign-going ship" means a ship plying between a port in the Republic and a port in another country; (xxix)
- 5 (xv) "free-on-board value", in relation to any imported goods, means the price charged in respect of such goods by the exporter plus all the costs and charges incidental to the sale in question and to placing such goods on board ship or on any vehicle ready for exportation and
- 10 any agent's commission (calculated on such price, costs and charges) in respect of such goods or, if in the opinion of the Secretary the free-on-board price charged in respect of any goods is not the normal free-on-board price at which such or similar goods would be sold by
- 15 exporters in the same country of such or similar goods to any importer in the Republic under fully competitive conditions at the time of purchase of such goods, or if no price is charged in respect of such goods, such value as the Secretary may, subject to any right of appeal provided in this Act, determine as the free-on-board value of those goods; (xxxvii)
- 20 (xvi) "goods" means—
- (a) corporeal movable things, including any share in the rights of ownership of any such thing, but excluding—
- 25 (i) coins which are Republican coins within the meaning of that expression as defined in section 1 of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), and any paper currency which under the South
- 30 African Reserve Bank Act, 1944 (Act No. 29 of 1944), is a legal tender;
- (ii) any bill of exchange, bank draft, postal order, money order or marketable security;
- 35 (iii) any stamp, form or card which has a money value and has been sold or issued by the State for the payment of postage or any tax or duty levied under any Act of Parliament, except when, subsequent to its sale or issue, it is held or disposed of as a collector's piece;
- 40 (b) stamps, coupons or tokens when sold by a trader under any scheme whereby the value of such stamps is, on the surrender of such stamps to the trader, to be utilized in payment of the purchase price of merchandise purchased or to be purchased
- 45 by the holder of the stamps from the trader, but excluding any stamps, coupons or tokens intended to be used as gift vouchers or given by any trader to any customer by way of a discount on purchases made by the customer;
- 50 (c) any asset referred to in paragraph 2 of Schedule 3, when supplied by any person as contemplated in that paragraph; (ix)
- (xvii) "hotel enterprise" means any hotel, boarding house or other establishment in the Republic in which board
- 55 (consisting of at least one meal per day) and lodging is regularly or normally provided to five or more persons at a daily, weekly, monthly or other periodic charge, but does not include—
- 60 (a) any boarding establishment operated by any charitable institution solely or mainly for the benefit of aged persons, children or physically or mentally handicapped persons;
- (b) any boarding establishment operated by any educational institution of a public character solely or
- 65 mainly for the benefit of pupils or students of that institution;

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- vir bedoelde sake benodig is en vir herverkoop, gebruik of verbruik op daardie plek bestem is; of
- (d) verskeep of vervoer na die Republiek vir herverskeping of vervoer na 'n plek buite die Republiek; (xi) 5
- (xxxii) „verbonde persoon”—
- (a) met betrekking tot 'n ander persoon (behalwe 'n maatskappy)—
- (i) 'n familielid van daardie persoon soos beoog in die omskrywing van „familielid” in artikel 10 1 van die Inkomstebelastingwet; of
- (ii) 'n maatskappy wat ingevolge artikel 38 van die Inkomstebelastingwet as 'n private maatskappy erken word en waarvan die bedoelde persoon 'n aandeelhouer is en 'n ander 15 maatskappy wat 'n verbonde persoon met betrekking tot so 'n private maatskappy is; of
- (b) met betrekking tot 'n maatskappy (hierna die aangeduide maatskappy genoem)—
- (i) 'n persoon met betrekking tot wie die aange- 20 duide maatskappy ingevolge die bepaling van paragraaf (a) (ii) 'n verbonde persoon is; of
- (ii) 'n maatskappy wat ingevolge die bepaling van artikel 1 (3) van die Maatskappyywet, 1973 (Wet No. 61 van 1973), geag word 'n 25 filiaalmaatskappy van die aangeduide maatskappy te wees of waarvan die aangeduide maatskappy ingevolge die bepaling van artikel 1 (4) van bedoelde Wet geag word 'n houermaatskappy te wees; of 30
- (iii) 'n maatskappy wat ingevolge bedoelde artikel 1 (3) geag word 'n filiaalmaatskappy te wees van 'n maatskappy wat ingevolge die bedoelde artikel 1 (4) geag word 'n houermaatskappy van die aangeduide maatskappy te 35 wees;
- (c) met betrekking tot 'n vennootskap, 'n lid van daardie vennootskap en 'n persoon wat 'n verbonde persoon met betrekking tot daardie lid is;
- (d) met betrekking tot 'n lid van 'n vennootskap of 'n 40 persoon wat 'n verbonde persoon met betrekking tot daardie lid is, sodanige vennootskap; (vi)
- (xxxiii) „verbruik” ook die inlywing van goed in 'n gebou of ander bouwerk of werk van 'n permanente aard; (ix)
- (xxxiv) „verhuurde eiendom” eiendom verhuur ingevolge 'n 45 bruikhuur; (xix)
- (xxxv) „verkoop”, met betrekking tot goed, 'n ooreenkoms ingevolge waarvan 'n party daarby ooreenkom om goed aan 'n ander te verkoop, toe te ken, te skenk, te sedeer, te verruil of op 'n ander wyse af te staan, en, sonder om 50 hoegenaamd die omvang van hierdie omskrywing te beperk, ook—
- (a) 'n ooreenkoms ten opsigte van goed wat 'n huurkoopkontrak is soos omskryf in artikel 1 van die Wet op Huurkoop, 1942 (Wet No. 36 van 55 1942), en enige ander ooreenkoms vir die verkoop van goed op skuld;
- (b) 'n ooreenkoms vir die produksie, vervaardiging, verwerking, druk of afdruk van goed teen vergoeding vir 'n persoon wat regstreeks of onregstreeks 60 enige materiaal verskaf wat gebruik word by die produksie, vervaardiging, verwerking, druk of afdruk van bedoelde goed;
- (c) 'n ooreenkoms vir die verskaffing of bediening teen vergoeding van enige maaltyd, verversing, gaar 65 voedsel of voedsel voorberei en bedien sodat dit gereed is vir onmiddellike verbruik of 'n drankie, tensy wanneer verskaf of bedien—
- (aa) ingevolge 'n ooreenkoms vir die verskaffing van kos en inwoning teen 'n alomvattende

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- (c) any boarding establishment operated by any employer solely or mainly for the benefit of his employees or their dependants, provided such establishment is not operated for the purposes of making profits for the employer;
- (d) any boarding establishment operated by any local authority otherwise than for the purpose of making profits;
- (e) any hospital, nursing home or maternity home which is established or registered under any law;
- (xi)
- (xviii) "Income Tax Act" means the Income Tax Act, 1962 (Act No. 58 of 1962), as amended from time to time;
- (xvi)
- (xix) "leased property" means property leased under a financial lease; (xxxiv)
- (xx) "local authority" means any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board or health committee or any district council or any local or general council established or deemed to have been established under the provisions of the Bantu Affairs Act, 1959 (Act No. 55 of 1959), or any Bantu Affairs Administration Board established under the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971); (xxvii)
- (xxi) "Minister" means the Minister of Finance; (xxiii)
- (xxii) "occasional sale" means a sale of goods (other than a sale of goods constituting assets of the seller's enterprise, business or professional practice or a sale of goods by auction or out of hand concluded by an auctioneer in the course of his auctioneering business or a sale of goods to which the provisions of section 35 apply) which is not one of a series of sales sufficient in number, scope and character so as to constitute a regular activity of such person; (xxx)
- (xxiii) "person" includes the State and the estate of a deceased or insolvent person; (xxvi)
- (xxiv) "purchaser", in relation to any sale or financial lease or any rental consideration or any taxable service or board and lodging or accommodation, means the purchaser or other person acquiring goods under such sale or the lessee under such financial lease or the person liable for the payment of such rental consideration or the person to whom such service is rendered or to whom such board and lodging or accommodation is supplied, as the case may be; (xix)
- (xxv) "registered vendor" means a vendor who is the holder of a registration certificate issued in terms of section 12; (viii)
- (xxvi) "rental agreement" means an agreement which is in terms of paragraph 4 (a) of Schedule 4 deemed to be a rental agreement; (xiv)
- (xxvii) "rental consideration" means a rental consideration as defined in paragraph 4 (b) of Schedule 4; (xv)
- (xxviii) "rental enterprise" means any enterprise in the course of which rental considerations are derived solely or mainly from persons who are not connected persons in relation to the person carrying on such enterprise; (xiii)
- (xxix) "sale", in relation to goods, means an agreement whereby a party thereto agrees to sell, grant, donate or cede goods to another or exchange goods with another or otherwise to dispose of goods to another, including, without in any way limiting the scope of this definition—
- (a) any agreement in respect of goods which is a hire-purchase agreement as defined in section 1 of

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- prys en die prys vir bedoelde maaltyd, verversing, voedsel of drankie nie afsonderlik gevra word nie; of
- (bb) deur 'n liefdadigheidsinrigting aan bejaarde persone, kinders of liggaamlik of geestelik gestremde persone; of 5
- (cc) deur 'n opvoedkundige inrigting van 'n openbare aard in 'n kafeteria, kantien of soortgelyke onderneming wat uitsluitlik of hoofsaaklik bedryf word vir die voordeel van leerlinge 10 of studente van bedoelde inrigting; of
- (dd) deur 'n werkgewer in 'n kafeteria, kantien of soortgelyke onderneming wat regstreeks bedryf en beheer word deur die werkgewer anders as met die doel om wins daaruit te 15 maak en uitsluitlik of hoofsaaklik deur werknemers van daardie werkgewer ondersteun word; of
- (ee) deur 'n plaaslike bestuur in 'n kafeteria, kantien of soortgelyke onderneming wat regstreeks deur die plaaslike bestuur bedryf of beheer word anders as met die doel om wins te 20 maak;
- (d) enige ander transaksies waarkragtens die eiendomsreg ten opsigte van goed van een persoon op 25 'n ander oorgaan of oorgegaan staan te word, waar ook al bedoelde ooreenkoms of transaksie aangegaan of gesluit word, maar nie ook nie—
- (i) enige bedoelde ooreenkoms of transaksie ten opsigte van goed wat buite die Republiek geleë is 30 indien die goed permanent buite die Republiek geleë is of van die hand gesit word ingevolge bedoelde ooreenkoms of transaksie om in die Republiek ingevoer word;
- (ii) 'n transaksie vir die aankoop of verkoop van 35 vreemde valuta;
- (iii) 'n sessie van die regte van 'n verhuurder ingevolge 'n bruikhuur of huurooreenkoms aan 'n persoon behalwe die huurder ingevolge bedoelde huur of ooreenkoms; 40
- (iv) 'n sessie van die regte van die verkoper ingevolge 'n voormelde huurkoopkontrak aan 'n persoon behalwe die koper ingevolge bedoelde ooreenkoms;
- (v) 'n vandiehandsetting van 'n onverdeelde aandeel in die bates van 'n voortdurende handels-, finansiële, 45 nywerheids-, mynbou-, boerdery-, bosbou- of visserysaak wat met winsoogmerk bedryf word of van 'n professionele praktyk wat met winsoogmerk bedryf word, uit hoofde van 'n ooreenkoms vir die stigting van 'n vennootskap om bedoelde saak of praktyk 50 oor te neem van 'n persoon wat 'n vennoot in daardie vennootskap word of 'n ooreenkoms ingevolge waarvan een van die vennote in bedoelde saak of praktyk sy aandeel (of 'n gedeelte daarvan) in bedoelde saak of praktyk aan 'n ander vennoot 55 daarin of aan 'n persoon wat as 'n vennoot daarin toegelaat word, van die hand sit;
- (vi) 'n skenking aan 'n natuurlike persoon van goed indien bedoelde goed deur die skenker verkry is ingevolge 'n verkoop ten opsigte waarvan belasting 60 deur die skenker gedra is of 'n verkoop gesluit voor die aanvangsdatum en bedoelde goed deur die skenker verkry is met die uitsluitlike doel om bedoelde skenking te maak;
- (vii) 'n skenking van goed wat nie deur die skenker besit 65 word nie vir die doeleindes van 'n voortdurende handels-, finansiële, nywerheids-, mynbou-, boerdery-, bosbou- of visserysaak wat met winsoogmerk bedryf word, of vir die doeleindes van 'n

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- the Hire-Purchase Act, 1942 (Act No. 36 of 1942), and any other agreement for the sale of goods on credit;
- 5 (b) any agreement for the production, fabrication, processing, printing or imprinting of goods for a consideration for a person who furnishes directly or indirectly any materials used in the production, fabrication, processing, printing or imprinting of such goods;
- 10 (c) any agreement for the furnishing or serving for reward of any meal, refreshment, cooked food or food prepared and served so as to be ready for immediate consumption or any drink, except when furnished or served—
- 15 (aa) under an agreement for the supply of board and lodging at an inclusive charge and such meal, refreshment, food or drink is not charged for separately; or
- 20 (bb) by any charitable institution to aged persons, children or physically or mentally handicapped persons; or
- (cc) by any educational institution of a public character in any cafeteria, canteen or similar establishment operated solely or mainly for the benefit of pupils or students of that institution; or
- 25 (dd) by any employer in any cafeteria, canteen or similar establishment which is operated and controlled directly by the employer otherwise than for the purpose of making profits therefrom and is patronized solely or mainly by employees of that employer; or
- 30 (ee) by any local authority in any cafeteria, canteen or similar establishment which is operated and controlled directly by the local authority otherwise than for the purpose of making profits;
- 35 (d) any other transaction whereby the ownership of goods passes or is to pass from one person to another,
- 40 wheresoever such agreement or transaction is entered into or concluded, but does not include—
- (i) any such agreement or transaction in respect of goods which are situated outside the Republic if the goods are permanently situated outside the Republic or are disposed of under such agreement or transaction in order to be imported into the Republic;
- 45 (ii) any transaction for the purchase or sale of foreign exchange;
- 50 (iii) any cession of the rights of a lessor under a financial lease or rental agreement to any person other than the lessee under such lease or agreement;
- 55 (iv) any cession of the rights of the seller under any aforesaid hire-purchase agreement to any person other than the purchaser under such agreement;
- 60 (v) any disposal of an undivided share in the assets of a continuing commercial, financial, industrial, mining, farming, forestry or fishing concern carried on for profit or of a professional practice carried on for profit, by virtue of an agreement for the formation of a partnership to take over such concern or practice from a person who becomes a partner in such partnership or an agreement under which one of the partners in such concern or practice disposes of his share (or a portion thereof) in such concern or practice to any other partner therein or a person admitted as a partner in such concern;
- 65

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- professionele praktyk wat met winsoogmerk bedryf word;
- (viii) enige afstanddoening van goed deur 'n persoon aan sy eggenoot of voormalige eggenoot ingevolge 'n behoorlik geregistreeerde huweliksvoorwaardekontrak of 'n egskeidingsbevel of 'n bevel van geregtelike skeiding of 'n skeidingsooreenkoms;
- (ix) 'n transaksie waarby die eiendomsreg op goed op 'n erfgenaam of legataris oorgaan uit hoofde van erfopvolging *ab intestato* of volgens testament of as gevolg van herverdeling van die bates van die boedel van 'n oorlede persoon terwyl die boedel onder likwidasië is;
- (x) 'n konstruksie-ooreenkoms; (xxix)
- (xxxvi) „verkoper” — 15
- (a) met betrekking tot 'n verkoop (behalwe 'n verkoop van goed gesluit deur 'n afslaer ten behoeve van 'n ander persoon), die party wat kragtens bedoelde verkoop goed verkoop, toeken, skenk, seeder, verruil of op 'n ander wyse afstaan of wat goed 20 produseer, vervaardig, verwerk, druk of afdruk soos in paragraaf (b) van die omskrywing van „verkoper” in hierdie artikel beoog of wat enige maaltyd, verversing, voedsel of drankie verskaf of bedien soos in paragraaf (c) van daardie omskrywing beoog of van wie eiendomsreg ten opsigte van goed oorgaan of oorgegaan staan te word soos in paragraaf (d) van daardie omskrywing beoog, en, met betrekking tot 'n verkoop van goed gesluit deur 'n afslaer ten behoeve van 'n ander persoon, 30 daardie ander persoon, en word die uitdrukking „verkoper”, as 'n werkwoord, dienooreenkomstig uitgelê; of
- (b) met betrekking tot enige bruikhuur of huurvergoeding of enige belasbare diens of enige kos en inwoning of huisvesting, die verhuurder ingevolge bedoelde bruikhuur of die persoon geregtig op bedoelde huurvergoeding of die persoon deur wie bedoelde diens gelewer word of bedoelde kos en inwoning of huisvesting verskaf word, na gelang 40 van die geval; (xxxi)
- (xxxvii) „vry-aan-boord-waarde”, met betrekking tot enige ingevoerde goed, die prys wat deur die uitvoerder gevra word ten opsigte van sodanige goed plus alle onkoste en koste verbonde aan die betrokke verkoop en aan die 45 plasing van sodanige goed aan boord van 'n skip of op 'n voertuig gereed vir uitvoer en enige agentskommissie (bereken op sodanige prys, onkoste en koste) ten opsigte van sodanige goed of, indien, volgens die oordeel van die Sekretaris, die prys vry aan boord wat ten opsigte 50 van enige goed gevra is, nie die normale prys vry aan boord is waarteen daardie of soortgelyke goed deur uitvoerders in dieselfde land van daardie of soortgelyke goed aan enige invoerder in die Republiek onder toestand van vrye mededinging ten tyde van die koop 55 van sodanige goed verkoop sou word nie, of indien geen prys ten opsigte van sodanige goed gevra word nie, die waarde wat, onderworpe aan 'n reg van appèl wat in hierdie Wet voorsien word, die Sekretaris vasstel as die vry-aan-boord-waarde van daardie goed. (xv) 60

DEEL I

Administrasie

Wet word deur
Sekretaris uitgevoer.

2. (1) Die Sekretaris is verantwoordelik vir die uitvoering van die bepalings van hierdie Wet.

(2) 'n Kennisgewing in die *Staatskoerant* dat iemand aangestel 65 is om die amp van Sekretaris van Binnelandse Inkomste te beklee of om in daardie hoedanigheid op te tree, is afdoende bewys van sodanige aanstelling sonder verdere bewys.

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- (vi) any donation to a natural person of any goods if such goods were acquired by the donor under a sale in respect of which tax was borne by the donor or a sale concluded before the commencement date and such goods were acquired by the donor for the sole purpose of making such donation;
- (vii) any donation of goods which are not held by the donor for the purposes of any continuing commercial, financial, industrial, mining, farming, forestry or fishing concern carried on for profit or for the purposes of any professional practice carried on for profit;
- (viii) any disposal of goods by any person to his spouse or former spouse under any duly registered antenuptial contract or any order of divorce or judicial separation or any agreement of separation;
- (ix) any transaction whereby the ownership of goods passes to an heir or legatee by virtue of *ab intestato* or testamentary succession or as a result of the redistribution of the assets of the estate of a deceased person while the estate is in the process of liquidation;
- (x) any construction agreement; (xxxv)
- (xxx) "Secretary" means the Secretary for Inland Revenue;
- (xxviii)
- (xxxi) "seller"—
- (a) in relation to a sale (other than a sale of goods concluded by an auctioneer on behalf of another person), means the party who under such sale sells, grants, donates, cedes, exchanges or otherwise disposes of goods or who produces, fabricates, processes, prints or imprints goods as contemplated in paragraph (b) of the definition of "sale" in this section or who furnishes or serves any meal, refreshment, food or drink as contemplated in paragraph (c) of that definition or from whom the ownership of goods passes or is to pass as contemplated in paragraph (d) of that definition, and in relation to a sale of goods concluded by an auctioneer on behalf of another person, such other person, and the expressions "sells" and "sold" shall be construed accordingly; or
- (b) in relation to any financial lease or rental consideration or any taxable service or any board and lodging or accommodation, means the lessor under such financial lease or the person entitled to such rental consideration or the person by whom such service is rendered or such board and lodging or accommodation is supplied, as the case may be; (xxxvi)
- (xxxii) "tax" means the tax leviable under this Act; (v)
- (xxxiii) "taxable service" means any service which in terms of Schedule 1 is deemed to be a taxable service; (iii)
- (xxxiv) "taxable value" means a taxable value determined under section 7; (iv)
- (xxxv) "tax period" means a tax period determined under section 16; (vi)
- (xxxvi) "this Act" includes the regulations; (x)
- (xxxvii) "vendor" means any person who carries on any enterprise. (xxiv)

PART I

Administration

2. (1) The Secretary shall be responsible for carrying out the provisions of this Act. Act to be administered by the Secretary.
- 65 (2) A notice in the *Gazette* that any person has been appointed to hold office as Secretary for Inland Revenue or to act in that capacity, shall be conclusive evidence of such appointment without further proof.

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Uitoefening van
bevoegdheid en
uitvoering van pligte.

3. (1) Die bevoegdheid aan die Sekretaris verleen en die pligte hom opgelê deur of ingevolge die bepalings van hierdie Wet of 'n wysiging daarvan kan deur die Sekretaris persoonlik of deur 'n amptenaar wat bedoelde bepalings onder die beheer, leiding of toesig van die Sekretaris uitvoer, uitgeoefen of uitgevoer word. 5

(2) 'n Beslissing deur so 'n amptenaar gegee en 'n kennisgewing of mededeling deur hom uitgereik of onderteken kan deur die Sekretaris of deur die betrokke amptenaar ingetrek of gewysig word, en word, totdat dit aldus ingetrek is, by die toepassing van bedoelde bepalings geag deur die Sekretaris gegee, uitgereik of onderteken te wees: Met dien verstande dat 'n beslissing van so 'n amptenaar by die uitoefening van 'n diskresionêre bevoegdheid 10
krachtens die bepalings van hierdie Wet nie na verstryking van twee jaar vanaf die datum van die skriftelike kennisgewing van so 'n beslissing of van 'n kennisgewing van aanslag om daaraan 15
gevolg te gee, herroep of gewysig mag word nie, indien al die ter sake dienende feite aan daardie amptenaar bekend was toe hy sy beslissing gegee het.

(3) 'n Skriftelike beslissing deur die Sekretaris persoonlik gegee by die uitoefening van 'n diskresionêre bevoegdheid krachtens die bepalings van hierdie Wet kan nie deur die Sekretaris herroep of gewysig word nie indien al die ter sake dienende feite aan hom bekend was toe hy sy beslissing gegee het. 20

Geheimhouding.

4. (1) Iemand wat diens doen by die uitvoering van die bepalings van hierdie Wet, mag nie— 25

(a) enige aangeleentheid ten opsigte van iemand anders wat by die uitoefening van sy bevoegdheid of die uitvoering van sy pligte krachtens daardie bepalings tot sy kennis kom, aan iemand of sy verteenwoordiger openbaar nie; of 30

(b) iemand toelaat om toegang te verkry tot aantekeninge in die besit of onder die bewaring van die Sekretaris nie, behalwe by die uitoefening van sy bevoegdheid of die uitvoering van sy pligte krachtens hierdie Wet of op bevel van 'n bevoegde geregtshof: Met dien verstande dat die Ouditeur-generaal by die uitvoering van sy pligte ingevolge artikel 42 (1) van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), toegang het tot alle aantekeninge en stukke in die besit of onder die bewaring van die Sekretaris vir die doeleindes van hierdie Wet. 35

(2) Die bepalings van subartikel (1) word nie só uitgelê nie dat dit die Sekretaris belet om vir die doeleindes van 'n ander wet wat deur hom uitgevoer word, gebruik te maak van inligting wat hy by die uitoefening van sy bevoegdheid of die uitvoering van sy pligte krachtens hierdie Wet bekom het. 40

(3) Iemand wat die bepalings van subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens twee jaar. 45

DEEL II

Verkoopbelasting

Heffing van
verkoopbelasting.

5. (1) Behoudens die bepalings van artikel 6, word daar ten bate van die Staatsinkomstefonds 'n belasting (wat die verkoopbelasting heet) gehef en betaal, bereken teen die skaal van vier persent van die belasbare waarde van— 50

(a) elke verkoop van goed wat op of na die aanvangsdatum gesluit word; 55

(b) verhuurde eiendom wat op of na genoemde datum aan 'n huurder ingevolge 'n bruikhuur afgelewer word;

(c) elke huurvergoeding ten opsigte van goed wat op of na genoemde datum aan iemand toeval;

(d) elke belasbare diens wat op of na genoemde datum deur iemand gelever word in die loop van 'n onderneming deur hom bedryf;

(e) kos en inwoning wat op of na genoemde datum verskaf word deur iemand wat 'n hotelonderneming bedryf;

(f) huisvesting (van die aard bedoel in die omskrywing van „huisvestingsonderneming” in artikel 1) wat op of na genoemde datum deur iemand verhuur word en wat aan 65

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3. (1) The powers conferred and the duties imposed upon the Secretary by or under the provisions of this Act or any amendment thereof may be exercised or performed by the Secretary personally, or by any officer engaged in carrying out the said provisions under the control, direction or supervision of the Secretary.

Exercise of powers and performance of duties.

(2) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Secretary or by the officer concerned, and shall for the purposes of the said provisions, until it has been so withdrawn, be deemed to have been made, issued or signed by the Secretary: Provided that a decision made by any such officer in the exercise of any discretionary power under the provisions of this Act shall not be withdrawn or amended after the expiration of two years from the date of the written notification of such decision or of a notice of assessment giving effect thereto, if all the material facts were known to the said officer when he made his decision.

(3) Any written decision made by the Secretary personally in the exercise of any discretionary power under the provisions of this Act shall not be withdrawn or amended by the Secretary if all the material facts were known to him when he made his decision.

4. (1) A person employed in carrying out the provisions of this Act shall not—

(a) disclose to any person or his representative any matter in respect of any other person that may in the exercise of his powers or the performance of his duties under the said provisions come to his knowledge; or

(b) permit any person to have access to any records in the possession or custody of the Secretary,

except in the exercise of his powers or the performance of his duties under this Act or by order of a competent court: Provided that the Auditor-General shall in the performance of his duties in terms of section 42 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), have access to all records and documents in the possession or custody of the Secretary for the purposes of this Act.

(2) The provisions of subsection (1) shall not be construed as preventing the Secretary from using for the purposes of any other law administered by him, any information obtained by him in the exercise of his powers or the performance of his duties under this Act.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding two years.

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PART II

Sales Tax

5. (1) Subject to the provisions of section 6 there shall be levied and paid, for the benefit of the State Revenue Fund, a tax (to be known as the sales tax) calculated at the rate of four per cent of the taxable value of—

Levy of sales tax.

(a) every sale of goods concluded on or after the commencement date;

(b) leased property delivered on or after the said date to a lessee under a financial lease;

(c) every rental consideration in respect of goods which accrues to any person on or after the said date;

(d) every taxable service rendered by any person on or after the said date in the course of any enterprise carried on by him;

(e) board and lodging supplied on or after the said date by any person carrying on an hotel enterprise;

(f) accommodation (of the nature referred to in the definition of "accommodation enterprise" in section 1) let by any person on or after the said date and supplied

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die bewoner verskaf word vir 'n tydperk van hoogstens vyf-en-veertig dae deur 'n persoon by die bedryf van 'n huisvestingsonderneming;

- (g) goed wat op of na genoemde datum in die Republiek ingevoer word; 5
 - (h) goed (synde goed wat deur iemand by die bedryf van 'n onderneming verkry is (behalwe goed deur hom verkry ingevolge 'n verkoop ten opsigte waarvan hy daardie belasting gedra het) of goed vervaardig, gemonteer of geproduseer deur iemand by die bedryf van 'n onderneming) wat op of na genoemde datum deur so iemand aangewend word vir sy private of huishoudelike gebruik of verbruik of vir die gebruik of verbruik daarvan in bedoelde onderneming of vir die gebruik of verbruik van iemand anders of vir die doeleindes van 'n ander onderneming wat deur hom bedryf word. 10 15
- (2) By die toepassing van hierdie Wet—
- (a) word die datum van sluiting van 'n verkoop van goed geag die datum te wees waarop aflewering van die goed ingevolge die verkoop geskied of die datum waarop die vergoeding betaalbaar deur die koper ingevolge die verkoop ten volle betaal is, watter datum ook al die vroegste is; 20
 - (b) waar 'n ooreenkoms voorsiening maak vir die betaling van vergoeding ten opsigte van 'n verkoop van goed en die lewering van 'n belasbare diens in verband met daardie verkoop, sonder 'n toedeling van die vergoeding tussen bedoelde verkoop en bedoelde belasbare diens, word die vergoeding geag ten opsigte van die verkoop betaalbaar te wees en word die ooreenkoms as geheel as 'n verkoop behandel; 25 30
 - (c) waar 'n bate verskaf word deur 'n kontrakteur soos beoog in paragraaf 2 van Bylae 3, word bedoelde bate geag aan die persoon aan wie die bate verskaf word, afgelewer te gewees het wanneer die oprigting, konstruksie, montering of installering van daardie bate voltooi is of die kontrakprys (sonder inagneming van retensiegeld) betaalbaar geword het en bedoelde persoon die bate in besit geneem het. 35 40

Vrystellings.

6. (1) Die belasting is nie betaalbaar nie ten opsigte van 'n belasbare waarde wat, by ontstentenis van die bepalings van hierdie artikel, bepaalbaar sou wees ten opsigte van die volgende, naamlik—

- (a) die verkoop van goed wat uit die Republiek uitgevoer word en 'n belasbare diens vermeld in paragraaf 1 van Bylae 1 wat ten opsigte van bedoelde goed gelewer word; 45
- (b) mits die bepalings van artikel 14 nagekom word—
 - (i) die verkoop aan 'n geregistreerde ondernemer van goed bestem vir herverkoop as sodanig deur die ondernemer in die gewone loop van die onderneming ten opsigte waarvan hy ingevolge artikel 12 geregistreer is (maar uitgesonderd 'n herverkoop van goed ten opsigte waarvan die ondernemer ingevolge paragraaf (i) (ii) of (k) van hierdie subartikel van belasting vrygestel sal wees); of 50 55
 - (ii) die verkoop aan 'n geregistreerde ondernemer van goed bestem om só gebruik of aangewend te word deur daardie ondernemer by die uitvoering van 'n belasbare diens dat bedoelde goed ingelyf sal wees by of aangeheg sal wees aan ander goed ten opsigte waarvan sodanige diens uitgevoer word, as 'n permanente deel van daardie ander goed of goed verbruik by die lewering van bedoelde diens; of 60
 - (iii) 'n belasbare diens gelewer aan 'n geregistreerde ondernemer wat optree namens sy klant wat vir daardie diens deur die ondernemer gedebiteer gaan word; 65

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to the occupant for a period not exceeding forty-five days by any person in carrying on any accommodation enterprise;

5 (g) goods imported into the Republic on or after the said date;

(h) goods (being goods acquired by any person in carrying on any enterprise (other than goods acquired by him under a sale in respect of which he has borne such tax), or goods manufactured, assembled or produced by any person in carrying on any enterprise) which are applied on or after the said date by such person to his private or domestic use or consumption or for the use or consumption thereof in such enterprise, or for the use or consumption of any other person or for the purposes of any other enterprise carried on by him.

(2) For the purposes of this Act—

20 (a) the date of conclusion of a sale of goods shall be deemed to be the date on which delivery of the goods is effected under the sale or the date on which the consideration payable by the purchaser under the sale is paid in full, whichever date is earlier;

25 (b) where any agreement provides for the payment of any consideration in respect of a sale of goods and the rendering of a taxable service in connection with such sale, without any apportionment of the consideration between such sale and such taxable service, the consideration shall be deemed to be payable in respect of the sale and the agreement as a whole shall be treated as a sale;

30 (c) where any asset is supplied by any contractor as contemplated in paragraph 2 of Schedule 3, such asset shall be deemed to have been delivered to the person to whom the asset is supplied when the erection, construction, assembly or installation of such asset has been completed or the contract price (disregarding any retention money) has become payable and the said person has taken possession of the asset.

6. (1) The tax will not be payable in respect of any taxable value which, but for the provisions of this section, would be 40 determinable in respect of the following, namely—

(a) the sale of goods exported from the Republic and any taxable service referred to in paragraph 1 of Schedule 1 which is rendered in respect of such goods;

45 (b) subject to compliance with the provisions of section 14—

50 (i) the sale to a registered vendor of goods intended for resale as such by the vendor in the ordinary course of the enterprise in respect of which he is registered under section 12 (but excluding a resale of goods in respect of which the vendor will be exempt from tax under paragraph (i) (ii) or (k) of this subsection); or

55 (ii) the sale to a registered vendor of goods intended to be so used or dealt with by such vendor in performing any taxable service that such goods will be incorporated in or attached to any other goods in respect of which such service is performed as a permanent part of such other goods or goods consumed in the performance of such service; or

60 (iii) any taxable service rendered to a registered vendor acting on behalf of his customer who is to be charged for such service by the vendor;

- (c) mits die bepalinge van artikel 14 nagekom word, verkope van goed of die lewering van belasbare dienste aan 'n ondernemer wat ingevolge artikel 12 geregistreer is ten opsigte van 'n onderneming wat ressorteer onder 'n kategorie van ondernemings vermeld in Bylae 2, 5 indien daardie goed of dienste goed of dienste is wat in bedoelde Bylae beskryf word met betrekking tot bedoelde kategorie en bestem is vir gebruik of aanwending in daardie onderneming;
- (d) die verkoop van elektrisiteit, gas of water wanneer dit 10 deur hoofkabels of -leidings, kabels, pype, vore of kanale of uit tenkwaens of in vate of dromme gelewer word;
- (e)
 - (i) die verkoop van brandstof aan 'n gemagtigde ondernemer soos in die Elektrisiteitswet, 1958 (Wet 15 No. 40 van 1958), omskryf, of aan 'n departement of bestuur bedoel in artikel 23 (1) (a) of (b) van daardie Wet indien bedoelde brandstof deur bedoelde ondernemer, departement of bestuur regstreeks vir die opwekking van elektrisiteit gebruik 20 staan te word;
 - (ii) die verkoop van brandstof aan 'n produsent van gas vir verbruik deur die algemene publiek, indien bedoelde brandstof deur bedoelde produsent regstreeks by die produksie van bedoelde gas aange- 25 wend staan te word;
- (f) mits die bepalinge van artikel 14 nagekom word, die verkoop van goed aan 'n ondernemer wat ingevolge artikel 12 geregistreer is, indien—
 - (i) bedoelde goed bestem is om deur die ondernemer 30 ingevolge 'n bruikhuur (behalwe 'n bruikhuur in paragraaf (l) bedoel) in die gewone loop van die ondernemer se onderneming verhuur te word; of
 - (ii) die ondernemer aldus geregistreer is ten opsigte van 'n huuronderneming en die goed bestem is om deur 35 hom in die gewone loop van bedoelde onderneming verhuur te word aan gebruikers in die Republiek; of
 - (iii) bedoelde goed bestaan uit terugsendbare houers wat bestem is vir verhuring deur die ondernemer in die gewone loop van sy onderneming vir gebruik in 40 skepe op vreemde vaart of lugvaartuie op vreemde vaart;
- (g) die verkoop van handelsvoorraad deur 'n ondernemer (behalwe 'n geregistreeerde ondernemer) in die gewone loop van 'n onderneming, indien die bruto ontvangste of 45 toevallings van daardie onderneming gedurende die jongste voltooide jaar van aanslag van die ondernemer ingevolge die Inkomstebelastingwet nie die bedrag van vyfduisend rand oorskry het nie en die bruto ontvangste of toevallings van bedoelde onderneming gedurende die 50 tydperk (behalwe 'n volle tydperk van twaalf maande) wat volg op die einde van bedoelde jaar nie bedoelde bedrag oorskry het nie: Met dien verstande dat waar die bruto ontvangste of toevallings van die onderneming vir bedoelde daaropvolgende tydperk genoemde bedrag 55 oorskry het en die ondernemer, binne 'n tydperk van dertig dae daarna of sodanige verdere tydperk as wat die Sekretaris onder die omstandighede redelik ag, die Sekretaris van die verandering in sy omstandighede soos deur artikel 12 (5) vereis, in kennis gestel het, die 60 vrystelling verleen deur hierdie paragraaf ten opsigte van verkope deur die ondernemer, mits die bepalinge van artikel 11 (4) nagekom word, nie geag word op te gehou het om van toepassing te wees nie uit hoofde van die feit dat sodanige ontvangste of toevallings die 65 vermelde bedrag oorskry het, maar aanhou om van toepassing te wees ten opsigte van verkope van goed gesluit deur die ondernemer gedurende die tydperk eindigende op die datum deur die Sekretaris ingevolge artikel 11 (4) bepaal;

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- (c) subject to compliance with the provisions of section 14, sales of goods or taxable services rendered to a vendor who is registered under section 12 in respect of an enterprise falling within a category of enterprises mentioned in Schedule 2, if such goods or services are goods or services described in that Schedule in relation to such category and are intended for use or utilization in such enterprise;
- (d) the sale of electricity, gas or water when delivered to purchasers through mains, lines, pipes, furrows or canals or from tankers or in barrels or drums;
- (e) (i) the sale of fuel to any authorized undertaker as defined in the Electricity Act, 1958 (Act No. 40 of 1958), or to any department or authority referred to in section 23 (1) (a) or (b) of that Act if such fuel is to be used by such undertaker, department or authority directly in the generation of electricity;
- (ii) the sale of fuel to any producer of gas for consumption by the general public, if such fuel is to be used by such producer directly in the production of such gas;
- (f) subject to compliance with the provisions of section 14, the sale of goods to a vendor who is registered under section 12, if—
- (i) such goods are intended to be let by the vendor under a financial lease (other than a financial lease referred to in paragraph (l)) in the ordinary course of the vendor's enterprise; or
- (ii) the vendor is so registered in respect of a rental enterprise and the goods are intended to be let by him in the ordinary course of such enterprise to users in the Republic; or
- (iii) such goods consist of returnable containers intended to be let by the vendor in the ordinary course of his enterprise for use in foreign-going ships or foreign-going aircraft;
- (g) the sale of trading stock by any vendor (other than a registered vendor) in the ordinary course of any enterprise, if the gross receipts or accruals of such enterprise during the latest completed year of assessment of the vendor under the Income Tax Act have not exceeded the sum of five thousand rand and the gross receipts or accruals of such enterprise during the period (other than a full period of twelve months) ensuing after the end of such year have not exceeded such sum: Provided that where the gross receipts or accruals of the enterprise for such ensuing period have exceeded the said sum and the vendor has, within a period of thirty days thereafter or such further period as the Secretary may regard as reasonable in the circumstances, notified the Secretary of the change in his circumstances as required by section 12 (5), the exemption conferred by this paragraph in respect of sales by the vendor shall, subject to compliance with the provisions of section 11 (4), not be deemed to have ceased to apply by reason of the fact that such receipts or accruals have exceeded the said sum, but shall continue to apply in respect of sales of goods concluded by the vendor during the period ending on the date fixed by the Secretary under section 11 (4);

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- (h) 'n toevallige verkoop van goed indien die totale vergoeding wat ingevolge daardie verkoop betaalbaar is, nie duisend rand oorskry nie;
- (i) (i) die verkoop van banknote, spesie, staafgoud of staafsilwer aan die Suid-Afrikaanse Reserwebank of 'n bankinstelling geregistreer ingevolge die Bankwet, 1965 (Wet No. 23 van 1965); of 5
(ii) die verkoop deur bedoelde Bank of bankinstelling van 'n tjekvorm of ander vorm bedoel vir gebruik deur klante van bedoelde bank of bankinstelling in transaksies waarby bedoelde Bank of bankinstelling betrokke is;
- (j) die verkoop van goed wat bates van 'n onderneming of 'n ander handels-, finansiële, nywerheids-, mynbou-, boerdery-, bosbou- of visserysaak of van 'n professionele praktyk uitmaak, indien, ingevolge die ooreenkoms waarkragtens die verkoop gemaak word, bedoelde onderneming, ander saak of praktyk, saam met al die bates daarvan, as 'n lopende saak aan die koper verkoop word; 20
- (k) 'n transaksie (synde 'n transaksie wat 'n verkoop soos in artikel 1 omskryf, uitmaak) waarby goed verskaf word deur een persoon aan, en die eiendomsreg in bedoelde goed oorgaan van dié persoon op, 'n ander persoon by die lewering deur eersgenoemde persoon van 'n diens wat nie 'n belasbare diens is nie of 'n diens waarvan die belasbare waarde ingevolge hierdie artikel van belasting vrygestel is, indien die verskaffing van bedoelde goed nodig vir en ondergeskik aan en samehangend met die lewering van bedoelde diens is: Met dien verstande dat die bepalinge van hierdie paragraaf nie van toepassing is nie ten opsigte van die verskaffing van—
(i) medisyne deur 'n mediese praktisyn of tandarts vir gebruik, te eniger tyd, behalwe ten tyde van 'n konsultasie, of deur 'n homopaat, naturopaat of kruidkundige voorgeskryf; of 35
(ii) prostodontiese goed deur 'n tandarts; of
(iii) brille of kontaklense deur 'n oogkundige; of
(iv) medisyne deur 'n veearts voorgeskryf vir gebruik, te eniger tyd, behalwe ten tyde van 'n konsultasie; 40
- (l) verhuurde eiendom gelewer aan 'n huurder ingevolge 'n bruikhuur of 'n huurvergoeding wat toeval ten opsigte van goed, indien bedoelde eiendom of goed uitsluitlik buite die Republiek gebruik word, mits die huurder ingevolge die bruikhuur of huurooreenkoms nie gewoonlik in die Republiek woonagtig is nie (of, in die geval van 'n maatskappy, nie 'n binnelandse maatskappy vir die doeleindes van die Inkomstebelastingwet is nie) en betaling van die huurgeld ingevolge bedoelde bruikhuur of van bedoelde huurvergoeding, na gelang van die geval, buite of van buite die Republiek geskied; 45
- (m) mits die bepalinge van artikel 14 nagekom word, verhuurde eiendom bestaande uit roerende goed wat ingevolge 'n bruikhuur gelewer word aan 'n huurder wat ingevolge artikel 12 ten opsigte van 'n huuronderneming as 'n ondernemer geregistreer is, indien bedoelde goed deur die huurder gehuur word ten einde deur hom in die gewone loop van bedoelde onderneming aan gebruikers in die Republiek verhuur te word; 55
- (n) huurvergoeding betaalbaar deur 'n huurder aan 'n verhuurder wat gewoonlik in die Republiek woonagtig is (of in die geval van 'n maatskappy, 'n binnelandse maatskappy is vir die doeleindes van die Inkomstebelastingwet), indien die huurder en die verhuurder verbonde persone met betrekking tot mekaar is en die goed ten opsigte waarvan die huurvergoeding betaalbaar is, verkry is deur die verhuurder ingevolge 'n verkoop gesluit voor die aanvangsdatum of voor daardie datum aan die verhuurder ingevolge 'n bruikhuur afgelewer is of, waar bedoelde goed verkry is deur die verhuurder ingevolge 'n verkoop gesluit op of na bedoelde datum of bedoelde goed op of na daardie datum aan die 65

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- (h) any occasional sale of goods if the total consideration payable under such sale does not exceed one thousand rand;
- 5 (i) (i) the sale of banknotes, specie or gold or silver bullion to the South African Reserve Bank or any banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965); or
- 10 (ii) the sale by such Bank or banking institution of any cheque form or other form intended for use by customers of such Bank or banking institution in transactions involving such Bank or banking institution;
- 15 (j) the sale of goods constituting assets of any enterprise or any other commercial, financial, industrial, mining, farming, forestry or fishing concern or of any professional practice if, under the agreement whereby the sale is effected, such enterprise, other concern or practice is, together with all the assets thereof, disposed of to the purchaser as a going concern;
- 20 (k) any transaction (being a transaction constituting a sale as defined in section 1) whereby goods are supplied by and the ownership of such goods passes from one person to another person in the rendering by the first-mentioned person of any service which is not a taxable service or
- 25 any service the taxable value of which is exempt from tax under this section, if the supply of such goods is necessary for and subordinate and incidental to the rendering of such service: Provided that the provisions of this paragraph shall not apply in respect of the supply of—
- 30 (i) medicines prescribed by any medical practitioner or dentist for use at any time other than at the time of a consultation, or by any homeopath, naturopath or herbalist; or
- 35 (ii) prostodontic goods by any dentist; or
- (iii) spectacles or contact lenses by any optometrist; or
- (iv) medicines prescribed by any veterinary surgeon for use at any time other than at the time of a consultation;
- 40 (l) any leased property delivered to a lessee under a financial lease or any rental consideration accruing in respect of goods, if such property is, or such goods are used exclusively outside the Republic, provided the lessee under the lease or rental agreement is not
- 45 ordinarily resident in the Republic (or, in the case of a company, is not a domestic company for the purposes of the Income Tax Act) and payment of the rent under such financial lease or of such rental consideration, as the case may be, is effected outside or from outside the Republic;
- 50 (m) subject to compliance with the provisions of section 14, leased property consisting of moveable goods delivered under a financial lease to a lessee who is registered as a vendor under section 12 in respect of a rental enterprise,
- 55 if such goods are hired by the lessee in order to be let by him in the ordinary course of such enterprise to users in the Republic;
- (n) any rental consideration payable by any lessee to any lessor who is ordinarily resident in the Republic (or, being a company, is a domestic company for the purposes of the Income Tax Act), if the lessee and the lessor are connected persons in relation to each other and the goods in respect of which the rental consideration is payable were acquired by the lessor under a sale
- 60 concluded before the commencement date or were before that date delivered to the lessor under a financial lease or, where such goods were acquired by the lessor under a sale concluded on or after the said date or such
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- verhuurder ingevolge 'n bruikhuur afgelewer is, belasting deur die verhuurder ten opsigte van dié verkoop of bruikhuur gedra is;
- (o) huurvergoeding betaalbaar aan die Departement van Pos- en Telekommunikasiewese ten opsigte van telefone en telekstoerusting; 5
- (p) huurvergoeding betaalbaar ten opsigte van goed verhuur ingevolge 'n huurooreenkoms buite die Republiek aangegaan, mits die goed uitsluitlik buite die Republiek gebruik word; 10
- (q) huurvergoeding betaalbaar deur 'n huurder wat gewoonlik in die Republiek woonagtig is (met inbegrip van 'n maatskappy wat 'n binnelandse maatskappy vir die doeleindes van die Inkomstebelastingwet is), aan 'n verhuurder wat nie gewoonlik in die Republiek woonagtig is nie (met inbegrip van 'n maatskappy wat 'n buitelandse maatskappy vir die doeleindes van bedoelde Wet is), indien die verhuurde goed deur die huurder ingevoer is en belasting ten opsigte van die invoer van die goed betaal is; 20
- (r) mits die bepalinge van artikel 14 nagekom word, 'n herstel- of onderhoudsdiens gelewer aan 'n ondernemer wat ingevolge artikel 12 geregistreer is ten opsigte van 'n huuronderneming, indien bedoelde diens gelewer word ten opsigte van goed wat in die gewone loop van bedoelde onderneming verhuur word ten einde die goed in 'n verhuurbare toestand te onderhou, en die verkoop aan die ondernemer van onderdele wat vir die doeleindes van bedoelde diens by die verhuurde goed ingelyf of daaraan aangeheg word; 30
- (s) (i) 'n belasbare diens wat geheel of hoofsaaklik buite die Republiek gelewer word; 35
(ii) 'n herstel- of onderhoudsdiens gelewer ten opsigte van 'n skip op vreemde vaart of 'n lugvaartuig op vreemde vaart;
- (t) mits die bepalinge van artikel 14 nagekom word, goed ingevoer in die Republiek deur—
- (i) 'n geregistreerde ondernemer indien die goed bestem is vir herverkoop as sodanig deur die ondernemer in die gewone loop van die onderneming ten opsigte waarvan hy ingevolge artikel 12 geregistreer is (maar uitgesonderd 'n herverkoop van goed ten opsigte waarvan die ondernemer ingevolge paragraaf (i) (ii) of (k) van hierdie subartikel van belasting vrygestel sal wees); of 45
- (ii) 'n geregistreerde ondernemer indien die goed bestem is om só gebruik of aangewend te word deur daardie ondernemer by die uitvoering van 'n belasbare diens dat bedoelde goed ingelyf sal wees by of aangeheg sal wees aan ander goed ten opsigte waarvan sodanige diens uitgevoer word, as 'n permanente deel van daardie ander goed; of 50
- (iii) 'n ondernemer wat ingevolge artikel 12 geregistreer is ten opsigte van 'n onderneming wat ressorteer in 'n kategorie van ondernemings vermeld in Bylae 2, 55 indien bedoelde goed goed is wat in bedoelde Bylae beskryf word met betrekking tot bedoelde kategorie en bestem is vir gebruik of aanwending in daardie onderneming; of
- (iv) 'n geregistreerde ondernemer indien bedoelde goed bestem is vir verhuring deur die ondernemer ingevolge 'n bruikhuur (behalwe 'n bruikhuur bedoel in paragraaf (l)) gesluit in die gewone loop van die ondernemer se onderneming; of
- (v) 'n ondernemer wat ten opsigte van 'n huuronderneming geregistreer is en die goed bestem is om deur hom in die gewone loop van daardie onderneming verhuur te word aan gebruikers in die Republiek; 65

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goods were on or after that date delivered to the lessor under a financial lease, tax was borne by the lessor in respect of that sale or financial lease;

- 5 (o) any rental consideration payable to the Department of Posts and Telecommunications in respect of telephones or telex equipment;
- (p) any rental consideration payable in respect of goods let under a rental agreement concluded outside the Republic if the goods are used exclusively outside the Republic;
- 10 (q) any rental consideration payable by any lessee who is ordinarily resident in the Republic (including any company which is a domestic company for the purposes of the Income Tax Act) to a lessor who is not ordinarily resident in the Republic (including any company which is an external company for the purposes of the said Act), if the goods let were imported by the lessee and tax has been paid in respect of the importation of the goods;
- 15 (r) subject to compliance with the provisions of section 14, any repair or maintenance service rendered to any vendor who is registered under section 12 in respect of a rental enterprise, if such service is rendered in respect of goods let in the ordinary course of such enterprise in order to maintain the goods in a lettable condition, and the sale to the vendor of parts incorporated in or attached to the goods let for the purposes of the said service;
- 20 (s) (i) any taxable service which is rendered wholly or mainly outside the Republic;
- (ii) any repair or maintenance service rendered in respect of a foreign-going ship or a foreign-going aircraft;
- 30 (t) subject to compliance with the provisions of section 14, goods imported into the Republic by—
- (i) a registered vendor if the goods are intended for resale as such by the vendor in the ordinary course of the enterprise in respect of which he is registered under section 12 (but excluding a resale of goods in respect of which the vendor will be exempt from tax under paragraph (i) (ii) or (k) of this subsection); or
- 35 (ii) a registered vendor if the goods are intended to be so used or dealt with by such vendor in performing any taxable service that such goods will be incorporated in or attached to any other goods in respect of which such service is performed as a permanent part of such other goods; or
- 40 (iii) a vendor who is registered under section 12 in respect of an enterprise falling within a category of enterprises mentioned in Schedule 2, if such goods are goods described in that Schedule in relation to such category and are intended for use or utilization in such enterprise; or
- 45 (iv) a registered vendor if such goods are intended to be let by the vendor under a financial lease (other than a financial lease referred to in paragraph (l)) concluded in the ordinary course of the vendor's enterprise; or
- 50 (v) a vendor who is registered in respect of a rental enterprise and the goods are intended to be let by him in the ordinary course of such enterprise to users in the Republic;
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- (u) goed in die Republiek ingevoer en in Bylae 5 bedoel;
- (v) goed wat soos in artikel 5 (1) (h) beoog deur 'n ondernemer aangewend word vir die doeleindes van 'n onderneming deur hom bedryf, indien die ondernemer ten opsigte van daardie onderneming ingevolge artikel 12 geregistreer is en—
 - (i) bedoelde goed bestem is vir verkoop of herverkoop as sodanig deur die ondernemer in die gewone loop van dié onderneming (maar uitgesonderd 'n herverkoop van goed ten opsigte waarvan die ondernemer ingevolge paragraaf (i) (ii) of (k) van hierdie subartikel van belasting vrygestel sal wees) of vir navorsingsdoeleindes bestem is; of
 - (ii) bedoelde goed bestem is om só gebruik te word of aangewend te word deur daardie ondernemer by die uitvoering van 'n belasbare diens in die gewone loop van bedoelde onderneming dat bedoelde goed ingelyf sal wees by of aangeheg sal wees aan ander goed ten opsigte waarvan sodanige diens uitgevoer word, as 'n permanente deel van daardie ander goed; of
 - (iii) daardie onderneming ressorteer in 'n kategorie van ondernemings vermeld in Bylae 2, bedoelde goed goed is wat in daardie Bylae met betrekking tot daardie kategorie beskryf word en bestem is vir gebruik of aanwending in bedoelde onderneming;
 - (iv) bedoelde goed bestem is vir verhuring deur die ondernemer ingevolge 'n bruikhuur (behalwe 'n bruikhuur bedoel in paragraaf (l)) gesluit in die gewone loop van die ondernemer se onderneming; of
 - (v) bedoelde goed bestem is om deur die ondernemer in die gewone loop van sy huuronderneming verhuur te word aan gebruikers in die Republiek;
- (w) mits die bepalinge van artikel 14 soos toegepas deur artikel 36 nagekom word, die verkoop aan 'n liefdadigheidsinrigting van goed, verhuurde eiendom gelewer aan bedoelde inrigting as huurder, huurvergoeding betaalbaar deur bedoelde inrigting ten opsigte van goed of 'n belasbare diens gelewer aan bedoelde inrigting, indien die liefdadigheidsinrigting ingevolge artikel 36, geregistreer is en die goed verkoop ingevolge bedoelde verkoop of bedoelde verhuurde eiendom of die goed met betrekking waartoe bedoelde huurvergoeding betaalbaar is of bedoelde belasbare diens, na gelang van die geval, uitsluitlik deur bedoelde inrigting gebruik word of bestem is om gebruik te word by die uitvoering van enige liefdadigheidsbedrywighede bedoel in die omskrywing van „liefdadigheidsinrigting” in artikel 1;
- (x) die verkoop aan of die invoer deur die Staat of 'n liggaam deur die Minister goedgekeur, van die strategiese materiale wat die Minister, in oorleg met 'n ander Minister wie se departement betrokke is, goedkeur, maar onderworpe aan die voorwaardes wat die Minister oplaë.

(2) Waar 'n vrystelling ingevolge subartikel (1) (b), (c), (f), (m), (r), (t) of (w) van toepassing is ten opsigte van 'n verkoop van goed of die lewering van 'n belasbare diens of goed ingevoer, is die koper met betrekking tot daardie verkoop of diens of die invoerder van die ingevoerde goed, behoudens die bepalinge van artikels 14 en 15, geregtig om die goed wat die onderwerp van bedoelde verkoop is, aan te koop of om bedoelde diens aan hom te laat lewer of om die goed in te voer, na gelang van die geval, vry van belasting.

Vasstelling van bruto waarde en belasbare waarde.

7. (1) By die toepassing van hierdie Wet word, behoudens die bepalinge van subartikels (2), (3), (4) en (5), 'n bruto waarde geplaas op enige verkoop van goed, verhuurde eiendom, huurvergoeding, belasbare diens, kos en inwoning, huisvesting of goed ingevoer of aangewend, soos in artikel 5 (1) beoog, en is bedoelde bruto waarde—

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- (u) such goods imported into the Republic as are referred to in Schedule 5;
- (v) goods which are as contemplated in section 5 (1) (h) applied by a vendor for the purposes of any enterprise carried on by him if the vendor is registered under section 12 in respect of such enterprise and—
- (i) such goods are intended for sale or resale as such by the vendor in the ordinary course of such enterprise (but excluding a resale of goods in respect of which the vendor will be exempt from tax under paragraph (i) (ii) or (k) of this subsection) or are intended for research purposes; or
- (ii) such goods are intended to be so used or dealt with by such vendor in performing any taxable service in the ordinary course of such enterprise that such goods will be incorporated in or attached to any other goods in respect of which such service is performed as a permanent part of such other goods; or
- (iii) such enterprise falls within a category of enterprises mentioned in Schedule 2, such goods are goods described in that Schedule in relation to such category and are intended for use or utilization in such enterprise; or
- (iv) such goods are intended to be let by the vendor under a financial lease (other than a financial lease referred to in paragraph (l)) concluded in the ordinary course of the vendor's enterprise; or
- (v) such goods are intended to be let by the vendor in the ordinary course of his rental enterprise to users in the Republic;
- (w) subject to compliance with the provisions of section 14 as applied by section 36, the sale to any charitable institution of goods, any leased property delivered to such institution as lessee, any rental consideration payable by such institution in respect of goods or any taxable service rendered to such institution, if the charitable institution is registered under section 36 and the goods sold under such sale or such leased property or the goods in respect of which such rental consideration is payable or such taxable service, as the case may be, is or are intended to be utilized by such institution solely in the carrying out of any charitable activities referred to in the definition of "charitable institution" in section 1;
- (x) the sale to or the importation by the State or any body approved by the Minister of such strategic materials as the Minister, in consultation with any other Minister whose department is concerned, may approve, but subject to such conditions as the Minister may impose.

(2) Where an exemption applies under subsection (1) (b), (c), (f), (m), (r), (t) or (w) in respect of a sale of goods or the rendering of a taxable service or goods imported, the purchaser in relation to such sale or service or the importer of the goods imported shall, subject to the provisions of sections 14 and 15, be entitled to purchase the goods which are the subject of such sale or to have such service rendered to him or to import the goods, as the case may be, free of tax.

7. (1) For the purposes of this Act a gross value shall, subject to the provisions of subsections (2), (3), (4) and (5), be placed on any sale of goods, leased property, rental consideration, taxable service, board and lodging, accommodation or goods imported or applied, as contemplated in section 5 (1), and such gross value shall be—

Determination of gross value and taxable value.

- (a) met betrekking tot 'n bedoelde verkoop van goed, die som van al die bedrae van die vergoeding wat ten opsigte van daardie verkoop aan die verkoper toeval, hetsy dié vergoeding (of 'n gedeelte daarvan) voor of ten tyde van die verkoop betaalbaar is of geword het of op 'n ander tydstip betaalbaar is of betaalbaar sal wees, enige bedrag gevra deur die verkoper met betrekking tot bedoelde verkoop as 'n deposito op 'n terugsendbare houër en enige bedrag deur hom gevra ten opsigte van die aflewering van bedoelde goed: Met dien verstande dat—
- (i) waar bedoelde som 'n afleweringsofordering insluit wat deur die verkoper gevra word afsonderlik van die prys vir die goed gevra, bedoelde som verminder word met soveel van die afleweringsofordering as wat genoeg is om bedoelde som te verminder tot 'n bedrag gelyk aan die volle prys wat die verkoper normaalweg vir die bedoelde goed sou gevra het indien dit nie deur die verkoper afgelewer was nie;
 - (ii) waar die waarde van 'n seël, koepoon of teken, bedoel in paragraaf (b) van die omskrywing van „goed” in artikel 1 wat verkoop is deur die verkoper as die handelaar ingevolge die skema beoog in bedoelde paragraaf, aangewend word vir die betaling van die koopprys van die handelsware gekoop van die verkoper, bedoelde waarde uitgesluit word van die waarde van die vergoeding wat ingevolge hierdie paragraaf ten opsigte van die verkoop van bedoelde handelsware in berekening gebring moet word; of
- (b) met betrekking tot bedoelde verhuurde eiendom, die kontantwaarde daarvan bedoel in paragraaf 1 (e) van Bylae 4; of
- (c) met betrekking tot bedoelde huurvergoeding, elke bedrag van daardie vergoeding wat op of na die aanvangsdatum aan die verkoper of die ondernemer toegeval het; of
- (d) met betrekking tot bedoelde belasbare diens, elke bedrag van die vergoeding wat ten opsigte van daardie diens aan die ondernemer op of na die aanvangsdatum toegeval het; of
- (e) met betrekking tot bedoelde kos en inwoning—
- (i) elke bedrag van die vergoeding wat op of na die aanvangsdatum ten opsigte van die kos en inwoning toeval aan die persoon wat die hotelonderneming bedryf, indien die prys van die kos en inwoning wat aan die gas verskaf word, gegrond is op 'n daaglikse of weeklikse tarief of 'n tarief wat minder as maandeliks is, of indien die tydperk waarvoor vir die kos en inwoning ooreengekom is, vas is en nie vyf-en-veertig dae te bowe gaan nie; of
 - (ii) in enige ander geval, dertig persent van elke bedrag van die vergoeding wat op of na die aanvangsdatum aan bedoelde persoon toeval ten opsigte van bedoelde kos en inwoning; of
- (f) met betrekking tot bedoelde huisvesting, elke bedrag van die vergoeding wat op of na die aanvangsdatum ten opsigte van bedoelde huisvesting toeval aan die persoon wat die huisvestingsonderneming bedryf; of
- (g) met betrekking tot goed bedoel in artikel 5 (1) (g)—
- (i) waar bedoelde goed ingevolge die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), geklaar word of geklaar moet word en vir binnelandse verbruik in die Republiek geklaar word, die waarde daarvan vir doeaneregdoeleindes, plus enige gehel ingevolge bedoelde Wet ten opsigte van die invoer van bedoelde goed, plus tien persent van bedoelde waarde; of

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- 5 (a) as respects any such sale of goods, the sum of all the amounts of the consideration accruing to the seller in respect of such sale, whether such consideration (or any portion thereof) is or has become payable before or at the time of the sale or is or will be payable at some other time, any amount charged by the seller in relation to such sale as a deposit on any returnable container and any amount charged by him in respect of the delivery of such goods: Provided that—
- 10 (i) where such sum includes any delivery charge which is charged by the seller separately from the price charged for the goods, such sum shall be reduced by so much of the delivery charge as is sufficient to reduce such sum to an amount equal to
- 15 the full price which the seller would normally have charged for the said goods if not delivered by the seller;
- 20 (ii) where the value of any stamp, coupon or token referred to in paragraph (b) of the definition of "goods" in section 1 which was sold by the seller as the trader under the scheme referred to in the said paragraph, is utilized in payment of the purchase price of merchandise purchased from the seller, such value shall be excluded from the value
- 25 of the consideration to be accounted for under this paragraph in respect of the sale of such merchandise; or
- (b) as respects such leased property, the cash value thereof referred to in paragraph 1 (e) of Schedule 4; or
- 30 (c) as respects such rental consideration, each amount of such consideration which has on or after the commencement date accrued to the seller or vendor; or
- (d) as respects such taxable service, each amount of the consideration which has on or after the commencement date accrued to the vendor in respect of such services; or
- 35 (e) as respects such board and lodging—
- 40 (i) each amount of the consideration accruing on or after the commencement date to the person carrying on the hotel enterprise in respect of such board and lodging, if the charge for the board and lodging supplied to the guest is based on a daily or weekly tariff or a tariff which is less than monthly or if the period for which the board and lodging is contracted is fixed and does not exceed forty-five days; or
- 45 (ii) in any other case, thirty per cent of each amount of the consideration accruing on or after the commencement date to the said person in respect of such board and lodging; or
- 50 (f) as respects such accommodation, each amount of the consideration accruing in respect of such accommodation on or after the commencement date to the person carrying on the accommodation enterprise; or
- 55 (g) as respects goods referred to in section 5 (1) (g)—
- (i) where such goods are cleared or will be required to be cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964), and are cleared for home consumption in the Republic, the value thereof for customs duty purposes, plus any duty levied under the said Act in respect of the importation of such
- 60 goods, plus ten per cent of the said value; or

- (ii) waar bedoelde goed nie aldus geklaar word of geklaar moet word nie die vry-aan-boord-waarde van die goed; of
- (h) met betrekking tot goed bedoel in artikel 5 (1) (h), die koste van daardie goed vir die persoon wat daardie goed 5 aangewend het soos in bedoelde paragraaf beoog, of, waar die belasting betaalbaar met betrekking tot bedoelde verkoop, huurvergoeding, belasbare diens, kos en inwoning of huisvesting, na gelang van die geval, nie by die vergoeding bedoel in paragraaf (a), (c), (d), (e) of (f), na gelang van die geval, 10 ingesluit is nie, of waar bedoelde bruto waarde uit die kontant-waarde beoog in paragraaf (f) bestaan, 'n bedrag gelyk aan die som van die bedrag van bedoelde vergoeding of bedoelde kontantwaarde, na gelang van die geval, enige belasting deur die verkoper aan die koper gedebiteer met betrekking tot bedoelde 15 verkoop, verhuurde eiendom, huurvergoeding, belasbare diens, kos en inwoning of huisvesting, na gelang van die geval, en enige bedrag wat kragtens artikel 34 (1) ingevolge hierdie artikel in berekening gebring moet word.
- (2) Vir die doeleindes van die vasstelling van die bedrag van 20 enige vergoeding bedoel in subartikel (1)—
- (a) word finansieringskoste wat deur 'n verkoper aan 'n koper gedebiteer word ten opsigte van enige saldo wat deur die koper ingevolge 'n huurkoopkontrak verskuldig is, van dié vergoeding uitgesluit; 25
- (b) waar enige bedoelde vergoeding geheel en al of gedeeltelik uit 'n bate behalwe geld bestaan, word die bedrag van dié vergoeding, vir sover dit uit 'n bedoelde bate bestaan, geag die markwaarde daarvan te wees; en
- (c) word geen aftrekking ten opsigte van enige kommissie 30 of ander vergoeding betaalbaar aan 'n agent van die verkoper of ten opsigte van enige onkoste deur die verkoper aangegaan, gemaak nie.
- (3) Behoudens die bepalinge van subartikel (4), waar, ingevolge 'n ooreenkoms of transaksie wat by die toepassing van hierdie 35 Wet behandel word as 'n verkoop van goed, goed van die hand gesit word of die eiendomsreg daarop oorgaan of staan oor te gaan sonder die betaling van vergoeding aan die verkoper met betrekking tot daardie verkoop of teen 'n vergoeding wat minder as die koste van daardie goed vir die verkoper is, word 'n 40 vergoeding ten opsigte van bedoelde verkoop geag aan die verkoper toe te geval het waarvan die waarde gelyk is aan bedoelde koste of indien die markwaarde daarvan ten tyde van die verkoop minder as daardie koste is, sodanige markwaarde.
- (4) Die bepalinge van subartikel (3) is nie van toepassing nie 45 ten opsigte van 'n transaksie (behalwe 'n skenking of 'n transaksie waarvolgens geen vergoeding aan die verkoper betaalbaar is nie) wat gesluit word tussen partye wat die uiterste voorwaardes beding tensy hulle verbonde persone met betrekking tot mekaar is.
- (5) By die toepassing van subartikels (1) (h) en (3), word die 50 koste van goed vir enige persoon geag te wees—
- (a) waar bedoelde goed deur hom ingevolge 'n verkoop verkry is, 'n bedrag gelyk aan die waarde van die vergoeding deur hom gegee vir bedoelde goed en enige bedrae deur hom uitgegee by die aanbring van per- 55 manente verbeterings of toevoegings (behalwe reparasies) aan of tot bedoelde goed; of
- (b) waar bedoelde goed deur hom vervaardig, monteer of geproduseer is, die som van—
- (i) die koste vir hom van die materiaal gebruik by die 60 vervaardiging, montering of produksie van bedoelde goed en enige materiaal gebruik by die aanbring van permanente verbeterings of toevoegings (behalwe reparasies) aan of tot bedoelde goed;
- (ii) enige bedrae deur hom uitgegee ten opsigte van 65 vergoeding deur hom betaal aan 'n ander persoon geëmplojeer by die vervaardiging, montering of produksie van bedoelde goed of by die aanbring van enige bedoelde verbeterings of toevoegings;

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- (ii) where such goods are not and will not be required to be so cleared, the free-on-board value of the goods; or
- 5 (h) as respects goods referred to in section 5 (1) (h), the cost of such goods to the person who has applied such goods as contemplated in the said paragraph,
- or, where the tax payable in relation to such sale, rental consideration, taxable service, board and lodging or accommodation, as the case may be, has not been included in the
- 10 consideration referred to in paragraph (a), (c), (d), (e) or (f), as the case may be, or where such gross value consists of the cash value referred to in paragraph (b), an amount equal to the sum of the amount of such consideration or such cash value, as the case may be, any tax charged by the seller to the purchaser in relation to
- 15 such sale, leased property, rental consideration, taxable service, board and lodging or accommodation, as the case may be, and any amount which is in terms of section 34 (1) required to be accounted for under this subsection.

(2) For the purposes of determining the amount of any

20 consideration referred to in subsection (1)—

- (a) there shall be excluded from such consideration any finance charges charged by a seller to a purchaser in respect of any outstanding balance owing by the purchaser under a hire-purchase agreement;
- 25 (b) where any such consideration consists in whole or in part of any asset other than money, the amount of such consideration shall, to the extent that it consists of such asset, be deemed to be the market value thereof; and
- 30 (c) no deduction shall be made in respect of any commission or other remuneration payable to an agent of the seller or in respect of any expenditure incurred by the seller.

(3) Subject to the provisions of subsection (4), where under any agreement or transaction treated as a sale of goods for the

35 purposes of this Act goods are disposed of or the ownership therein passes or is to pass without the payment of any consideration to the seller in relation to such sale or for a consideration which is less than the cost of such goods to the seller, a consideration in respect of such sale shall be deemed to

40 have accrued to the seller equal in value to such cost or if the market value thereof at the time of such sale is less than such cost, such market value.

(4) The provisions of subsection (3) shall not apply in respect of any transaction (other than a donation or any transaction under

45 which no consideration is payable to the seller) concluded between parties acting at arm's length unless they are connected persons in relation to each other.

(5) For the purposes of subsections (1) (h) and (3), the cost of goods to any person shall be deemed to be—

- 50 (a) where such goods were acquired by him under a sale, an amount equal to the value of the consideration given by him for such goods and any amounts expended by him in effecting permanent improvements or additions (other than repairs) to such goods; or
- 55 (b) where such goods were manufactured, assembled or produced by him, the aggregate of—
- (i) the cost to him of the materials used in manufacturing, assembling or producing such goods and any materials used in effecting permanent improvements or additions (other than repairs) to such
- 60 goods;
- (ii) any amounts expended by him in respect of remuneration paid by him to any other person employed in manufacturing, assembling or producing
- 65 such goods or in effecting any such improvements or additions;

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- (iii) enige ander onkoste regstreeks deur hom aangegaan by die vervaardiging, montering of produksie van bedoelde goed of by die aanbring van bedoelde verbeterings of toevoegings; en
- (iv) 'n geraamde bedrag verteenwoordigende die depre-

(6) By die toepassing van hierdie Wet is die belasbare waarde van enige verkoop, verhuurde eiendom, huurvergoeding, belasbare diens, kos en inwoning, huisvesting of goed ingevoer of aangewend, soos in artikel 5 beoog, die bruto waarde wat ooreenkomstig subartikel (1) van hierdie artikel geplaas is op daardie verkoop, verhuurde eiendom, huurvergoeding, belasbare diens, kos en inwoning, huisvesting of goed, na gelang van die geval: Met dien verstande dat waar die belasting ten opsigte van die belasbare waarde van 'n verkoop van goed of 'n huurvergoeding deur die verkoper of ondernemer betaalbaar is en die belasting bereken moet word anders as ingevolge die bepalinge van artikel 11, bedoelde belasbare waarde vasgestel word deur die bruto waarde wat op die betrokke verkoop of huurvergoeding, na gelang van die geval, geplaas is, te verminder met 'n bedrag vasgestel ooreenkomstig die formule

$$\frac{r}{100 + r} \times c, \quad 25$$

in welke formule 'r' die skaal van verkoopbelasting is, uitgedruk as 'n persentasie, en 'c' bedoelde bruto waarde is.

Datum waarop belasting geag word betaalbaar te geword het.

8. By die toepassing van hierdie Wet word die belasting betaalbaar ten opsigte van enige belasbare waarde geag betaalbaar te geword het—

- (a) in die geval van 'n verkoop van goed bedoel in artikel 5 (1) (a), op die datum waarop bedoelde verkoop gesluit is; of
- (b) in die geval van verhuurde eiendom bedoel in artikel 5 (1) (b), op die datum waarop bedoelde eiendom aan die huurder gelewer is; of
- (c) in die geval van huurvergoeding bedoel in artikel 5 (1) (c), op die datum waarop die bedrag van bedoelde vergoeding aan die verhuurder toeval; of
- (d) in die geval van 'n belasbare diens, kos en inwoning of huisvesting bedoel in artikel 5 (1) (d), (e) of (f), op die datum waarop die vergoeding wat ingevolge artikel 7 (1) (d), (e) of (f) ingesluit is by die bruto waarde geplaas op bedoelde belasbare diens, kos en inwoning of huisvesting, na gelang van die geval, aan die ondernemer toegeval het; of
- (e) in die geval van goed wat in die Republiek ingevoer is, op die datum waarop die goed ingevoer word: Met dien verstande dat goed wat vir binnelandse verbruik in die Republiek ingevolge die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), geklaar word, vir die doeleindes van hierdie Wet geag word ingevoer te wees op die datum waarop dit aldus geklaar word; of
- (f) in die geval van goed bedoel in artikel 5 (1) (h), op die datum waarop bedoelde goed aangewend word soos in die bedoelde paragraaf beoog.

Persone aanspreeklik vir die belasting.

9. Die belasting word betaal—

- (a) in die geval van 'n verkoop van goed gesluit deur 'n afslaer ten behoeve van 'n ander persoon of 'n verkoop van goed deur 'n afslaer vir sy eie rekening, deur die afslaer; of
- (b) in die geval van 'n verkoop van goed met betrekking waartoe belasting betaalbaar is op die wyse in artikel 17 (3) bepaal, deur die verkoper met betrekking tot bedoelde verkoop of, indien die verkoper nie bedoelde belasting betaal het nie, deur die koper met betrekking tot bedoelde verkoop; of

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- (iii) any other costs incurred by him directly in the manufacture, assembly or production of such goods or in effecting any such improvements or additions; and
- 5 (iv) an estimated amount representing the depreciation of any machinery, equipment or plant used in the manufacture, assembly or production of such goods or in effecting any such improvements or additions.

(6) For the purposes of this Act the taxable value of any sale, 10 leased property, rental consideration, taxable service, board and lodging, accommodation or goods imported or applied, as contemplated in section 5, shall be the gross value placed in accordance with the provisions of subsection (1) of this section on such sale, leased property, rental consideration, taxable service, 15 board and lodging, accommodation or goods, as the case may be: Provided that where the tax in respect of the taxable value of any sale of goods or rental consideration is payable by a seller or vendor and the tax is to be calculated otherwise than under the provisions of section 11, such taxable value shall be determined 20 by reducing the gross value placed on such sale or rental consideration, as the case may be, by an amount determined in accordance with the formula

$$\frac{r}{100 + r} \times c,$$

25 in which formula "r" is the rate of sales tax, expressed as a percentage, and "c" is the said gross value.

8. For the purposes of this Act the tax payable in respect of any taxable value shall be deemed to have become payable—

Date on which tax is deemed to have become payable.

- 30 (a) in the case of a sale of goods referred to in section 5 (1) (a), on the date on which such sale is concluded; or
- (b) in the case of any leased property referred to in section 5 (1) (b), on the date of delivery of such property to the lessee; or
- 35 (c) in the case of any rental consideration referred to in section 5 (1) (c), on the date on which the amount of such consideration accrues to the lessor; or
- (d) in the case of any taxable service, board and lodging or accommodation referred to in section 5 (1) (d), (e) or (f), on the date of accrual to the vendor of the consideration 40 included under section 7 (1) (d), (e) or (f) in the gross value placed on such taxable service, board and lodging or accommodation, as the case may be; or
- (e) in the case of goods imported into the Republic, on the date on which the goods are imported: Provided that 45 goods which are cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964), for home consumption in the Republic shall for the purposes of this Act be deemed to have been imported on the date on which they are so cleared; or
- 50 (f) in the case of goods referred to in section 5 (1) (h), on the date on which such goods are applied as contemplated in the said paragraph.

9. The tax shall be paid—

Persons liable for the tax.

- 55 (a) in the case of any sale of goods concluded by an auctioneer on behalf of any other person or a sale of goods by an auctioneer for his own account, by the auctioneer; or
- (b) in the case of any sale of goods in relation to which tax is payable in the manner provided in section 17 (3), by the seller in relation to such sale or, if the seller has not 60 paid such tax, by the purchaser in relation to that sale; or

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- (c) in die geval van 'n huurvergoeding betaalbaar aan 'n persoon wat nie in die Republiek handel dryf nie en wat nie gewoonlik in die Republiek woonagtig is nie (of, waar bedoelde persoon 'n maatskappy is, sodanige maatskappy 'n buitelandse maatskappy vir die doeleindes van die Inkomstebelastingwet is), deur die koper met betrekking tot bedoelde huurvergoeding; of
- (d) in die geval van goed in die Republiek ingevoer, deur die invoerder; of
- (e) in die geval van goed aangewend deur 'n persoon vir 10 gebruik of verbruik soos in artikel 5 (1) (h) beoog, deur bedoelde persoon; of
- (f) waar die belasting ingevolge artikel 15 (1) op 'n koper verhaalbaar is, deur die koper of, behoudens die bepalinge van artikel 15 (2), deur die verkoper met 15 betrekking tot die tersaaklike verkoop, bruikhuur, huurvergoeding, belasbare diens, kos en inwoning of huisvesting, na gelang van die geval; of
- (g) in enige ander geval, deur die verkoper met betrekking tot die tersaaklike verkoop, bruikhuur, huurvergoeding, 20 belasbare diens, kos en inwoning of huisvesting, na gelang van die geval.

Verhaal van belasting
op koper deur afslaer
of ondernemer

10. (1) Ondanks andersluidende bepalinge van enige wet, moet die afslaer in die geval van 'n verkoop bedoel in artikel 9 (a) die koper debiteer met die bedrag belasting betaalbaar ten opsigte 25 van bedoelde verkoop deur bedoelde belasting by te tel by die bedrag van die suksesvolle bod of, in die geval van 'n verkoop uit die hand, die koopprys betaalbaar deur die koper, en is hy geregtig om bedoelde belasting op die koper te verhaal.

(2) Ondanks andersluidende bepalinge van enige wet, is die 30 belasting betaalbaar deur die ondernemer ingevolge artikel 9 (g) deur die verkoper op die koper met betrekking tot die tersaaklike verkoop, bruikhuur, huurvergoeding, belasbare diens, kos en inwoning of huisvesting, na gelang van die geval, verhaalbaar.

(3) Die belasting aldus verhaalbaar in die geval van enige 35 verkoop (behalwe 'n verkoop bedoel in subartikel (1)), huurvergoeding, belasbare diens, kos en inwoning of huisvesting kan verhaal word—

- (a) deur bedoelde belasting in te reken as deel van die prys of bedrag deur die verkoper van die koper ingevolge die 40 tersaaklike ooreenkoms gevra; of
- (b) deur die belasting by te tel by die prys of bedrag deur die verkoper van die koper ingevolge die tersaaklike ooreenkoms gevra.

(4) Die belasting aldus bygetel moet as 'n afsonderlike pos 45 getoon word op enige faktuur, kontantstrokie of ander staat met betrekking tot 'n bedrag verskuldig ingevolge die tersaaklike verkoop of ten opsigte van die tersaaklike huurvergoeding, belasbare diens, kos en inwoning, of huisvesting, na gelang van die geval, maar waar by dieselfde geleentheid of as deel van 'n 50 enkele transaksie een of meer artikels verkoop word of een of meer belasbare dienste gelewer word of gelewer staan te word, moet die belasting wat bygetel moet word, bereken word met betrekking tot die totale bedrag van die vergoeding wat deur die koper ten opsigte van bedoelde artikels en dienste betaalbaar is. 55

(5) Die verhuurder ingevolge 'n bruikhuur moet die huurder ingevolge bedoelde huur debiteer met die bedrag van enige belasting betaalbaar ten opsigte van die belasbare waarde van die verhuurde eiendom deur bedoelde belasting by te tel by die bedrae betaalbaar ingevolge bedoelde bruikhuur en is geregtig om 60 bedoelde belasting op die huurder te verhaal.

(6) Elke ondernemer is, ten opsigte van 'n onderneming deur hom bedryf, verplig om opvallend by alle toegange tot die perseel waarin die onderneming bedryf word en by alle punte in bedoelde perseel waar betalings gemaak word, 'n kennisgewing in die vorm 65 wat die Sekretaris mag voorskryf, te vertoon wat aandui—

- (a) in die geval van 'n saak in die gewone loop waarvan goed per veiling verkoop word, dat belasting teen die

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- (c) in the case of any rental consideration payable to a person who is not carrying on business in the Republic and who is not ordinarily resident in the Republic (or, where such person is a company, such company is an external company for the purposes of the Income Tax Act), by the purchaser in relation to such rental consideration; or
- (d) in the case of goods imported into the Republic, by the importer; or
- (e) in the case of goods applied by any person for use or consumption as contemplated in section 5 (1) (h), by such person; or
- (f) where the tax is in terms of section 15 (1) recoverable from a purchaser, by the purchaser or, subject to the provisions of section 15 (2), by the seller in relation to the relevant sale, financial lease, rental consideration, taxable service, board and lodging or accommodation, as the case may be; or
- (g) in any other case, by the seller in relation to the relevant sale, financial lease, rental consideration, taxable service, board and lodging or accommodation, as the case may be.

10. (1) Notwithstanding anything to the contrary contained in any law, in the case of any sale referred to in section 9 (a), the auctioneer shall charge to the purchaser the amount of any tax payable in respect of such sale by adding such tax to the amount of the successful bid or, in the case of a sale out of hand, the purchase price payable by the purchaser, and shall be entitled to recover such tax from the purchaser.

Recovery of tax from purchaser by auctioneer or vendor.

(2) Notwithstanding anything to the contrary contained in any law, the tax payable by the vendor in terms of section 9 (g) shall be recoverable by the seller from the purchaser in relation to the relevant sale, financial lease, rental consideration, taxable service, board and lodging or accommodation, as the case may be.

(3) The tax so recoverable in the case of any sale (other than a sale referred to in subsection (1)), rental consideration, taxable service, board and lodging or accommodation may be recovered—

- (a) by including such tax as part of the price or amount charged by the seller to the purchaser under the relevant agreement; or
- (b) by adding the tax to the price or amount charged by the seller to the purchaser under the relevant agreement.

(4) The tax so added shall be stated as a separate item on any invoice, cash slip or other statement relating to any amount due under the relevant sale or in respect of the relevant rental consideration, taxable service, board and lodging or accommodation, as the case may be, but where on the same occasion or as part of one transaction one or more items of goods are sold or one or more taxable services are rendered or to be rendered, the tax to be added shall be calculated with reference to the total amount of the consideration payable by the purchaser in respect of such items and services.

(5) The lessor under any financial lease shall charge to the lessee under such financial lease the amount of any tax payable in respect of the taxable value of the leased property by adding such tax to the amounts payable under such financial lease and shall be entitled to recover such tax from the lessee.

(6) Every vendor shall, in respect of any enterprise carried on by him, be required to display prominently at all entrances to the premises in which the enterprise is carried on and at all points in such premises where payments are effected a notice, in such form as the Secretary may prescribe, indicating—

- (a) in the case of any business in the ordinary course of which goods are sold by auction, that tax at the

toepaslike skaal by die bedrag van die suksesvolle bod getel sal word of, in die geval waar goed deur 'n afslaer uit die hand verkoop word, dat belasting teen die toepaslike skaal by die prys betaalbaar deur die koper getel sal word; of

- (b) in die geval van enige ander saak in die gewone loop waarvan goed verkoop word, 'n huurvergoeding toeval, 'n belasbare diens gelewer word of kos en inwoning of huisvesting verskaf word, dat belasting teen die toepaslike skaal ingesluit is as deel van die prys of bedrag 10 gevra (soos bedoel in subartikel (3) (a)), of dat belasting teen die toepaslike skaal bygetel sal word by die prys of bedrag gevra (soos bedoel in subartikel (3) (b)), na gelang van die geval.

(7) Elke ondernemer kan, nadat hy een van die twee metodes 15 aanvaar het wat in paragrawe (a) en (b) van subartikel (3) beoog word, vir die verhaal van die belasting betaalbaar deur die ondernemer ingevolge artikel 9 (g), die ander metode aanvaar, maar sodanige verandering mag slegs in werking gestel word aan die begin van 'n belastingtydperk wat ingevolge artikel 16 van 20 toepassing is op die onderneming deur bedoelde ondernemer bedryf.

(8) Elke persoon wat 'n prys of bedrag met betrekking tot die verkoop van goed, 'n huurvergoeding, die lewering van 'n belasbare diens of die verskaffing van kos en inwoning of 25 huisvesting adverteer of opgee, hetsy in 'n nuusblad, tydskrif, pryslys, handbiljet, vertoonvenster of andersins, moet aandui of bedoelde prys of bedrag die belasting gehef ingevolge hierdie Wet, insluit of uitsluit.

(9) By die bepaling van die bedrae belasting wat ingevolge 30 hierdie artikel ingesluit of bygetel moet word, moet die afslaer of ondernemer, na gelang van die geval, die belastingafrondings-tabelle wat die Sekretaris van tyd tot tyd mag voorskryf, gebruik.

(10) Iedere afslaer wat belasting verhaal op die wyse in subartikel (1) bedoel en iedere ondernemer wat belasting verhaal 35 op die wyse in subartikel (3) (b) bedoel, moet die afrondings-tabelle waarna in subartikel (9) verwys word, vertoon by alle punte waar betalings gemaak word op die perseel waarin hy 'n onderneming bedryf.

Vasstelling van belasting betaalbaar ten opsigte van 'n onderneming.

11. (1) Waar belasting (behalwe belasting ten opsigte van die 40 belasbare waarde van goed ingevoer in die Republiek of belasting vir die betaling waarvan hy ingevolge die bepalings van artikel 9 (c) aanspreeklik is) deur 'n ondernemer betaalbaar geword het gedurende 'n belastingtydperk van daardie ondernemer ten opsigte van 'n onderneming wat deur hom bedryf word, word sy 45 aanspreeklikheid vir bedoelde belasting vir bedoelde tydperk en met betrekking tot bedoelde onderneming bereken ooreenkomstig die formule

$$\frac{r}{100 + r} \times t, \quad 50$$

in welke formule „r” die skaal van verkoopbelasting is, uitgedruk as 'n persentasie, en „t” die bedrag is wat ingevolge subartikel (2) vasgestel word: Met dien verstande dat waar belasting betaalbaar geword het ten opsigte van die verkoop van registreerbare goed beoog in artikel 35 en betaal moet word 55 voordat registrasie van bedoelde goed deur 'n in daardie artikel bedoelde registrasie-owerheid bewerkstellig word, bedoelde belasting betaal word op die wyse in artikel 17 (3) bepaal en aanspreeklikheid vir bedoelde belasting nie ingevolge hierdie artikel vasgestel word nie. 60

(2) Die bedrag wat voorgestel word deur „t” in die formule bedoel in subartikel (1) is die totaal van—

- (a) die belasbare waardes (soos vasgestel ingevolge subartikel (6) van artikel 7 voordat die voorbehoudsbepaling by daardie subartikel toegepas word) ten opsigte waar- 65 van belasting (behalwe belasting ten opsigte van die belasbare waarde van goed ingevoer in die Republiek of belasting vir die betaling waarvan hy ingevolge die bepalings van artikel 9 (c) aanspreeklik is) deur die ondernemer gedurende die belastingtydperk betaalbaar

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appropriate rate will be added to the amount of the successful bid or, in the case where goods are sold out of hand by an auctioneer, that tax at the appropriate rate will be added to the price payable by the purchaser; or

5 (b) in the case of any other business in the ordinary course of which any goods are sold, any rental consideration accrues, any taxable service is rendered or any board and lodging or accommodation is supplied, that tax at the appropriate rate is included as part of the price or

10 amount charged (as contemplated in subsection (3) (a)), or that tax at the appropriate rate will be added to the price or amount charged (as contemplated in subsection (3) (b)), as the case may be.

(7) Every vendor may, after having adopted one of the two

15 methods contemplated in paragraphs (a) and (b) of subsection (3) for the recovery of the tax payable by the vendor in terms of section 9 (g), adopt the other method, but such changed method shall only be brought into operation at the commencement of a tax period applicable in terms of section 16 to the enterprise carried

20 on by such vendor.

(8) Every person who advertises or quotes a price or amount relating to the sale of any goods, any rental consideration, the rendering of any taxable service or the supply of any board and lodging or accommodation, whether in any newspaper, periodical,

25 magazine, price list, handbill, display window or otherwise, shall indicate whether such price or amount is inclusive or exclusive of the tax imposed under this Act.

(9) In the determination of the amounts of tax to be included or added in terms of this section, the auctioneer or vendor, as the

30 case may be, shall use such tax rounding-off tables as the Secretary may from time to time prescribe.

(10) Every auctioneer who recovers the tax in the manner contemplated in subsection (1) and every vendor who recovers the tax in the manner contemplated in subsection (3) (b) shall be

35 required to display the rounding-off tables referred to in subsection (9) at all points where payments are effected in the premises in which he carries on any enterprise.

11. (1) Where tax (other than tax in respect of the taxable value of goods imported into the Republic or tax which he is liable to

40 pay under the provisions of section 9 (c)) has become payable by any vendor during any tax period of that vendor in respect of any enterprise carried on by him his liability for such tax shall be calculated for such period and in relation to such enterprise in accordance with the formula

Determination of tax payable in respect of an enterprise.

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$$\frac{r}{100 + r} \times t,$$

in which formula "r" is the rate of sales tax, expressed as a percentage, and "t" is the amount determined under subsection (2): Provided that where tax has become payable in respect of the

50 sale of registrable goods contemplated in section 35 and is required to be paid before registration of such goods is effected by a registering authority referred to in the said section, such tax shall be paid in the manner provided in section 17 (3) and liability for such tax shall not be determined under this section.

55 (2) The amount represented by "t" in the formula referred to in subsection (1) shall be the aggregate of—

(a) the taxable values (as determined under subsection (6) of section 7 before applying the proviso to that subsection) in respect of which tax (other than tax in

60 respect of the taxable value of goods imported into the Republic or tax which he is liable to pay under the provisions of section 9 (c)) has become payable by the vendor during the tax period in connection with his enterprise but excluding any taxable value the tax in

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- geword het in verband met sy onderneming, maar uitgesonderd enige belasbare waarde ten opsigte waarvan die belasting ingevolge die voorbehoudsbepaling by subartikel (1) van hierdie artikel op die wyse in artikel 17 (3) bepaal, betaal moet word; 5
- (b) 'n bedrag wat kragtens paragraaf (iii) geag word 'n belasbare waarde van daardie onderneming vir die belastingtydperk te wees;
- (c) waar belasting deur die ondernemer betaalbaar geword het gedurende die belastingtydperk ten opsigte van die belasbare waarde van goed bedoel in artikel 5 (1) (h) of 7 (3), 'n bedrag bereken as 'n persentasie van die belasbare waarde van daardie goed teen die skaal van verkoopbelasting, as 'n persentasie uitgedruk; en
- (d) enige bedrag wat die ondernemer gedurende die belastingtydperk verhaal het ten opsigte van 'n bedrag wat toegelaat is ingevolge paragraaf (iv) as 'n aftrekking ten opsigte van 'n oninbare skuld of ingevolge paragraaf (v) ten opsigte van 'n kontant-toonbanktekort, ongeag of die bedrag wat aldus as 'n aftrekking toegelaat is, toegelaat is ten opsigte van die belastingtydperk of 'n vorige belastingtydperk, 20
- min die som van—
- (i) 'n bedrag wat met betrekking tot die ondernemer se onderneming deur die ondernemer aan 'n koper verskuldig geword het gedurende die belastingtydperk— 25
- (aa) ten opsigte van die opsegging of beëindiging van 'n verkoop van goed deur die ondernemer aan die koper, of 'n huurooreenkoms, of 'n ooreenkoms vir die lewering van belasbare dienste deur die ondernemer aan die koper of 'n ooreenkoms vir die verskaffing deur die ondernemer aan die koper van kos en inwoning of huisvesting, indien die vergoeding wat deur die koper ten opsigte van bedoelde verkoop, huurooreenkoms, dienste, kos en inwoning of huisvesting, na gelang van die geval, betaalbaar was, ingesluit is by enige belasbare waarde in berekening gebring ingevolge hierdie subartikel ten opsigte van bedoelde onderneming, hetsy vir die belastingtydperk of 'n vorige belastingtydperk; of 30 35 40
- (bb) by wyse van 'n vermindering van die vergoeding betaalbaar ten opsigte van 'n defek in die verkoopte goed, of goed verhuur ingevolge 'n huurooreenkoms, of 'n belasbare diens of kos en inwoning of huisvesting verskaf, indien die volle bedrag van bedoelde vergoeding ingesluit was by 'n belasbare waarde ingevolge hierdie subartikel in berekening gebring ten opsigte van bedoelde onderneming, hetsy vir die belastingtydperk of 'n vorige belastingtydperk; 45 50
- (ii) waar 'n deposito op 'n houer ingevolge paragraaf (a) (hetsy ten opsigte van die belastingtydperk of 'n vorige belastingtydperk) ingesluit is by die belasbare waarde van goed wat die ondernemer aan 'n koper in die loop van die ondernemer se onderneming verkoop het, soveel van daardie deposito as wat die ondernemer gedurende die belastingtydperk aan die koper terugbetaal het of hom mee gekrediteer het; 55
- (iii) waar, by die bedryf van die ondernemer se onderneming, krediet aan 'n koper verleen is, hetsy ingevolge 'n huurkoopkontrak of andersins, ten opsigte van vergoeding wat by die vasstelling van 'n belasbare waarde in berekening gebring is, 'n toelae wat die ondernemer eis ten opsigte van die totale bedrag aan hom verskuldig deur die koper aan die einde van die belastingtydperk ten opsigte van bedoelde vergoeding en enige finansieringskoste of rente wat op daardie vergoeding betrekking het: Met dien verstande dat die toelae nie vyftig persent van bedoelde totale bedrag oorskry nie: 60 65

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respect of which is in terms of the proviso to subsection (1) of this section required to be paid in the manner provided in section 17 (3);

5 (b) any amount which in terms of paragraph (iii) is deemed to be a taxable value of such enterprise for the tax period;

10 (c) where tax has become payable by the vendor during the tax period in respect of the taxable value of goods referred to in section 5 (1) (h) or 7 (3), an amount calculated as a percentage of the taxable value of such goods at the rate of sales tax, expressed as a percentage; and

15 (d) any amount recovered by the vendor during the tax period in respect of any amount allowed as a deduction under paragraph (iv) in respect of an irrecoverable debt or under paragraph (v) in respect of a cash counter shortage, whether the amount so allowed as a deduction was allowed in respect of the tax period or any previous tax period,

20 less the sum of—

(i) any amount which has in relation to the vendor's enterprise become due during the tax period by the vendor to a purchaser—

25 (aa) in respect of the cancellation or termination of any sale of goods by the vendor to the purchaser or any rental agreement or any agreement for the rendering of taxable services by the vendor to the purchaser or any agreement for the supply by the vendor to the purchaser of board and lodging or accommodation, if the consideration payable by the purchaser in respect of such sale, rental agreement, services, board and lodging or accommodation, as the case may be, has been included in any taxable value taken into account under this subsection in respect of the said enterprise, whether for the tax period or any previous tax period; or

40 (bb) by way of a reduction of the consideration payable in respect of any defect in goods sold or goods let under a rental agreement or any taxable service or board and lodging or accommodation supplied, if the full amount of such consideration has been included in any taxable value taken into account under this subsection in respect of the said enterprise, whether for the tax period or any previous tax period;

50 (ii) where a deposit on any container has been included under paragraph (a) (whether in respect of the tax period or a previous tax period) in the taxable value of goods sold by the vendor to a purchaser in the course of the vendor's enterprise, so much of such deposit as the vendor has during the tax period repaid or credited to the purchaser;

55 (iii) where, in the carrying on of the vendor's enterprise, credit has been granted to any purchaser, whether under a hire-purchase agreement or otherwise, in respect of any consideration taken into account in the determination of any taxable value, such allowance as may be claimed by the vendor in respect of the total amount owing to him by the purchaser at the end of the tax period in respect of such consideration and any finance charges or interest relating to such consideration:

60

- Met dien verstande voorts dat geen toelae ingevolge hierdie paragraaf geëis kan word nie ten opsigte van 'n bedrag wat deur 'n koper verskuldig is en wat geblyk het onverhaalbaar te wees en aan die ondernemer as 'n aftrekking ingevolge die bepalings van paragraaf (iv) toegelaat is, hetsy ten opsigte van die belastingtydperk of 'n vorige belastingtydperk: Met dien verstande voorts dat die bedrag van 'n toelae wat ingevolge hierdie paragraaf toegelaat word as 'n aftrekking ten opsigte van die belastingtydperk geag word 'n belasbare waarde van die ondernemer se onderneming vir die daaropvolgende belastingtydperk te wees;
- (iv) die bedrag van enige skuld wat aan die ondernemer met betrekking tot sy onderneming verskuldig is, vir sover daar tot bevrediging van die Sekretaris bewys word dat dit gedurende die belastingtydperk oninbaar geword het en afgeskryf is, mits sodanige bedrag ingesluit is by 'n belasbare waarde wat ten opsigte van bedoelde onderneming ingevolge hierdie subartikel in berekening gebring is, hetsy vir die belastingtydperk of 'n vorige belastingtydperk;
 - (v) die bedrag van enige kontant-toonbanktekort wat gedurende die belastingtydperk voorkom as gevolg van ontfutseling of die gee van verkeerde kleingeld, indien daardie bedrag ingesluit is by die belasbare waardes wat ingevolge hierdie subartikel in berekening gebring is; en
 - (vi) 'n bedrag wat ingevolge die bepalings van subartikel (3) toegelaat word om van die voorafgaande belastingtydperk oorgedra te word.
- (3) Waar, ten opsigte van 'n belastingtydperk, die som van die bedrae wat kragtens paragrawe (i) tot en met (vi) van subartikel (2) aftrekbaar is van die totaalbedrag van die waardes en bedrae wat ingevolge paragrawe (a) tot en met (d) van daardie subartikel in berekening gebring is, daardie totaalbedrag oorskry, kan die oorskot na die daaropvolgende belastingtydperk oorgedra word ten opsigte van daardie daaropvolgende belastingtydperk toegelaat word as 'n aftrekking ingevolge paragraaf (vi) van bedoelde subartikel.
- (4) (a) Waar 'n ondernemer op 'n vrystelling ingevolge artikel 6 (1) (g) ten opsigte van sy onderneming geregtig was, en hy die Sekretaris ooreenkomstig die bepalings van artikel 12 (5) en binne die tydperk of verdere tydperk beoog in die voorbehoudsbepaling by artikel 6 (1) (g), in kennis gestel het dat die bruto ontvangste of toevallings van sy onderneming die bedrag van vyfduisend rand oorskry het, stel die Sekretaris die ondernemer in kennis dat vanaf 'n datum deur die Sekretaris bepaal die vrystelling ingevolge artikel 6 (1) (g) nie meer van toepassing is nie en versoek hy die ondernemer om, so spoedig moontlik na die aldus bepaalde datum, aan die Sekretaris besonderhede te verstrek betreffende die handelsvoorraad deur die ondernemer besit en nie deur hom van die hand gesit nie op die dag voor daardie datum, die koste daarvan, die name en adresse van die persone van wie bedoelde handelsvoorraad verkry is en die bedrae aan belasting, indien daar is, gedra deur die ondernemer ten opsigte van die verkoop aan hom of die invoer deur hom van bedoelde handelsvoorraad.
- (b) Waar die Sekretaris in staat is om tot sy bevrediging die bedrae aan belasting gedra deur die ondernemer ten opsigte van bedoelde handelsvoorraad te bepaal, laat die Sekretaris sodanige bedrae toe as 'n krediet teen belasting wat deur die ondernemer betaalbaar word.
- (5) Behoudens die bepalings van subartikel (6), waar die belastingtydperk met betrekking tot 'n onderneming 'n in paragraaf (iii) van die voorbehoudsbepaling by paragraaf (a) van subartikel (1) van artikel 16 bedoelde tydperk is,—
- (a) word geen toelae ingevolge paragraaf (iii) van subartikel (2) van hierdie artikel toegestaan nie ten opsigte van 'n bedrag verskuldig aan die ondernemer deur 'n koper aan

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5 Provided that the allowance shall not exceed 50 per cent
of the said total amount: Provided further that no
allowance may be claimed under this paragraph in
respect of any amount owing by a purchaser which has
proved to be irrecoverable and has been allowed to be
deducted by the vendor under the provisions of para-
graph (iv), whether in respect of the tax period or any
previous tax period: Provided further that the amount of
any allowance allowed as a deduction under this
10 paragraph in respect of the tax period shall be deemed to
be a taxable value of the vendor's enterprise for the next
succeeding tax period;

15 (iv) the amount of any debt due to the vendor in relation to
his enterprise, to the extent to which it is proved to the
satisfaction of the Secretary to have become irrecover-
able and has been written off during the tax period,
provided such amount has been included in any taxable
value taken into account under this subsection in respect
of the said enterprise, whether for the tax period or any
previous tax period;

20 (v) the amount of any cash counter shortage occurring
during the tax period as a result of pilferage or the
giving of incorrect change, if that amount has been
included in the taxable values taken into account under
this subsection; and

25 (vi) any amount allowed to be brought forward from the
preceding tax period under the provisions of subsection
(3).

30 (3) Where, in respect of any tax period, the sum of the amounts
which in terms of paragraphs (i) to (vi), inclusive, of subsection
(2) are deductible from the aggregate of the values and amounts
accounted for under paragraphs (a) to (d), inclusive, of that
subsection, exceeds such aggregate, the excess may be carried
forward to the next succeeding tax period and be allowed as a
35 deduction in respect of such succeeding tax period under
paragraph (vi) of the said subsection.

40 (4) (a) Where any vendor has in respect of his enterprise been
entitled to the exemption under section 6 (1) (g) and he
has in accordance with the provisions of section 12 (5)
and within the period or further period referred to in the
proviso to section 6 (1) (g), notified the Secretary that
the gross receipts or accruals of his enterprise have
exceeded the sum of five thousand rand, the Secretary
shall notify the vendor that as from a date fixed by the
Secretary the exemption under section 6 (1) (g) shall no
45 longer apply and call upon the vendor to furnish the
Secretary, as soon as possible after the date so fixed,
with details of the trading stock held by the vendor and
not disposed of by him on the day before that date, the
cost thereof, the names and addresses of the persons from
whom such trading stock was acquired and the amounts
of tax, if any, borne by the vendor in respect of the sale
to him or the importation by him of such trading stock.

50 (b) Where the Secretary is able to establish to his satisfaction
the amounts of tax borne by the vendor in respect of
such trading stock, the Secretary shall allow such
amounts as a credit against tax which becomes payable
55 by the vendor.

60 (5) Subject to the provisions of subsection (6), where the tax
period in relation to an enterprise is a period referred to in
paragraph (iii) of the proviso to paragraph (a) of subsection (1) of
section 16—

(a) no allowance shall be made under paragraph (iii) of
subsection (2) of this section in respect of any amount

die einde van bedoelde belastingtydperk met betrekking tot bedoelde onderneming; en

- (b) kan geen bedrag, met betrekking tot bedoelde onderneming, ingevolge subartikel (3) van hierdie artikel vanaf bedoelde belastingtydperk na 'n daaropvolgende belastingtydperk met betrekking tot bedoelde onderneming oorgedra word nie. 5

(6) Waar die belastingtydperk met betrekking tot 'n onderneming 'n in paragraaf (iii) van die voorbehoudsbepaling by paragraaf (a) van subartikel (1) van artikel 16 bedoelde tydperk is wat eindig op die datum van die ondernemer se afsterwe of op die dag voor die datum waarop die vandiehandsetting van 'n gedeeltelike belang in die onderneming van krag word of op die dag voor die datum vanaf wanneer 'n vennootskap ten opsigte van die onderneming ontbind word en die Sekretaris oortuig is dat die onderneming voortgesit is of sal word deur die ondernemer se erfgenaam of deur 'n begunstigde in sy boedel aan wie bedoelde onderneming oorgedra word of oorgedra staan te word of deur die persoon of persone wat die onderneming oorneem uit hoofde van bedoelde vandiehandsetting of ontbinding van vennootskap, kan die Sekretaris, indien bedoelde erfgenaam, begunstigde, persoon of persone, na gelang van die geval, daarom aansoek doen, opdrag gee dat, onderworpe aan enige voorwaardes wat die Sekretaris ophê, die bepalings van hierdie artikel (behalwe subartikel (5)) toegepas word met betrekking tot bedoelde onderneming asof geen verandering in die eienaarskap van die onderneming plaasgevind het nie, en in so 'n geval is die bepalings van subartikel (5) nie van toepassing nie. 10 15 20 25

DEEL III

Registrasie en pligte van ondernemers

30

Registrasie van ondernemers.

12. (1) Iedere persoon wat op of te eniger tyd na die datum van afkondiging van hierdie Wet 'n onderneming bedryf of begin om dit te bedryf, moet binne een maand gereken vanaf daardie datum (of, indien hy op 'n latere datum begin om die onderneming te bedryf, vanaf die latere datum), of binne die verdere tydperk wat die Sekretaris mag toelaat, aan die Sekretaris 'n verklaring verstrek in die vorm wat die Sekretaris voorskryf, wat die inligting bevat met betrekking tot die onderneming wat deur die Sekretaris vir die doeleindes van hierdie Wet vereis word: Met dien verstande dat 'n persoon wat voornemens is om 'n onderneming te bedryf bedoelde verklaring kan verstrek wanneer hy aansoek om 'n lisensie by 'n plaaslike owerheid doen om bedoelde onderneming te bedryf. 35 40

(2) Waar—

- (a) die bruto jaarlikse ontvangste of toevallings van 'n onderneming uit die verkoop van goed vyfduisend rand oorskry het of die Sekretaris oortuig is dat bedoelde jaarlikse ontvangste of toevallings vyfduisend rand sal oorskry; of 45
- (b) die bruto jaarlikse ontvangste of toevallings van 'n onderneming bestaan het uit bedrae verkry ingevolge bruikhuur of by wyse van huurvergoedings of uit die lewering van belasbare dienste of dit ingesluit het of die Sekretaris oortuig is dat daardie bruto jaarlikse ontvangste of toevallings uit sodanige bedrae sal bestaan of dit sal insluit; of 50 55
- (c) 'n onderneming dié van 'n afslaer is; of
- (d) 'n onderneming 'n huisvestings- of hotelonderneming is; of
- (e) dit die Sekretaris voorkom dat iemand geregistreer behoort te word ten opsigte van 'n onderneming of saak wat deur hom bedryf word, 60

moet die Sekretaris die persoon wat die betrokke onderneming bedryf as 'n ondernemer ten opsigte van daardie onderneming registreer en aan daardie persoon 'n registrasiesertifikaat uitreik in die vorm wat die Sekretaris bepaal. 65

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- owing to the vendor by a purchaser at the end of such tax period in relation to such enterprise; and
- (b) no amount shall, in relation to such enterprise, be allowed under subsection (3) of this section to be carried forward from such tax period to a succeeding tax period relating to such enterprise.

(6) Where the tax period in relation to an enterprise is a period referred to in paragraph (iii) of the proviso to paragraph (a) of subsection (1) of section 16 ending on the date of the vendor's death or on the day before the date on which the disposal of a part interest in the enterprise takes effect or on the day before the date from which a partnership in respect of the enterprise is dissolved and the Secretary is satisfied that the enterprise has been or will be continued by the vendor's heir or by a beneficiary in his estate to whom such enterprise is transferred or is to be transferred or by the person or persons who take over the enterprise by reason of the said disposal or dissolution of partnership, the Secretary may, if requested by such heir, beneficiary, person or persons, as the case may be, direct that, subject to any conditions the Secretary may impose, the provisions of this section (excluding subsection (5)) shall be applied in respect of the said enterprise as though no change in ownership of the enterprise had occurred, and in such case the provisions of subsection (5) shall not apply.

PART III

25 *Registration and duties of vendors*

12. (1) Every person who on or at any time after the date of promulgation of this Act carries on or commences to carry on any enterprise shall within one month reckoned from that date (or, if he commences to carry on the enterprise on a later date, from the later date), or within such further period as the Secretary may allow, furnish the Secretary with a declaration in such form as the Secretary may prescribe which shall contain such information relating to the enterprise as may be required by the Secretary for the purposes of this Act: Provided that any person who intends to carry on any enterprise may furnish such declaration at the time he makes application to any local authority for a licence to carry on such enterprise.

Registration of vendors.

- (2) Where—
- (a) the gross annual receipts or accruals of any enterprise from the sale of goods have exceeded five thousand rand or the Secretary is satisfied that such gross annual receipts or accruals will exceed five thousand rand; or
- (b) the gross annual receipts or accruals of any enterprise have consisted of or included amounts derived under financial leases or by way of rental considerations or from the rendering of taxable services or the Secretary is satisfied that such gross annual receipts or accruals will consist of or include such amounts; or
- (c) any enterprise is that of an auctioneer; or
- (d) any enterprise is an accommodation or an hotel enterprise; or
- (e) it appears to the Secretary that a person should be registered in respect of any enterprise or business carried on by him,

the Secretary shall register the person carrying on the enterprise in question as a vendor in respect of such enterprise and issue to such person a registration certificate, in such form as the Secretary may determine.

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(3) Ondanks die bepalinge van paragraaf (a), (b), (c) of (d) van subartikel (2) en indien die Sekretaris rede het om te dink dat 'n persoon wat 'n verklaring ingevolge subartikel (1) verstrek het—

- (a) geen vaste woon- of besigheidsplek het nie; of
- (b) nie behoorlike rekeningkundige aantekeninge betreffende 'n onderneming deur hom bedryf, hou nie; of
- (c) nie 'n bankrekening by 'n bank, bouvereniging of ander soortgelyke instelling vir die doeleindes van 'n onderneming deur hom bedryf, geopen het nie,

kan die Sekretaris weier om bedoelde persoon ingevolge subartikel (2) te registreer en moet hy bedoelde persoon skriftelike kennis van so 'n weiering gee.

(4) Enige sodanige registrasiesertifikaat wat op grond van 'n verklaring in die naam van 'n onderneming uitgereik word, word vir die doeleindes van hierdie Wet geag uitgereik te gewees het aan die persoon wat, volgens in die verklaring vermeld word, die eienaar van die onderneming is.

(5) Iedere persoon wat die in subartikel (1) bedoelde verklaring verstrek het en daarna—

- (a) van adres verander het; of
- (b) die naam van 'n onderneming ten opsigte waarvan hy ingevolge subartikel (2) geregistreer is, verander het; of
- (c) opgehou het om 'n onderneming te bedryf ten opsigte waarvan hy ingevolge subartikel (2) geregistreer is; of
- (d) uit hoofde van 'n verandering in omstandighede, registreerbaar geword het met betrekking tot die bedryf van 'n onderneming ten opsigte waarvan hy nie ingevolge subartikel (2) geregistreer hoef te wees nie,

moet binne veertien dae na enige gebeurtenis in paragraaf (a), (b) of (c) beoog, na gelang van die geval, die Sekretaris skriftelik kennis stel van so 'n gebeurtenis en besonderhede in verband daarmee verstrek of, in die geval van 'n verandering in omstandighede soos in paragraaf (d) beoog, 'n verdere verklaring aan die Sekretaris verstrek in die vorm van die verklaring bedoel in subartikel (1) of in 'n ander vorm wat die Sekretaris voorskryf.

(6) Die Sekretaris kan by skriftelike kennisgewing van iemand ten opsigte van wie hy vermoed dat hy 'n in subartikel (1) bedoelde verklaring of 'n in subartikel (5) bedoelde verdere verklaring moet verstrek of moet verstrek het en dit nie gedoen het nie, eis dat hy daardie verklaring of verdere verklaring, na gelang van die geval, verstrek binne die tydperk wat die Sekretaris toelaat.

(7) 'n Verklaring wat 'n persoon aan die Sekretaris verstrek het ingevolge artikel 2 van die Wet op Registrasie van Verkopers, 1978 (Wet No. 32 van 1978), word geag deur daardie persoon verstrek te gewees het ingevolge die bepalinge van hierdie artikel.

(8) Iemand wat—

- (a) versuim of nalaat om 'n verklaring of verdere verklaring te verstrek soos en wanneer deur subartikel (1) of (5) vereis of om aan 'n kennisgewing deur die Sekretaris ingevolge subartikel (6) uitgereik, te voldoen; of
- (b) versuim om die Sekretaris in kennis te stel van 'n gebeurtenis soos in subartikel (5) beoog; of
- (c) in 'n verklaring of verdere verklaring wat hy verstrek het ingevolge die bepalinge van subartikel (1) of (5) of as gevolg van 'n kennisgewing uitgereik deur die Sekretaris ingevolge subartikel (6), 'n verklaring aflê of inligting verstrek wetende dat dit onjuis is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sodanige boete sowel as sodanige gevangenisstraf.

Geldigheid van
registrasie-
sertifikaat.

13. (1) 'n Registrasiesertifikaat wat kragtens artikel 12 uitgereik is aan 'n persoon ten opsigte van 'n onderneming is slegs geldig ten opsigte van daardie onderneming en solank daardie persoon aanhou om daardie onderneming te bedryf of totdat die sertifikaat ingetrek word, watter gebeurtenis ook al eerste plaasvind.

(2) Waar—

- (a) 'n onderneming ophou om bedryf te word; of

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(3) Notwithstanding the provisions of paragraph (a), (b), (c) or (d) of subsection (2) and if the Secretary has reason to believe that any person who has furnished a declaration in terms of subsection (1)—

- 5 (a) has no fixed place of abode or business; or
 (b) does not keep proper accounting records relating to any enterprise carried on by him; or
 (c) has not opened a banking account with any bank, building society or other similar institution for the
 10 purposes of any enterprise carried on by him,
 the Secretary may refuse to register such person under subsection (2) and shall give such person written notice of such refusal.

(4) Any such registration certificate which is on the strength of a declaration issued in the name of an enterprise shall, for the
 15 purposes of this Act, be deemed to have been issued to the person stated in the declaration to be the owner of the enterprise.

(5) Every person who has furnished the declaration referred to in subsection (1) and has subsequently—

- (a) changed his address; or
 20 (b) changed the name of any enterprise in respect of which he was registered under subsection (2); or
 (c) ceased to carry on any enterprise in respect of which he was registered under subsection (2); or
 25 (d) by virtue of a change in circumstances, become registrable in relation to the carrying on of an enterprise in respect of which he was not required to be registered under subsection (2),

shall within fourteen days after any event contemplated in paragraph (a), (b) or (c), as the case may be, notify the Secretary
 30 in writing of such event and furnish particulars in regard thereto, or, in the case of any change of circumstances contemplated in paragraph (d), furnish the Secretary with a further declaration in the form of the declaration referred to in subsection (1) or in such other form as the Secretary may prescribe.

(6) The Secretary may by notice in writing require any person who he believes is or was required to furnish a declaration referred to in subsection (1) or a further declaration referred to in subsection (5) and has not done so, to furnish the said declaration or further declaration, as the case may be, within such period as
 40 the Secretary may allow.

(7) Any declaration furnished by any person to the Secretary under the provisions of section 2 of the Registration of Vendors Act, 1978 (Act No. 32 of 1978), shall be deemed to have been furnished by the said person under the provisions of this section.

45 (8) Any person who—

- (a) fails or neglects to furnish a declaration or further declaration as and when required by subsection (1) or (5) or to comply with a notice issued by the Secretary under subsection (6); or
 50 (b) fails to notify the Secretary of any event as contemplated in subsection (5); or
 (c) in any declaration or further declaration furnished by him under the provisions of subsection (1) or (5) or in response to a notice issued by the Secretary under
 55 subsection (6), makes any statement or gives any information knowing the same to be incorrect,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
 60

13. (1) Any registration certificate issued in terms of section 12 to any person in respect of any enterprise shall be valid only in respect of that enterprise and for as long as such person continues to carry on such enterprise or until the certificate is cancelled,
 65 whichever event first occurs.

Validity of
registration
certificate.

(2) Where—

- (a) an enterprise ceases to be carried on; or

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(b) tensy die bepalings van subartikel (3) van toepassing is, 'n onderneming deur die eienaar daarvan van die hand gesit word of die eienaar van 'n onderneming te sterwe kom of sy boedel gesekwestreer word, moet 'n registrasiesertifikaat wat ingevolge artikel 12 ten opsigte 5 van bedoelde onderneming uitgereik is, binne veertien dae na 'n gebeurtenis in paragraaf (a) of (b) beoog aan die Sekretaris afgegee word vir rojering.

(3) Waar—

(a) die eienaar van 'n onderneming te sterwe gekom het en 10 die eksekuteur van sy boedel aanhou om die onderneming te bedryf terwyl die boedel beredder word; of

(b) die boedel van die eienaar van 'n onderneming gesekwestreer is en die kurator van die insolvente boedel aanhou om die onderneming te bedryf terwyl die boedel 15 gelikwider word; of

(c) die eienaar van 'n onderneming regsonbevoegd is en daardeur verhinder word om sy sake te bestuur en die voog of kurator van daardie eienaar aanhou om die onderneming te bedryf; of 20

(d) die eienaar van die onderneming 'n vennootskap ten opsigte van die onderneming aangaan of, indien die eienaar 'n vennootskap is, daardie vennootskap ontbind word en 'n nuwe vennootskap, wat 'n lid van die 25 ontbinde vennootskap insluit, die onderneming oorneem, moet daardie eksekuteur, voog of kurator of die vennootskap wat aldus aangegaan is of bedoelde nuwe vennootskap, na gelang van die geval, 'n verklaring in die vorm van die verklaring bedoel in subartikel (1) van artikel 12 ten opsigte van die betrokke onderneming aan die Sekretaris verstrek, en in daardie geval word 30 die registrasiesertifikaat wat die Sekretaris aan bedoelde eienaar ten opsigte van daardie onderneming ingevolge bedoelde artikel uitgereik het, geag, totdat die Sekretaris dit rojeer, uitgereik te gewees het aan bedoelde eksekuteur, voog of kurator, in sy hoedanigheid as sulks, of aan bedoelde vennootskap of nuwe 35 vennootskap, na gelang van die geval, ten opsigte van bedoelde onderneming.

(4) Waar 'n ondernemer—

(a) herhaaldelik versuim of nalaat om belasting deur hom verskuldig, te betaal soos en wanneer deur hierdie Wet 40 vereis; of

(b) herhaaldelik versuim of nalaat om 'n verklaring of opgawe te verstrek soos en wanneer deur hierdie Wet vereis; of

(c) 'n registrasiesertifikaat wat ingevolge artikel 12 uitge- 45 reik is, gebruik—

(i) ten einde goed vry van belasting te verkry ingevolge 'n verkoop ten opsigte waarvan belasting hefbaar is; of

(ii) ten einde vry van belasting 'n belasbare diens aan 50 hom te laat lewer ten opsigte waarvan belasting hefbaar is; of

(iii) ten einde vry van belasting goed in die Republiek in te voer ten opsigte waarvan belasting hefbaar is, of aan 'n misdryf ingevolge artikel 15 (3) skuldig bevind word, 55 kan die Sekretaris, nadat hy skriftelike kennis van minstens tien dae aan die ondernemer gegee het dat hy voornemens is om 'n registrasiesertifikaat uitgereik aan die ondernemer ingevolge artikel 12 in te trek, maar behoudens die bepalings van artikel 20, daardie sertifikaat intrek, en in so 'n geval moet die sertifikaat, 60 wanneer die Sekretaris dit eis, afgegee word aan die Sekretaris deur enige persoon in besit daarvan en, indien die sertifikaat nie aldus afgegee word nie, kan die Sekretaris beslag lê op die sertifikaat.

(5) Die intrekking van of die beslaglegging op 'n registrasiesertifikaat kragtens subartikel (4) stel die ondernemer nie vry van die uitvoering van sy pligte ingevolge hierdie Wet nie.

(6) Waar die Sekretaris—

(a) 'n registrasiesertifikaat ingetrek het soos in subartikel (4) van hierdie artikel of artikel 28 (3) beoog; of

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- (b) unless the provisions of subsection (3) apply, an enterprise is disposed of by the owner thereof or the owner of an enterprise has died or his estate has been sequestrated,

5 any registration certificate issued under section 12 in respect of such enterprise shall, within fourteen days after any event contemplated in paragraph (a) or (b), be surrendered to the Secretary for cancellation.

(3) Where—

- 10 (a) the owner of an enterprise has died and the executor of his estate continues to carry on the enterprise while the estate is being administered; or
- (b) the estate of the owner of an enterprise has been sequestrated and the trustee of the insolvent estate
- 15 continues to carry on the enterprise while the estate is being liquidated; or
- (c) the owner of any enterprise is under a legal disability preventing him from managing his affairs and the guardian or curator of such owner continues to carry on
- 20 such enterprise; or
- (d) the owner of an enterprise enters into a partnership in respect of the enterprise or, if the owner is a partnership, such partnership is dissolved and a new partnership which includes a member of the dissolved partnership
- 25 takes over the enterprise,

such executor, trustee, guardian or curator or the partnership so entered into or such new partnership, as the case may be, shall in respect of the enterprise in question furnish the Secretary with a declaration in the form of the declaration referred to in subsection

30 (1) of section 12, and in such event the registration certificate issued by the Secretary under the said section to the said owner in respect of such enterprise shall, until it is cancelled by the Secretary, be deemed to have been issued to such executor, trustee, guardian or curator, in his capacity as such, or to such

35 partnership or new partnership, as the case may be, in respect of the said enterprise.

(4) Where any vendor—

- (a) repeatedly fails or neglects to pay any tax due by him as and when required by this Act; or
- 40 (b) repeatedly fails or neglects to furnish any declaration or return as and when required by this Act; or
- (c) utilizes any registration certificate issued under section 12—
- 45 (i) to obtain goods free of tax under any sale in respect of which tax is chargeable; or
- (ii) to have rendered to him free of tax any taxable service in respect of which tax is chargeable; or
- (iii) to import into the Republic free of tax goods in respect of which tax is chargeable,

50 or is found guilty of an offence under section 15 (3), the Secretary may, after giving written notice of at least ten days to the vendor of his intention to cancel any registration certificate issued to the vendor under section 12, but subject to the provisions of section 20, cancel such certificate, and in such case such

55 certificate shall on demand by the Secretary be surrendered by any person in possession thereof to the Secretary and, if the certificate is not so surrendered, the Secretary may seize the certificate.

(5) The cancellation or seizure of any registration certificate in terms of subsection (4) shall not absolve the vendor from the

60 performance of his duties under this Act.

(6) Where the Secretary—

- (a) has cancelled any registration certificate as contemplated in subsection (4) of this section or section 28 (3); or

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(b) na bedoelde intrekking die registrasie van die ondernemer herstel het, moet die Sekretaris, ondanks die bepalinge van artikel 4, by kennisgewing in die *Staatskoerant* die naam en adres van die ondernemer of sy onderneming, die verkoopbelastingregistrasienommer wat verskyn op die betrokke registrasiesertifikaat wat aan die ondernemer ingevolge artikel 12 uitgereik is en die feit dat bedoelde sertifikaat ingetrek is of dat bedoelde registrasie herstel is, na gelang van die geval, bekend maak.

Gebruik van
registrasie-
sertifikaat vir
vrystellings-
doeleindes.

14. (1) Waar 'n koper met betrekking tot 'n verkoop van goed, bruikhuur, huurvergoeding of belasbare diens of 'n invoerder van goed daarop aanspraak maak dat 'n vrystelling wat ingevolge artikel 6 (1) (b), (c), (f), (m), (r), (t) of (w) voorsien word, van toepassing is ten opsigte van bedoelde verkoop, bruikhuur, huurvergoeding of belasbare diens of die invoer van goed—

- (a) moet die verkoper met betrekking tot bedoelde verkoop, bruikhuur, huurvergoeding of belasbare diens of, in die geval van bedoelde invoer, die betrokke Kontroleur van Doeane en Aksyns of 'n betrokke persoon wat 'n beamppte is soos in die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), omskryf, hom tevrede stel dat bedoelde koper of invoerder in besit is van 'n registrasiesertifikaat uitgereik ingevolge artikel 12; en
- (b) moet bedoelde verkoper die koper 'n faktuur of ander stuk gee wat—
 - (i) die goed, bruikhuur, huurvergoeding of belasbare diens noem, beskrywe of identifiseer; en
 - (ii) die prys gevra of bedrag onderhewig aan belasting en die naam, adres en verkoopbelastingregistrasienommer van die koper aantoon, en moet die verkoper 'n afskrif van bedoelde faktuur of ander stuk behou; of
- (c) moet met betrekking tot bedoelde invoer, bedoelde Kontroleur of beamppte bedoelde verkoopbelastingregistrasienommer op 'n doeanestuk wat op daardie invoer betrekking het, aanteken of die invoerder versoek om dit daarop aan te teken.

(2) Waar 'n koper of invoerder aanspraak maak op 'n vrystelling soos in subartikel (1) beoog, moet hy die verkoper of Kontroleur of beamppte in paragraaf (a) van daardie subartikel bedoel, na gelang van die geval, tevrede stel dat hy in besit is van 'n registrasiesertifikaat uitgereik ingevolge artikel 12—

- (a) deur bedoelde registrasiesertifikaat oor te lê; of
- (b) deur aan bedoelde verkoper, Kontroleur of beamppte, na gelang van die geval—
 - (i) 'n fotokopie van bedoelde registrasiesertifikaat; of
 - (ii) 'n verklaring, in die vorm wat die Sekretaris voorskryf, met betrekking tot bedoelde registrasiesertifikaat,

te gee, en waar bedoelde koper of invoerder ingevolge die bepalinge van paragraaf (b) handel, word hy geag 'n registrasiesertifikaat uitgereik ingevolge artikel 12, te gebruik het.

(3) Die bepalinge van subartikels (1) en (2) is nie van toepassing nie met betrekking tot 'n verkoop van boerderyprodukte deur 'n boer aan 'n beheerraad ingestel ingevolge die Bemarkingswet, 1968 (Wet No. 59 van 1968).

(4) Met betrekking tot 'n verkoop per veiling of uit die hand deur 'n afslaer ten behoeve van iemand anders, word die verwysing in subartikels (1) en (2) na „verkoper” uitgelê as 'n verwysing na daardie afslaer.

Misbruik van
registrasiesertifikaat
deur koper.

15. (1) Waar 'n persoon—

- (a) goed vry van belasting verkry het ingevolge 'n verkoop ten opsigte waarvan hy belasting moes gedra het; of
- (b) vry van belasting 'n belasbare diens aan hom laat lewer het ten opsigte waarvan hy belasting moes gedra het; of
- (c) vry van belasting goed ingevoer het ten opsigte waarvan hy belasting moes gedra het,

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(b) has subsequent to such cancellation reinstated the registration of the vendor,
the Secretary shall, notwithstanding the provisions of section 4, by notice in the *Gazette*, publish the name and address of the vendor or of his enterprise, the sales tax registration number appearing on the relevant registration certificate issued to the vendor under section 12 and the fact that such certificate has been cancelled or that such registration has been reinstated, as the case may be.

14. (1) Where any purchaser in relation to any sale of goods, financial lease, rental consideration or taxable service or any importer of goods claims that an exemption provided under section 6 (1) (b), (c), (f), (m), (r), (t) or (w) is applicable in respect of such sale, financial lease, rental consideration or taxable service or the importation of goods—

Use of registration certificate for exemption purposes.

15 (a) the seller in relation to such sale, financial lease, rental consideration or taxable service or, in the case of such importation, the Controller of Customs and Excise concerned or any person concerned who is an officer as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964), shall satisfy himself that the said purchaser or importer holds a registration certificate issued in terms of section 12; and

20 (b) such seller shall give the purchaser an invoice or other document—

25 (i) naming, describing or identifying the goods, financial lease, rental consideration or taxable service; and

(ii) stating the price charged or amount subject to tax and the name, address and sales tax registration number of the purchaser,

30 and the seller shall retain a copy of such invoice or other document; or

(c) as respects such importation, the said Controller or officer shall endorse, or request the importer to endorse, such sales tax registration number on a customs document relating to such importation.

(2) Where any purchaser or importer claims any exemption as contemplated in subsection (1), he shall satisfy the seller or Controller or officer referred to in paragraph (a) of that subsection, as the case may be, that he holds a registration certificate issued under section 12—

(a) by producing such registration certificate; or

(b) by giving to such seller, Controller or officer, as the case may be—

45 (i) a photocopy of such registration certificate; or

(ii) a declaration, in such form as the Secretary may prescribe, relating to such registration certificate,

and where such purchaser or importer acts in terms of the provisions of paragraph (b), he shall be deemed to have utilized a registration certificate issued under section 12.

(3) The provisions of subsections (1) and (2) shall not apply in relation to any sale of farming products by a farmer to a control board established under the Marketing Act, 1968 (Act No. 59 of 1968).

55 (4) In relation to any sale by auction or out of hand by an auctioneer on behalf of any other person the reference to "seller" in subsections (1) and (2) shall be construed as a reference to such auctioneer.

15. (1) Where any person—

60 (a) has obtained goods free of tax under any sale in respect of which tax should have been borne by him; or

(b) has had rendered to him free of tax any taxable service in respect of which tax should have been borne by him; or

65 (c) has imported free of tax goods in respect of which tax should have been borne by him,

Misuse of registration certificate by purchaser.

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is die belasting wat betaalbaar geword het en enige boete wat ingevolge artikel 25 betaalbaar is ten opsigte van die laat betaling van daardie belasting, op daardie persoon verhaalbaar.

(2) Waar die verkoper met betrekking tot 'n verkoop of belasbare diens bedoel in paragraaf (a) of (b) van subartikel (1) te goeder trou en volgens die bepalings van artikels 6 en 14 opgetree het, is daardie verkoper onthef van aanspreeklikheid vir die betaling van die belasting en boete wat ingevolge bedoelde subartikel op die koper verhaalbaar is.

(3) 'n Persoon wat met 'n onregmatige bedoeling om te verhoed dat hy belasting dra ten opsigte van goed wat hy koop of invoer of mag koop of invoer of dienste wat aan hom gelewer is of mag word—

- (a) valslik voorgee dat hy 'n geregistreerde ondernemer is; of
- (b) valslik voorgee dat hy die houer is van 'n registrasiesertifikaat wat aan 'n ander persoon ingevolge artikel 12 uitgereik is; of
- (c) 'n registrasiesertifikaat wat aan hom ingevolge bedoelde artikel uitgereik is, verander of daarop skryf; of
- (d) 'n registrasiesertifikaat wat ingevolge bedoelde artikel aan hom ten opsigte van 'n onderneming uitgereik is, gebruik vir doeleindes behalwe die doeleindes van daardie onderneming; of
- (e) 'n registrasiesertifikaat gebruik wat ingevolge bedoelde artikel aan hom uitgereik is en nie meer geldig is nie, is aan misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige boete sowel as sodanige gevangenisstraf.

DEEL IV

Opgawes, betalings en aanslae

Belastingtydperk.

16. (1) Die belastingtydperke van toepassing ingevolge hierdie Wet op 'n onderneming bedryf deur 'n ondernemer is—

- (a) die tydperke wat eindig op die laaste dag van elke maand of op 'n dag binne sewe dae voor of na bedoelde laaste dag of op sodanige ander dag wat die Sekretaris, met inagneming van die omstandighede van die geval, goedkeur: Met dien verstande dat—
 - (i) die eerste bedoelde tydperk op die aanvangsdatum begin of, waar 'n onderneming op 'n latere datum 'n aanvang neem, bedoelde latere datum;
 - (ii) die eerste dag van enige daaropvolgende belastingtydperk die dag is wat volg op die laaste dag van die voorafgaande belastingtydperk;
 - (iii) waar 'n ondernemer sterf of sy boedel gesekwestreer word of hy die onderneming as geheel, of 'n gedeeltelike belang daarin, van die hand sit of, waar die ondernemer 'n vennootskap is, die vennootskap ontbind word, hetsy deur regswerking of andersins, is daar, tensy die Sekretaris anders gelas, 'n belastingtydperk wat eindig op die datum van die ondernemer se dood of die datum van sekwestrasie van die ondernemer se boedel of op die dag voor die datum waarop die vandiehandsetting van die onderneming of die belang daarin van krag word of op die dag voor die datum waarop die vennootskap ontbind word;
 - (iv) daar 'n belastingtydperk is wat eindig op die laaste dag van elke jaar van aanslag van die ondernemer ingevolge die Inkomstebelastingwet, of, waar die ondernemer ingevolge die bepalings van daardie Wet toegelaat is om rekenings vir sy onderneming te verstrek wat opgemaak is tot 'n ander datum as bedoelde laaste dag, op sodanige datum, tensy die ondernemer voor sodanige laaste dag of sodanige datum, na gelang van die geval, opgehou het om bedoelde onderneming te bedryf; of

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the tax which became payable and any penalty payable under section 25 in respect of the late payment of such tax shall be recoverable from that person.

- (2) Where the seller in relation to any sale or taxable service referred to in paragraph (a) or (b) of subsection (1) has acted in good faith and in accordance with the provisions of sections 6 and 14, such seller shall be relieved of liability for the payment of the tax and penalty recoverable from the purchaser under the said subsection.
- 10 (3) Any person who with a wrongful intent to avoid bearing tax payable in respect of goods which are or may be purchased or imported by him or services which have been or may be rendered to him—
- 15 (a) falsely represents that he is a registered vendor; or
(b) falsely represents that he is the holder of a registration certificate which was issued to any other person under section 12; or
(c) alters or writes on any registration certificate issued to him under the said section; or
20 (d) utilizes any registration certificate issued to him under the said section in respect of any enterprise for any purpose other than the purposes of such enterprise; or
(e) makes use of any registration certificate issued to him in terms of the said section which is no longer valid,
- 25 shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

PART IV

Returns, payments and assessments

30. 16. (1) The tax periods applicable under this Act to any Tax period.
enterprise carried on by a vendor shall be—
- 35 (a) the periods ending on the last day of each month or on a day within seven days before or after such last day or on such other day as the Secretary, having regard to the circumstances of the case, may approve: Provided that—
- 40 (i) the first such period shall commence on the commencement date or, where an enterprise is commenced on a later date, such later date;
- (ii) the first day of any subsequent tax period shall be the day following the last day of the preceding tax period;
- 45 (iii) where a vendor dies or his estate is sequestered or he disposes of the enterprise as a whole or of any part interest therein or, where the vendor is a partnership, the partnership is dissolved, whether by operation of law or otherwise, there shall, unless the Secretary otherwise directs, be a tax period ending on the date of the vendor's death or the date of the sequestration of the vendor's estate or on the day before the date on which the disposal of the enterprise or the interest therein takes effect or the day before the date from which the partnership is dissolved;
- 50 (iv) there shall be a tax period ending on the last day of every year of assessment of the vendor under the Income Tax Act or, where the vendor is under the provisions of that Act permitted to furnish accounts for his enterprise made up to a date other than such last day, on such date, unless the vendor has before such last day or such date, as the case may be, ceased to carry on such enterprise; or
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- (b) sodanige ander tydperk wat die Sekretaris, met inagning van die omstandighede van die geval, bepaal.
- (2) Vir die doeleindes van hierdie artikel beteken „maand” enigene van die twaalf dele waarin ’n kalenderjaar ingedeel is.

Opgawes, verklarings en betalings van belasting.

17. (1) Elke ondernemer wat ’n onderneming bedryf met 5
betrekking waartoe belasting bereken moet word op die wyse voorgeskryf in artikel 11 moet, binne die tydperk eindigende op die twintigste dag van die eerste maand wat begin na die einde van ’n belastingtydperk met betrekking tot bedoelde onderneming of, waar bedoelde belastingtydperk op of na die eerste dag en voor 10 die twintigste dag van ’n maand eindig, binne die tydperk wat op sodanige twintigste dag eindig—

- (a) aan die Sekretaris ’n opgawe (in die vorm wat die Sekretaris voorskryf) verstrek van die belasbare waardes ten opsigte waarvan belasting gedurende bedoelde 15 belastingtydperk deur die ondernemer betaalbaar geword het en bevattende sodanige inligting as wat vereis word; en
- (b) die belasting volgens die voorskrifte van bedoelde artikel bereken en bedoelde belasting aan die Sekretaris 20 betaal.

(2) Elke ondernemer wat ingevolge die bepalinge van artikel 12 ten opsigte van ’n onderneming geregistreer is, moet binne die tydperk deur subartikel (1) van hierdie artikel toegelaat, die in daardie subartikel bedoelde opgawe ten opsigte van elke belasting- 25 tydperk met betrekking tot bedoelde onderneming verstrek, hetsy belasting ten opsigte van bedoelde tydperk betaalbaar is al dan nie.

(3) Behoudens die bepalinge van artikels 35 en 39, waar belasting ten opsigte van enige belasbare waarde betaalbaar 30 geword het en daar nie vereis word dat bedoelde belasting op die in artikel 11 voorgeskrewe wyse bereken word nie, moet die persoon aanspreeklik vir bedoelde belasting nie later nie as die einde van die tydperk van tien dae na die datum waarop bedoelde belasting betaalbaar geword het— 35

- (a) aan die Sekretaris ’n verklaring (in die vorm wat die Sekretaris voorskryf) verstrek wat sodanige inligting bevat as wat vereis word; en
- (b) die belasting op bedoelde belasbare waarde teen die belastingskaal wat van krag is, bereken en bedoelde 40 belasting aan die Sekretaris betaal.

(4) Vir die doeleindes van hierdie artikel beteken „maand” enigene van die twaalf dele waarin ’n kalenderjaar ingedeel is.

Beraaming van belasting by versuim deur geregistreerde ondernemer om opgawe te verstrek.

18. (1) Wanneer ’n geregistreerde ondernemer versuim het om ’n opgawe te verstrek wat hy ingevolge artikel 17 (1) of (2) vir 45 enige belastingtydperk moet verstrek, kan die Sekretaris die belasting wat, na sy oordeel, waarskynlik deur bedoelde ondernemer ten opsigte van bedoelde tydperk betaalbaar is, beraam.

(2) Die Sekretaris moet die bedoelde ondernemer in kennis stel van die bedrag aan belasting aldus beraam en die ondernemer moet binne die tydperk wat die Sekretaris bepaal, bedoelde bedrag 50 aan die Sekretaris betaal of bedoelde opgawe verstrek en die korrekte bedrag aan belasting en enige boete wat ingevolge artikel 25 betaalbaar geword het, aan die Sekretaris betaal.

(3) Indien bedoelde ondernemer versuim om die bepalinge van 55 subartikel (2) na toe kom, word die bedrag aan belasting deur die Sekretaris ingevolge subartikel (1) beraam, geag ’n skuld te wees verskuldig aan die Staat en is dit op die ondernemer verhaalbaar op die in artikel 26 voorgeskrewe wyse.

(4) Ingeval die ondernemer die bedoelde opgawe verstrek of ’n 60 aanslag van die belasting betaalbaar ingevolge artikel 19 uitgereik is, verval die raming wat ingevolge subartikel (1) van hierdie artikel deur die Sekretaris gemaak is en word enige bedrag aan belasting wat ten opsigte van die belastingtydperk betaal of verhaal is, afgetrek van die bedrag aan belasting wat finaal deur 65 die Sekretaris bepaal word as die bedrag aan belasting wat ten opsigte van die betrokke belastingtydperk betaalbaar is, terwyl enige bedrag wat te veel betaal is, aan die ondernemer terugbetaalbaar is en enige bedrag wat te min betaal is, op hom verhaalbaar is.

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(b) such other period as the Secretary, having regard to the circumstances of the case, may determine.

(2) For the purposes of this section "month" means any of the twelve portions into which any calendar year is divided.

5 17. (1) Every vendor who carries on any enterprise in relation to which tax is required to be calculated in the manner prescribed by section 11 shall, within the period ending on the twentieth day of the first month commencing after the end of a tax period relating to such enterprise or, where such tax period ends on or after the first day and before the twentieth day of a month, within the period ending on such twentieth day—

- 10 (a) furnish the Secretary with a return (in such form as the Secretary may prescribe) of the taxable values in respect of which tax has become payable by the vendor during such tax period and containing such information as may be required; and
- 15 (b) calculate such tax in accordance with the said section and pay such tax to the Secretary.

(2) Every vendor who is under the provisions of section 12 registered in respect of any enterprise shall within the period allowed by subsection (1) of this section furnish the return referred to in that subsection in respect of each tax period in relation to such enterprise, whether or not tax is payable in respect of such period.

25 (3) Subject to the provisions of sections 35 and 39, where tax in respect of any taxable value has become payable and such tax is not required to be calculated in the manner prescribed by section 11, the person liable for the payment of such tax shall not later than the end of the period of ten days after the date on which such tax has become payable—

- 30 (a) furnish the Secretary with a declaration (in such form as the Secretary may prescribe) containing such information as may be required; and
- 35 (b) calculate the tax on such taxable value at the rate of tax in force and pay such tax to the Secretary.

(4) For the purposes of this section "month" means any of the twelve portions into which any calendar year is divided.

18. (1) Where any registered vendor has failed to furnish a return which he is required to furnish for any tax period in terms of section 17 (1) or (2), the Secretary may estimate the tax which, in his opinion, is probably payable by such vendor in respect of the said period.

Estimate of tax on failure of registered vendor to furnish return.

(2) The Secretary shall notify the said vendor of the amount of tax so estimated and the vendor shall within such period as the Secretary may stipulate, pay such amount to the Secretary or furnish the said return and pay to the Secretary the correct amount of tax and any penalty that has become payable under section 25.

(3) If the said vendor fails to comply with the provisions of subsection (2) the amount of tax estimated by the Secretary in terms of subsection (1) shall be deemed to be a debt due to the State and shall be recoverable from the vendor in the manner provided in section 26.

(4) In the event of the vendor furnishing the said return or an assessment of the tax payable having been made under section 19 the estimate made by the Secretary in terms of subsection (1) of this section shall lapse and any amount of tax paid or recovered in respect of the tax period shall be deducted from the amount of tax finally determined by the Secretary to be payable in respect of the tax period in question, any amount paid in excess being refundable to the vendor and any amount shortpaid being recoverable from him.

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Aanslae.

19. (1) Waar—

- (a) 'n persoon versuim om enige opgawe of verklaring te verstrek wat hy ingevolge artikel 17 moet verstrek; of
- (b) die Sekretaris nie tevrede is nie met enige opgawe of verklaring wat ingevolge daardie artikel deur 'n persoon 5 verstrek is; of
- (c) die Sekretaris rede het om te dink dat 'n persoon vir die betaling van enige bedrag aan belasting aanspreeklik geword het, maar bedoelde bedrag nie betaal het nie, kan die Sekretaris 'n aanslag maak van die bedrag aan belasting 10 betaalbaar deur bedoelde persoon, ongeag die feit dat die Sekretaris 'n raming van bedoelde belasting ingevolge artikel 18 mag gemaak het.

(2) By die maak van bedoelde aanslag kan die Sekretaris die bedrag waarop die belasting betaalbaar is, beraam. 15

(3) Behoudens die bepalinge van subartikel (5), moet die Sekretaris die betrokke persoon skriftelike kennis van bedoelde aanslag gee met vermelding van die bedrag waarop belasting betaalbaar is, die bedrag aan belasting betaalbaar en die bedrag van enige boete wat op daardie belasting betaalbaar is ingevolge 20 artikel 25: Met dien verstande dat waar die Sekretaris oortuig is dat 'n versuim om 'n akkurate opgawe of verklaring te verstrek of om enige verskuldigde bedrag aan belasting te betaal, nie te wyte was aan 'n bedoeling om aanspreeklikheid vir die betaling van belasting te vermy of uit te stel nie of die Sekretaris gedeeltelik 25 aldus oortuig is, hy in sodanige aanslag bedoelde boete geheel of gedeeltelik kan kwyt skeld.

(4) Die Sekretaris gee in die aanslagkennisgewing bedoel in subartikel (3) kennis aan die persoon vir wie dit gemaak is dat enige beswaar teen bedoelde aanslag ingedien of gestuur moet 30 word sodat dit die Sekretaris bereik binne een-en-twintig dae na die datum van bedoelde kennisgewing.

(5) Voordat 'n skriftelike kennisgewing van aanslag aan die betrokke persoon gegee word soos in subartikel (3) beoog, moet die Sekretaris 'n skriftelike kennisgewing van sy voorneme om 35 bedoelde aanslag te doen aan bedoelde persoon stuur, en daardie kennisgewing moet besonderhede bevat van—

- (a) die onderneming of transaksie ten opsigte waarvan die aanslag gedoen staan te word;
- (b) die belastingtydperk (indien enige) met betrekking 40 waartoe die aanslag gedoen staan te word;
- (c) die bedrag waarop die belasting betaalbaar sal wees;
- (d) die bedrag van die belasting daarop bereken; en
- (e) die bedrag van enige boete wat ingevolge artikel 25 hefbaar is: 45

Met dien verstande dat die Sekretaris nie aan die voorafgaande bepalinge van hierdie subartikel hoef te voldoen nie in 'n geval waar die betrokke persoon versuim het om aan die bepalinge van artikel 12 (1) te voldoen of die Sekretaris van oordeel is dat 'n vertraging met die uitreiking van die kennisgewing van aanslag in 50 subartikel (3) van hierdie artikel beoog, tot 'n verlies van Staatsinkomste mag lei.

DEEL V

Besware en Appelle

Sake wat na advieskomitee oor verkoopbelasting verwys kan word.

20. (1) Waar—

- (a) die Sekretaris ingevolge artikel 12 (3) 'n persoon in kennis gestel het van sy weiering om daardie persoon ingevolge die bepalinge van artikel 12 (2) te registreer; of
- (b) 'n kennisgewing ingevolge artikel 13 (4) deur die Sekre- 60 taris aan 'n ondernemer verstrek is van die Sekretaris se voorneme om 'n registrasiesertifikaat wat ingevolge artikel 12 (2) aan daardie ondernemer uitgereik is, in te trek; of
- (c) die Sekretaris ingevolge artikel 19 (5) 'n persoon in 65 kennis gestel het van sy voorneme om 'n aanslag vir daardie persoon te doen,

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Assessments.

19. (1) Where—

- (a) any person fails to furnish any return or declaration which he is required to furnish under section 17; or
- (b) the Secretary is not satisfied with any return or declaration furnished by any person under that section; or
- (c) the Secretary has reason to believe that any person has become liable for the payment of any amount of tax but has not paid such amount,

the Secretary may make an assessment of the amount of tax payable by such person notwithstanding the fact that the Secretary may have made an estimate of such tax under section 18.

(2) In making such assessment the Secretary may estimate the amount upon which the tax is payable.

(3) Subject to the provisions of subsection (5), the Secretary shall give the person concerned a written notice of such assessment stating the amount upon which tax is payable, the amount of tax payable and the amount of any penalty payable on such tax in terms of section 25: Provided that where the Secretary is satisfied that a failure to furnish an accurate return or declaration or to pay any amount of tax due was not due to an intent to avoid or postpone liability for the payment of tax or the Secretary is partly so satisfied, he may in such assessment remit such penalty in whole or in part.

(4) The Secretary shall, in the notice of assessment referred to in subsection (3), give notice to the person upon whom it has been made that any objection to such assessment shall be lodged or be sent so as to reach the Secretary within twenty-one days after the date of such notice.

(5) Before giving the person concerned any written notice of assessment as contemplated in subsection (3), the Secretary shall send such person a written notice of his intention to raise such an assessment, and such notice shall contain particulars of—

- (a) the enterprise or transaction in respect of which the assessment is to be raised;
- (b) the tax period (if any) in relation to which the assessment is to be raised;
- (c) the amount upon which the tax is to be payable;
- (d) the amount of the tax calculated thereon; and
- (e) the amount of any penalty chargeable in terms of section 25:

Provided that the Secretary shall not be required to comply with the foregoing provisions of this subsection in any case where the person concerned has failed to comply with the provisions of section 12 (1) or the Secretary is of opinion that a delay in the issue of the notice of assessment contemplated in subsection (3) of this section might result in a loss of State revenue.

PART V

Objections and Appeals

20. (1) Where—

- (a) the Secretary has in terms of section 12 (3) notified any person of his refusal to register that person under the provisions of section 12 (2); or
- (b) any notification has in terms of section 13 (4) been given by the Secretary to any vendor of the Secretary's intention to cancel any registration certificate issued to that vendor under section 12 (2); or
- (c) the Secretary has in terms of section 19 (5) notified any person of his intention to raise an assessment upon that person,

Matters referable to sales tax advisory committee.

het die betrokke persoon of ondernemer, indien hy met bedoelde weiering of beoogde optrede deur die Sekretaris ontevrede is, die reg om te versoek dat die saak verwys word na 'n advieskomitee oor verkoopbelasting (hieronder 'n advieskomitee genoem) wat ooreenkomstig die bepalings van hierdie artikel saamgestel is, vir 'n opinie of—

- (i) die weiering van bedoelde registrasie ingevolge artikel 12 (3) geregverdig is al dan nie; of
- (ii) die intrekking van bedoelde registrasiesertifikaat ingevolge artikel 13 (4) gegrond is al dan nie; of
- (iii) bedoelde voorgenome aanslag reg is al dan nie.

(2) Elke versoek dat 'n saak na 'n advieskomitee ingevolge die bepalings van subartikel (1) verwys word, moet skriftelik geskied en moet by die Sekretaris ingedien word binne 21 dae na die datum van die kennis wat deur die Sekretaris gegee is ingevolge artikel 12 (3), 13 (4) of 19 (5), na gelang van die geval.

(3) Elke advieskomitee bestaan uit drie lede benoem deur die Sekretaris uit 'n paneel van persone aangestel deur die Minister om in advieskomitees oor verkoopbelasting te dien, waarvan een deur die Sekretaris benoem word om as voorsitter van die komitee op te tree, een 'n praktiserende rekenmeester met minstens tien jaar ondervinding in die beroep is en die derde—

- (a) indien die saak ten opsigte waarvan 'n opinie versoek word, betrekking het op 'n mynbou- of steengroefaangeleentheid, 'n persoon is wat in die paneel aangestel is weens sy kennis van mynbou- of steengroefaangeleenthede; of
- (b) indien die saak betrekking het op 'n boerdery- of bosbou-aangeleentheid, 'n persoon is wat in die paneel aangestel is weens sy kennis van boerdery- of bosbou-aangeleenthede; of
- (c) indien die saak van 'n ander aard is, 'n persoon is wat in die paneel aangestel is weens sy kommersiële, nywerheids- of finansiële kennis.

(4) 'n Amptenaar wat diens doen by die uitvoering van die bepalings van hierdie Wet onder die beheer, leiding of toesig van die Sekretaris, word deur die Sekretaris benoem om as sameroeper van 'n advieskomitee op te tree, en daardie amptenaar moet skriftelike kennis van minstens veertien dae van die datum, tyd en plek van 'n vergadering van die komitee gee aan die persoon of ondernemer wat 'n opinie van bedoelde komitee versoek.

(5) By 'n vergadering van 'n advieskomitee—

- (a) kan die persoon of ondernemer wat 'n opinie van bedoelde komitee versoek het, of sy behoorlik gemagtigde verteenwoordiger, en die Sekretaris of sy verteenwoordiger persoonlik voor die komitee verskyn en is hulle geregtig om enige inligting voor te lê en om redes aan te voer ter ondersteuning van hul onderskeie standpunte aangaande die saak ten opsigte waarvan 'n opinie versoek word;
- (b) kan die komitee, indien hy dit goedvind, vereis dat getuienis wat voor die komitee gelê word, onder eed afgelê word;
- (c) is die verrigtinge informeel, nie vir die publiek toeganklik nie en kan dit slegs bygewoon word deur persone wie se bywoning na die oordeel van die komitee noodsaaklik is vir die behoorlike oorweging van die saak ten opsigte waarvan 'n opinie versoek word.

(6) Waar 'n vergadering van 'n advieskomitee gehou sal word op 'n plek in 'n ander distrik as dié waarin die persoon of ondernemer wat 'n opinie van die komitee versoek, 'n onderneming bedryf, kan die komitee 'n skriftelike uiteensetting van saak toelaat in plaas van 'n verskyning deur bedoelde persoon of ondernemer of 'n verteenwoordiger namens hom, en in so 'n geval moet ses afskrifte van bedoelde uiteensetting aan die sameroeper van die komitee gestuur word sodat dit minstens agt-en-veertig uur voor die datum van die vergadering van die komitee, soos ingevolge subartikel (4) meegedeel, deur hom ontvang kan word.

(7) Na oorweging van die inligting aan hom voorgelê en die standpunte van die partye, moet 'n advieskomitee sy opinie oor

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the person or vendor concerned shall, if he is dissatisfied with such refusal or contemplated action by the Secretary, have the right to request that the matter be referred to a sales tax advisory committee (hereinafter referred to as an advisory committee),
5 constituted in accordance with the provisions of this section, for an opinion as to whether—

- (i) the refusal of such registration in terms of section 12 (3) is or is not justified; or
- 10 (ii) the cancellation of such registration certificate in terms of section 13 (4) is or is not warranted; or
- (iii) such intended assessment is or is not correct.

(2) Every request for a matter to be referred to an advisory committee under the provisions of subsection (1) shall be in writing and shall be lodged with the Secretary within 21 days after
15 the date of the notification by the Secretary given in terms of section 12 (3), 13 (4) or 19 (5), as the case may be.

(3) Every advisory committee shall consist of three members nominated by the Secretary from a panel of persons appointed by the Minister to serve on sales tax advisory committees, of whom
20 one shall be nominated by the Secretary to act as chairman of the committee, one shall be a practising accountant of not less than ten years' standing and the third shall be—

- 25 (a) if the matter in respect of which an opinion is sought relates to any mining or quarrying matter, a person appointed to the panel by reason of his knowledge of mining or quarrying matters; or
- (b) if the matter relates to any farming or forestry matter, a person appointed to the panel by reason of his knowledge of farming or forestry matters; or
- 30 (c) if the matter is of any other nature, a person appointed to the panel by reason of his commercial, industrial or financial knowledge.

(4) An officer engaged in carrying out the provisions of this Act under the control, direction and supervision of the Secretary shall
35 be nominated by the Secretary to act as convenor of an advisory committee, and such officer shall give at least fourteen days notice in writing to the person or vendor requesting an opinion from such committee of the date, time and place of any meeting of the committee.

40 (5) At any meeting of an advisory committee—

- (a) the person or vendor requesting an opinion from such committee, or his duly appointed representative, and the Secretary or his representative may appear in person before the committee and shall be entitled to present any
45 information and to advance reasons in support of their respective contentions concerning the matter in respect of which an opinion is sought;
- (b) the committee may, if it deems fit, require that any evidence laid before the committee be given on oath; and
- 50 (c) the proceedings shall be informal, shall not be public and may only be attended by persons whose attendance, in the opinion of the committee, is necessary for the proper consideration of the matter in respect of which an
55 opinion is sought.

(6) Where any meeting of an advisory committee is due to be held at a place within a district other than that in which the person or vendor seeking an opinion carries on any enterprise, the committee may admit a written statement of case in lieu of an
60 appearance by such person or vendor or any representative on his behalf, and in such case six copies of any such statement shall be forwarded to the convenor of the committee so as to be received by him not later than forty-eight hours before the date of the meeting of the committee as notified in terms of subsection (4).

65 (7) After consideration of the information presented to it and the contentions of the parties, an advisory committee shall give its

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die saak voor hom uitspreek, met vermelding van die feite van die saak soos dit aan die komitee voorkom, en die redes vir sy gevolgtrekkings.

(8) 'n Opinie deur 'n advieskomitee uitgespreek word op skrif gestel, en 'n afskrif daarvan word aan elkeen van die betrokke 5 partye deur die sameroeper van die komitee verstrekt.

(9) 'n Opinie deur 'n advieskomitee uitgespreek met betrekking tot—

(a) die weiering deur die Sekretaris ingevolge die bepaling van artikel 12 (3) om 'n persoon wat 'n onderneming 10 bedryf, te registreer; of

(b) die intrekking van 'n registrasiesertifikaat ingevolge die bepaling van artikel 13 (4),

is finaal en afdoende teen beide die Sekretaris en die betrokke persoon of ondernemer wat bedoelde opinie versoek het. 15

(10) 'n Opinie deur 'n advieskomitee uitgespreek aangaande die korrektheid of andersins van 'n voorgenome aanslag soos ingevolge die bepaling van artikel 19 (5) meegedeel, is nie vir die Sekretaris of 'n geregshof bindend nie: Met dien verstande dat 20 waar bedoelde opinie teen die standpunt van die Sekretaris uitgespreek word en die Sekretaris nie met bedoelde opinie akkoord gaan nie, die Sekretaris skriftelike kennis aan die ander betrokke party gee dat hy nie met die opinie akkoord gaan nie en daarna 'n aanslag kan doen soos in artikel 19 (3) beoog.

Besware.

21. (1) Iemand wat ontevrede is met 'n aanslag wat vir hom 25 deur die Sekretaris gemaak is ingevolge die bepaling van artikel 19, kan 'n beswaar by die Sekretaris indien.

(2) Elke beswaar geskied skriftelik en moet die gronde waarop dit steun, in besonderhede aandui.

(3) Geen beswaar word deur die Sekretaris in oorweging 30 geneem wat nie by sy kantoor afgelewer is of betyds aan hom gepos is nie om hom te bereik binne een-en-twintig dae na die datum van die kennisgewing van die aanslag waarteen beswaar ingedien word, tensy die Sekretaris oortuig is dat daar redelike gronde vir die vertraging by die indiening van die beswaar 35 bestaan.

(4) Die Sekretaris kan nadat hy die beswaar oorweeg het—

(a) die aanslag wysig of verminder; of

(b) die beswaar van die hand wys,

en moet skriftelike kennisgewing van so 'n wysiging, verminde- 40 ring of afwysing, na gelang van die geval, aan die persoon stuur wat die beswaar gemaak het.

(5) Waar geen beswaar teen 'n aanslag gemaak word nie of waar 'n beswaar van die hand gewys of teruggetrek is, of 'n aanslag gewysig of verminder is, is so 'n aanslag of gewysigde of 45 verminderde aanslag, na gelang van die geval, behoudens die reg van appèl hieronder bepaal, finaal en afdoende.

Appèlle.

22. (1) Iemand wat geregtig is om 'n beswaar te maak en wat ontevrede is met 'n beslissing van die Sekretaris soos ingevolge artikel 21 (4) aan hom meegedeel, kan daarteen appelleer na 'n 50 spesiale hof saamgestel ingevolge die bepaling van artikel 83 van die Inkomstebelastingwet.

(2) Elke kennisgewing van appèl geskied skriftelik en word by die Sekretaris ingedien binne 'n tydperk van dertig dae na die datum van die kennisgewing in artikel 21 (4) vermeld, en so 'n 55 kennisgewing van appèl het geen uitwerking of krag hoegenaamd nie, tensy dit binne bedoelde tydperk ingedien word.

(3) By die verhoor van 'n appèl ingevolge hierdie artikel—

(a) word die appellant beperk tot die gronde vermeld in die kennisgewing van beswaar bedoel in artikel 21 (2); 60

(b) word die saak deur die spesiale hof ondersoek en oorweeg en kan hy beveel dat die aanslag waarteen geappelleer word, gewysig, verminder of bekrachtig word, of na goedvinde die aanslag na die Sekretaris vir verdere ondersoek en aanslag terugverwys. 65

(4) Die bepaling van subartikels (8), (9), (10), (11), (12), (14), (15), (16) en (17) van artikel 83, en van artikels 84, 85 en 86A van die Inkomstebelastingwet, en enige regulasies wat kragtens

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opinion on the matter before it, stating the facts of the matter as they appear to the committee and the reasons for its conclusions.

(8) Any opinion given by an advisory committee shall be reduced to writing, and a copy thereof shall be furnished by the 5 convenor of the committee to each of the parties concerned.

(9) Any opinion given by an advisory committee in regard to—

- (a) a refusal by the Secretary under the provisions of section 12 (3) to register any person carrying on any enterprise; or
10 (b) the cancellation of any registration certificate under the provisions of section 13 (4),
shall be final and conclusive against both the Secretary and the person or vendor concerned who requested such an opinion.

(10) Any opinion given by an advisory committee as to the 15 correctness or otherwise of any intended assessment as notified under the provisions of section 19 (5) shall not be binding upon the Secretary or upon any court of law: Provided that where such opinion is given against the contentions of the Secretary and the Secretary is not in agreement with such opinion, the Secretary 20 shall give notice in writing to the other party concerned that he does not agree with the opinion and may thereafter proceed to make an assessment as contemplated in section 19 (3).

21. (1) Any person who is dissatisfied with any assessment 25 19 may lodge an objection with the Secretary. Objections.

(2) Every objection shall be in writing and shall specify in detail the grounds upon which it is made.

(3) No objection shall be considered by the Secretary which is not delivered at his office or posted to him in sufficient time to 30 reach him within twenty-one days after the date of the notice of the assessment against which objection is lodged, unless the Secretary is satisfied that reasonable grounds exist for delay in lodging the objection.

(4) After having considered the objection, the Secretary may—

- 35 (a) alter or reduce the assessment; or
(b) disallow the objection,
and shall send the person who made the objection written notice of such alteration, reduction or disallowance, as the case may be.

(5) Where no objection is made to any assessment or where any 40 objection has been disallowed or withdrawn or an assessment has been altered or reduced, such assessment or altered or reduced assessment, as the case may be, shall, subject to the right of appeal hereinafter provided, be final and conclusive.

22. (1) Any person entitled to make an objection who is 45 dissatisfied with any decision of the Secretary as notified to him in terms of section 21 (4), may appeal therefrom to the special court constituted under the provisions of section 83 of the Income Tax Act. Appeals.

(2) Every notice of appeal shall be in writing and shall be 50 lodged with the Secretary within a period of thirty days after the date of the notice mentioned in section 21 (4), and such notice of appeal shall be of no force or effect whatsoever unless it is lodged within the said period.

(3) At the hearing of any appeal under this section—

- 55 (a) the appellant shall be limited to the grounds stated in the notice of objection referred to in section 21 (2);
(b) the special court shall inquire into and consider the matter and may order the assessment under appeal to be altered, reduced or confirmed, or, if it thinks fit, refer
60 such assessment back to the Secretary for further investigation and assessment.

(4) The provisions of subsections (8), (9), (10), (11), (12), (14), (15), (16) and (17) of section 83, and of sections 84, 85 and 86A of the Income Tax Act and any regulation made under that Act

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daardie Wet uitgevaardig is en betrekking het op 'n appèl na die spesiale hof bedoel in subartikel (1) van hierdie artikel en op 'n appèl ingevolge bedoelde artikel 86A, is *mutatis mutandis* met betrekking tot 'n appèl ingevolge hierdie artikel van toepassing.

(5) Die verpligting om belasting hefbaar ingevolge hierdie Wet te betaal en die reg om dit te ontvang en te in, word nie, tensy die Sekretaris aldus beveel, deur 'n appèl of hangende die beslissing van 'n geregshof ingevolge artikel 86A van die Inkomstebelastingwet soos toegepas deur subartikel (4) van hierdie artikel, opgeskort nie, maar indien 'n aanslag op appèl of ooreenkomstig so 'n beslissing verander word, vind 'n behoorlike aansuiwering plaas waarby bedrae wat te veel betaal is, terugbetaal word met rente teen die skaal van sewe-en-'n-half persent per jaar bereken vanaf die datum wat, na tot bevrediging van die Sekretaris bewys word, die datum is waarop die bedrae wat te veel betaal is, ontvang is, en bedrae wat te min betaal is met boete, bereken volgens voorskrif van artikel 25 (1), verhaal kan word.

Bewyslas betreffende
vrystellings of
nie-aanspreeklikheid.

23. Die las om te bewys dat 'n bedrag van die belasting hefbaar ingevolge hierdie Wet vrygestel is of nie daaraan onderhewig is nie rus op die persoon wat op dié vrystelling of nie-belasbaarheid aanspraak maak, en by die verhoor van 'n appèl teen 'n beslissing van die Sekretaris, word die beslissing nie ter syde gestel of verander nie tensy die appellant bewys dat die beslissing verkeerd is.

DEEL VI

25

Betaling en verhaling van belasting

Wyse waarop
belasting betaal word.

24. (1) Behoudens die bepalinge van subartikels (2), (3) en (4) van hierdie artikel en die bepalinge van artikel 39, moet die belasting wat ingevolge hierdie Wet betaalbaar is, ten volle betaal word binne die tyd toegelaat deur artikel 17.

(2) Waar die Sekretaris oortuig is dat weens omstandighede buite die beheer van die persoon wat vir die betaling van die belasting aanspreeklik is, die bedrag van belasting verskuldig nie binne die tyd toegelaat deur artikel 17 akkuraat bereken kan word nie, kan die Sekretaris na goeddunke en onderworpe aan die voorwaardes wat hy oplê, instem om 'n betaling van 'n deposito deur daardie persoon te ontvang van 'n bedrag gelyk aan die geraamde aanspreeklikheid van daardie persoon vir bedoelde belasting.

(3) Bedoelde betaling word geag 'n voorlopige betaling te wees ten opsigte van die aanspreeklikheid van bedoelde persoon vir bedoelde belasting, soos finaal vasgestel, en wanneer daardie aanspreeklikheid aldus vasgestel word, is 'n bedrag wat te veel betaal is aan daardie persoon terugbetaalbaar en is enige bedrag wat te min betaal is, op hom verhaalbaar.

(4) Rente word deur bedoelde persoon betaal teen die skaal van sewe-en-'n-half persent per jaar op enige sodanige bedrag wat te min betaal is ten opsigte van die tydperk gereken vanaf die dag na die datum waarop die belasting ten volle betaal moet gewees het tot die datum van betaling van bedoelde bedrag wat te min betaal is.

Boete weens versuim
om belasting te betaal
wanneer verskuldig.

25. (1) (a) Indien iemand wat vir die betaling van belasting aanspreeklik is en daardie betaling volgens voorskrif van subartikel (1) van artikel 17 moet maak, versuim of binne die tydperk wat ingevolge bedoelde subartikel vir die betaling van daardie belasting toegelaat word, enige bedrag van daardie belasting te betaal, moet hy, benewens bedoelde bedrag van belasting, 'n boete betaal gelyk aan tien persent van bedoelde bedrag vir elke maand of gedeelte daarvan, gereken vanaf die eerste dag van die maand waarin bedoelde tydperk geëindig het tot die datum van die betaling van bedoelde bedrag: Met dien verstande dat bedoelde boete nie bedoelde bedrag van belasting te bowe gaan nie.

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relating to any appeal to the special court referred to in subsection (1) of this section and to any appeal in terms of the said section 86A, shall *mutatis mutandis* apply with reference to any appeal under this section.

- 5 (5) The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Secretary so directs, be suspended by any appeal or pending the decision of a court of law under section 86A of the Income Tax Act, as applied by subsection (4) of this section, but if any assessment is
10 altered on appeal or in conformity with any such decision, a due adjustment shall be made, amounts paid in excess being refunded with interest at the rate of seven and a half per cent per annum calculated from the date proved to the satisfaction of the Secretary to be the date on which such excess was received and amounts
15 shortpaid being recoverable with penalty calculated as provided in section 25 (1).

23. The burden of proof that any amount is exempt from or not liable to the tax chargeable under this Act shall be upon the person claiming such exemption or non-liability, and upon the hearing of
20 any appeal from any decision of the Secretary, the decision shall not be reversed or altered unless it is shown by the appellant that the decision is wrong.
- Burden of proof as to exemptions or non-liability.

PART VI

Payment and recovery of tax

- 25 24. (1) Subject to the provisions of subsections (2), (3) and (4) of this section and the provisions of section 39, the tax payable under this Act shall be paid in full within the time allowed by section 17.
- Manner in which tax shall be paid.

- (2) Where the Secretary is satisfied that due to circumstances
30 beyond the control of the person liable for the payment of the tax the amount of tax due cannot be accurately calculated within the time allowed by section 17, the Secretary may in his discretion and subject to such conditions as he may impose, agree to accept a payment of a deposit by such person of an amount equal to the
35 estimated liability of such person for such tax.

- (3) Such payment shall be deemed to be a provisional payment in respect of the liability of the said person for such tax, as finally determined, and when such liability is so determined any amount paid in excess shall be refundable to such person and any amount
40 shortpaid shall be recoverable from him.

- (4) Interest shall be paid by such person at the rate of seven and a half per cent per annum on any such shortpaid amount in respect of the period reckoned from the day after the date by which the tax should have been paid in full to the date of payment of such
45 shortpaid amount.

25. (1) (a) If any person who is liable for the payment of tax and is required to make such payment in the manner prescribed in subsection (1) of section 17, fails to pay any amount of such tax within the period allowed for payment of such tax under the said subsection he shall, in addition to such amount of tax, pay a penalty equal to ten per cent of such amount for each month or part thereof reckoned from the first day of the month during which the said period ended to the date of payment of the said amount: Provided that such penalty shall not exceed such amount of tax.
- Penalty for failure to pay tax when due.
- 50
- 55

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(b) By die toepassing van paragraaf (a) beteken „maand” enigeeen van die twaalf dele waarin ’n kalenderjaar ingedeel is.

(2) Indien iemand wat vir die betaling van belasting aanspreeklik is en daardie betaling volgens voorskrif van subartikel (3) van artikel 17 moet maak, versuim om teen die einde van die tydperk wat ingevolge bedoelde subartikel vir die betaling van daardie belasting toegelaat word enige bedrag van daardie belasting te betaal, moet hy, benewens bedoelde bedrag van belasting, ’n boete betaal gelyk aan tien persent van bedoelde bedrag vir elke maand of gedeelte daarvan, gereken vanaf die begin van bedoelde tydperk tot die datum van betaling van bedoelde bedrag: Met dien verstande dat bedoelde boete nie bedoelde bedrag van belasting te bowe gaan nie.

(3) Waar ’n invoerder van goed wat ingevolge die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), geklaar moet word, versuim om ’n bedrag aan belasting betaalbaar ten opsigte van die belasbare waarde van die ingevoerde goed, te betaal wanneer die goed ingevolge daardie Wet vir binnelandse verbruik in die Republiek geklaar is, moet hy, benewens bedoelde bedrag aan belasting, ’n boete betaal gelyk aan tien persent van bedoelde bedrag vir elke maand of gedeelte daarvan, gereken vanaf die dag na die datum waarop die goed aldus geklaar word tot die datum van betaling van genoemde bedrag: Met dien verstande dat bedoelde boete nie bedoelde bedrag aan belasting te bowe gaan 25 nie.

(4) Waar die Sekretaris oortuig is dat die versuim van die kant van iemand om betaling van die belasting te maak wanneer deur hierdie Wet vereis, nie te wyte was aan ’n bedoeling om aanspreeklikheid vir die betaling van die belasting te vermy of uit 30 te stel nie, of die Sekretaris gedeeltelik aldus oortuig is, hy ’n boete wat ingevolge hierdie artikel betaalbaar is geheel of gedeeltelik kan kwytsteld.

(5) Die boete bedoel in subartikel (1) of (2) is nie betaalbaar nie in ’n geval waar die Sekretaris kragtens die bepalings van artikel 35 24 (2) ingestem het om die betaling van ’n deposito deur ’n persoon te ontvang van ’n bedrag gelyk aan die geraamde aanspreeklikheid van daardie persoon vir die betrokke belasting.

Verhaal van
belasting.

26. (1) Belasting, rente of boete betaalbaar ingevolge hierdie Wet is, wanneer dit verskuldig word of betaalbaar is, ’n skuld aan 40 die Staat verskuldig en is deur die Sekretaris op die wyse hieronder bepaal, verhaalbaar.

(2) (a) Indien iemand versuim om belasting, rente of boete betaalbaar ingevolge hierdie Wet te betaal wanneer dit deur hom verskuldig word of betaalbaar is, kan die 45 Sekretaris by die klerk of griffier van ’n bevoegde hof ’n verklaring indien wat deur hom as juis gesertifiseer is en waarin die bedrag daarvan aldus deur daardie persoon verskuldig of betaalbaar uiteengesit word, en so ’n verklaring het daarna al die gevolge van ’n siviele 50 vonnis en enige geding kan daarop ingestel word asof dit ’n siviele vonnis is wat regtens in daardie hof ten gunste van die Sekretaris gegee is vir ’n likwiede skuld vir die bedrag in die verklaring vermeld.

(b) Die Sekretaris kan by skriftelike kennisgewing aan 55 voornoemde klerk of griffier gerig, die in paragraaf (a) bedoelde verklaring intrek en daardie verklaring het daarna geen uitwerking nie: Met dien verstande dat die Sekretaris geregtelike stappe ingevolge daardie paragraaf opnuut kan instel met betrekking tot belasting, 60 rente of boete waarna in die ingetrekke verklaring verwys word.

(c) Die Sekretaris kan ’n geding instel vir die sekwestrasie van die boedel van enigiemand en word vir die doeleindes van so ’n geding geag die skuldeiser te wees 65 ten opsigte van belasting, rente of boete betaalbaar deur bedoelde persoon ingevolge die bepalings van hierdie Wet.

(3) Ondanks enige bepalings van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), kan ’n verklaring ten opsigte van

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(b) For the purposes of paragraph (a) "month" means any of the twelve portions into which any calendar year is divided.

(2) If any person who is liable for the payment of tax and is required to make such payment in the manner prescribed in subsection (3) of section 17, fails to pay any amount of such tax by the end of the period allowed for payment of such tax under the said subsection, he shall, in addition to such amount of tax, pay a penalty equal to ten per cent of such amount for each month or part thereof reckoned from the beginning of the said period to the date of payment of the said amount: Provided that such penalty shall not exceed such amount of tax.

(3) Where any importer of goods which are required to be cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964), fails to pay any amount of tax payable in respect of the taxable value of the imported goods at the time the goods are entered under the said Act for home consumption in the Republic, he shall, in addition to such amount of tax, pay a penalty equal to ten per cent of such amount for each month or part thereof reckoned from the day after the date on which the goods are so cleared to the date of payment of the said amount: Provided that such penalty shall not exceed such amount of tax.

(4) Where the Secretary is satisfied that the failure on the part of any person to make payment of the tax when required by this Act was not due to an intent to avoid or postpone liability for the payment of the tax, or the Secretary is partly so satisfied, he may remit in whole or in part any penalty payable in terms of this section.

(5) The penalty referred to in subsection (1) or (2) shall not be payable in any case where the Secretary has in terms of the provisions of section 24 (2) agreed to accept payment of a deposit by any person of an amount equal to the estimated liability of such person for the tax in question.

26. (1) Any amount of tax, interest or penalty payable in terms of this Act shall, when it becomes due or is payable, be a debt due to the State and shall be recoverable by the Secretary in the manner hereinafter provided. Recovery of tax.

(2) (a) If any person fails to pay any tax, interest or penalty payable in terms of this Act, when it becomes due or is payable by him, the Secretary may file with the clerk or registrar of any competent court a statement certified by him as correct and setting forth the amount thereof so due or payable by that person, and such statement shall thereupon have all the effects of, and any proceedings may be taken thereon as if it were, a civil judgment lawfully given in that court in favour of the Secretary for a liquid debt of the amount specified in the statement.

(b) The Secretary may by notice in writing addressed to the aforesaid clerk or registrar, withdraw the statement referred to in paragraph (a) and such statement shall thereupon cease to have any effect: Provided that the Secretary may institute proceedings afresh under that paragraph in respect of any tax, interest or penalty referred to in the withdrawn statement.

(c) The Secretary may institute proceedings for the sequestration of the estate of any person and shall for the purposes of such proceedings be deemed to be the creditor in respect of any tax, interest or penalty payable by such person under the provisions of this Act.

(3) Notwithstanding anything contained in the Magistrate's Courts Act, 1944 (Act No. 32 of 1944), a statement for any

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enige bedrag hoegenaamd ingevolge paragraaf (a) van subartikel (2) ingedien word by die klerk van die landdroshof wat regsbevoeg is ten aansien van die persoon deur wie sodanige bedrag ooreenkomstig die bepalinge van hierdie Wet betaalbaar is.

Juistheid van raming of aanslag kan nie in twyfel getrek word nie.

27. Niemand is bevoeg om in 'n geding in verband met 'n verklaring wat ingevolge artikel 26 (2) (a) ingedien is, die juistheid van 'n raming of aanslag waarop sodanige verklaring gegrond is, in twyfel te trek nie, al word die bedrag van daardie raming betwis of al is 'n beswaar en appèl teen daardie aanslag ingedien.

Sekuriteit vir belasting.

28. (1) Die Sekretaris kan, in die geval van 'n ondernemer wat skuldig bevind is aan 'n oortreding ingevolge hierdie Wet of wat herhaaldelik versuim het om bedrae aan belasting te betaal wat deur hom verskuldig is of om ander verpligtinge na te kom wat deur hierdie Wet opgelê word, by skriftelike kennisgewing aan daardie ondernemer vereis dat hy, binne sodanige tydperk wat die Sekretaris mag toelaat, aan of by die Sekretaris sekuriteit verstreke of deponeer vir die betaling van belasting of boete wat ingevolge hierdie Wet deur die ondernemer betaalbaar geword het of betaalbaar mag word.

(2) Bedoelde sekuriteit is van die aard, vir die bedrag en in die vorm wat die Sekretaris gelas.

(3) Indien daardie ondernemer weier of nalaat om bedoelde kennisgewing na te kom, kan die Sekretaris, op die wyse voorgeskryf in artikel 13, 'n registrasiesertifikaat wat aan die ondernemer ingevolge artikel 12 uitgereik is, intrek.

(4) Waar die Sekretaris gelas het dat sodanige sekuriteit in die vorm van 'n kontantdeposito moet wees en die ondernemer versuim om binne die tydperk wat deur die Sekretaris toegelaat is, bedoelde deposito te maak, is die bedrag van bedoelde deposito op die ondernemer verhaalbaar ingevolge die bepalinge van artikel 26 asof bedoelde bedrag 'n bedrag aan belasting is wat deur die ondernemer verskuldig is.

(5) Waar bedoelde sekuriteit in die vorm van 'n kontantdeposito is, kan die gedeponeerde bedrag deur die Sekretaris geheel of gedeeltelik teen enige aanspreeklikheid van die ondernemer vir belasting, boete of rente ingevolge hierdie Wet verskuldig is, verreken word of kan bedoelde bedrag (of die balans daarvan wat oorbly na aftrekking van enige gedeelte daarvan wat soos voormeld verreken is) kan deur die Sekretaris aan die ondernemer terugbetaal word wanneer die Sekretaris oortuig is dat die sekuriteit nie meer nodig is nie.

DEEL VII

Verteenwoordigers

Bevoegdheid om agente aan te stel.

29. Die Sekretaris kan, indien hy dit nodig ag, 'n persoon tot agent van 'n ander persoon verklaar, en die persoon aldus tot agent verklaar, is vir die doeleindes van hierdie Wet die agent van daardie ander persoon ten opsigte van die betaling van 'n bedrag aan belasting, rente of boete betaalbaar ingevolge hierdie Wet deur daardie ander persoon en van hom kan vereis word om betaling van daardie bedrag te maak uit gelde wat deur hom gehou mag word vir of deur hom verskuldig mag wees aan die persoon tot wie se agent hy verklaar is.

Regsmiddele van Sekretaris teen agent of trustee.

30. Die Sekretaris het in dieselfde mate en op dieselfde wyse al die regsmiddele teen alle eiendom van welke soort ook al wat berus by of onder die beheer of bestuur is van 'n agent of persoon wat in 'n fidusiêre hoedanigheid optree, as wat hy sou hê teen die eiendom van 'n persoon wat aanspreeklik is om belasting, rente of boete ingevolge hierdie Wet te betaal.

Pligte van persone wat in 'n verteenwoordigende hoedanigheid optree.

31. (1) Die persoon verantwoordelik vir die nakoming van die pligte deur hierdie Wet opgelê—

(a) op 'n maatskappy is die openbare amptenaar daarvan beoog in artikel 101 van die Inkomstebelastingwet, of,

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amount whatsoever may be filed in terms of paragraph (a) of subsection (2) with the clerk of the magistrate's court having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act.

- 5 27. It shall not be competent for any person in proceedings in connection with any statement filed in terms of section 26 (2) (a) to question the correctness of any estimate or assessment upon which such statement is based, notwithstanding that the amount of such estimate is disputed or that objection and appeal may have
10 been lodged against such assessment.

Correctness of estimate or assessment cannot be questioned.

28. (1) The Secretary may, in the case of any vendor who has been convicted of any offence under this Act 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, by written notice
15 to such vendor require him, within such period as the Secretary may allow, to furnish to or deposit with the Secretary security for the payment of any tax or penalty which has or may become payable by the vendor under this Act.

Security for tax.

- 20 (2) Such security shall be of such nature, for such amount and in such form as the Secretary may direct.

- (3) If such vendor refuses or neglects to comply with such notice the Secretary may, in the manner provided in section 13, cancel any registration certificate issued to the vendor under section 12.

- 25 (4) Where the Secretary has directed that such security shall be in the form of a cash deposit and the vendor fails to make such deposit within the period allowed by the Secretary, the amount of such deposit shall be recoverable from the vendor under the provisions of section 26 as though such amount were an amount
30 of tax due by the vendor.

- (5) Where such security is in the form of a cash deposit, the amount deposited may be set off in whole or in part by the Secretary against any liability of the vendor for any tax, penalty or interest under this Act or such amount (or the balance thereof
35 remaining after deducting any portion thereof which has been set off as aforesaid) may be repaid by the Secretary to the vendor when the Secretary is satisfied that the security is no longer required.

PART VII

40 *Representatives*

29. The Secretary may, if he thinks it necessary, declare any person to be the agent of any other person, and the person so declared an agent shall for the purposes of this Act be the agent of such other person in respect of the payment of any amount of tax,
45 interest or penalty payable by such other person under this Act and may be required to make payment of such amount from any moneys which may be held by him for or be due by him to the person whose agent he has been declared to be.

Power to appoint agents.

30. The Secretary shall have the same remedies against all property of any kind vested in or under the control or management of any agent or person acting in a fiduciary capacity as he would have against the property of any person liable to pay any tax, interest or penalty chargeable under this Act and in as full and ample a manner.

Remedies of Secretary against agent or trustee.

- 55 31. (1) The person responsible for performing the duties imposed by this Act—
(a) on any company shall be the public officer thereof contemplated in section 101 of the Income Tax Act or,

Duties of persons acting in representative capacity.

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- in die geval van 'n maatskappy wat in likwidasië geplaas is, die likwidateur daarvan;
- (b) op die Staat, is 'n persoon verantwoordelik vir die verantwoording van die ontvangs en betaling van geld ingevolge die bepalings van 'n wet of van die ontvangs en betaling van staatsfondse (met inbegrip van die fondse van 'n provinsiale raad of 'n administrasie of onderneming van die Staat) of van fondse deur die Parlement of 'n provinsiale raad bewillig;
- (c) op 'n plaaslike bestuur of enige ingelyfde of oningelyfde liggaam (behalwe 'n maatskappy), is enige persoon verantwoordelik vir verantwoording van die ontvangs en betaling van geld of fondse ten behoeve van sodanige plaaslike bestuur of liggaam;
- (d) op 'n regsonbevoegde persoon is sy voog, kurator of administrateur of die ander persoon wat sy sake bestuur of beheer; of
- (e) op iemand wat nie gewoonlik in die Republiek woonagtig is nie, is 'n agent van so iemand wat sy sake in die Republiek beheer en 'n bestuurder van 'n onderneming van so iemand in die Republiek;
- (f) op die boedel van 'n oorlede persoon, is die eksekuteur of administrateur van sodanige boedel;
- (g) op die boedel van 'n insolvente persoon, is die kurator of administrateur van sodanige boedel;
- (h) op 'n persoon wat deur 'n agent optree, is sodanige agent, met inbegrip van 'n agent wat ingevolge artikel 29 aangestel is;
- (i) op 'n persoon wat in 'n fidusiëre hoedanigheid optree, is sodanige persoon:

Met dien verstande dat die bepalings hiervan nie uitgelê word nie asof dit 'n bedoelde maatskappy, plaaslike bestuur, liggaam of persoon onthef van die verpligting om pligte uit te voer wat deur hierdie Wet op daardie maatskappy, plaaslike bestuur, liggaam of persoon opgelê is en wat eersbedoelde persoon (hieronder die verteenwoordiger genoem) versuim het om uit te voer.

(2) Elke verteenwoordiger is, met betrekking tot geld deur hom beheer of transaksies deur hom gesluit in sy verteenwoordigende hoedanigheid, aanspreeklik vir die betaling van belasting, rente of boete wat ingevolge hierdie Wet hefbaar is met betrekking tot bedoelde geld of transaksies, asof bedoelde aanspreeklikheid deur hom persoonlik opgeloop was, maar so 'n aanspreeklikheid word geag slegs in sy verteenwoordigende hoedanigheid deur hom opgeloop te wees.

(3) Belasting, rente of boete wat deur 'n verteenwoordiger in sy verteenwoordigende hoedanigheid betaalbaar is, is op hom verhaalbaar, maar slegs vir sover bates behorende aan die persoon wat hy verteenwoordig, in sy besit of onder sy bestuur, beskikking of beheer mag wees: Met dien verstande dat belasting, rente of boete wat deur 'n maatskappy betaalbaar is, nie van die openbare amptenaar van die maatskappy verhaalbaar is nie, maar van die maatskappy.

(4) Elke verteenwoordiger wat in dié hoedanigheid belasting, rente of boete betaal wat ingevolge hierdie Wet verskuldig is, is geregtig om die aldus betaalde bedrag op die persoon ten behoeve van wie dit betaal word, te verhaal of om 'n bedrag gelyk aan die aldus betaalde bedrag terug te hou uit gelde wat in sy verteenwoordigende hoedanigheid in sy besit mag wees of hom ter hand mag kom.

(5) Elke verteenwoordiger bedoel in paragraaf (f) van subartikel (1) wat in dié hoedanigheid belasting, rente of boete betaal wat ingevolge hierdie Wet deur 'n oorlede persoon verskuldig is, is geregtig om die aldus betaalde bedrag op die boedel van sodanige oorlede persoon te verhaal of om 'n bedrag gelyk aan die aldus betaalde bedrag terug te hou uit gelde in die boedel van die oorlede persoon wat in sy hoedanigheid van eksekuteur of administrateur van sodanige boedel in sy besit mag wees of hom ter hand mag kom.

(6) Elke verteenwoordiger is persoonlik aanspreeklik vir die betaling van belasting, rente of boete wat deur hom in sy

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- in the case of any company which is placed in liquidation, the liquidator thereof;
- 5 (b) on the State shall be any person responsible for accounting for the receipt and payment of moneys under the provisions of any law or for the receipt and payment of public funds (including the funds of any provincial council or any administration or undertaking of the State) or of funds voted by Parliament or a provincial council;
- 10 (c) on a local authority or any corporate or unincorporate body (other than a company), shall be any person responsible for accounting for the receipt and payment of moneys or funds on behalf of such local authority or body;
- 15 (d) on a person under legal disability shall be his guardian, curator or administrator or the other person having the management or control of his affairs;
- 20 (e) on any person who is not ordinarily resident in the Republic shall be any agent of such person controlling such person's affairs in the Republic and any manager of any enterprise of such person in the Republic;
- (f) on the estate of a deceased person shall be the executor or administrator of such estate;
- 25 (g) on the estate of an insolvent person, shall be the trustee or administrator of such estate;
- (h) on any person who acts through an agent shall be such agent, including an agent appointed under the provisions of section 29;
- 30 (i) on any person acting in a fiduciary capacity shall be such person:

Provided that nothing herein contained shall be construed as relieving any such company, local authority, body or person from having to perform any duties imposed by this Act upon such company, local authority, body or person which the first-mentioned person (hereinafter referred to as the representative) 35 has failed to perform.

(2) Every representative shall as respects moneys controlled or transactions concluded by him in his representative capacity be liable for the payment of any tax, interest or penalty chargeable 40 under this Act in relation to such moneys or transactions as though such liability had been incurred by him personally, but such liability shall be deemed to have been incurred by him in his representative capacity only.

(3) Any tax, interest or penalty payable by any representative in 45 his representative capacity shall be recoverable from him, but to the extent only of any assets belonging to the person whom he represents which may be in his possession or under his management, disposal or control: Provided that any tax, interest or penalty payable by a company shall not be recoverable from the 50 public officer of the company but shall be recoverable from the company.

(4) Every representative who, as such, pays any tax, interest, or penalty due under this Act shall be entitled to recover the amount so paid from the person on whose behalf it is paid, or to retain out 55 of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the amount so paid.

(5) Every representative referred to in paragraph (f) of subsection (1) who, as such, pays any tax, interest or penalty due 60 under this Act by any deceased person shall be entitled to recover the amount so paid from the estate of such deceased person or to retain out of any moneys of the estate of such deceased person that may be in his possession or that may come to him as executor or administrator of such estate, an amount equal to the amount so 65 paid.

(6) Every representative shall be personally liable for the payment of any tax, interest or penalty payable by him in his

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verteenwoordigende hoedanigheid betaalbaar is, indien hy, solank die bedrag daarvan onbetaal bly—

- (a) geld ontvang of toegeval ten opsigte waarvan die belasting hefbaar is, vervreem, beswaar of daaroor beskik; of
- (b) oor 'n fonds of geld wat behoort aan die persoon wat hy verteenwoordig en in sy besit is of hom ter hand kom nadat die belasting, rente of boete betaalbaar geword het, beskik of dit uit sy hande laat gaan, indien die belasting, rente of boete wettig uit dié fonds of geld betaal kon geword het.

DEEL VIII

Diverse

Terugbetalings.

32. (1) Waar tot bevrediging van die Sekretaris bewys word—

- (a) dat 'n bedrag aan belasting, boete of rente wat 'n persoon betaal het, die bedrag aan belasting, boete of rente wat regmatig ingevolge hierdie Wet gehef moet gewees het, te bowe gegaan het; of
- (b) dat 'n persoon wat ooreenkomstig die bepalinge van artikel 12 'n verklaring verstrek het, belasting gedra het ten opsigte van goed deur hom gekoop of verhuurde eiendom aan hom gelewer of huurvergoeding deur hom betaalbaar of 'n belasbare diens aan hom gelewer of goed deur hom ingevoer na verloop van 'n tydperk van vyftien dae bereken vanaf die datum waarop genoemde verklaring deur die Sekretaris ontvang is, dat bedoelde belasting nie deur hom gedra sou gewees het nie indien hy in besit was van 'n registrasiesertifikaat wat ingevolge bedoelde artikel uitgereik sou kon word en dat die ontvangs deur bedoelde persoon van 'n registrasiesertifikaat wat ingevolge genoemde artikel op grond van genoemde verklaring deur die Sekretaris uitgereik is, tot na genoemde tydperk van vyftien dae vertraag is,

kan die Sekretaris magtiging verleen vir 'n terugbetaling aan die persoon wat die in paragraaf (a) bedoelde belasting, boete of rente betaal het, van 'n bedrag daarvan wat te veel betaal is, of vir 'n terugbetaling aan die persoon wat die in paragraaf (b) bedoelde belasting gedra het, van die belasting aldus gedra, na gelang van die geval.

(2) Die Sekretaris magtig nie 'n terugbetaling ingevolge subartikel (1) nie tensy—

- (a) 'n eis om 'n terugbetaling ingevolge die bepalinge van paragraaf (a) van daardie subartikel, gemaak word binne twee jaar na die datum waarop betaling van die bedrag wat volgens die eis terugbetaalbaar is, gemaak is; of
- (b) 'n eis om 'n terugbetaling ingevolge die bepalinge van paragraaf (b) van daardie subartikel, gemaak word binne drie maande na die datum waarop die in daardie paragraaf bedoelde registrasiesertifikaat deur die betrokke persoon ontvang is.

Verbod op
advertensie dat
belasting geabsorbeer
sal word.

33. (1) Geen verkoper mag regstreeks of onregstreeks aan die publiek adverteer of aan 'n koper voorgee of verklaar dat die belasting wat kragtens hierdie Wet gehef word, of 'n gedeelte daarvan, deur hom gedra of geabsorbeer sal word nie of dat bedoelde belasting nie as 'n element in die prys vir die koper beskou sal word of, indien by die prys bygevoeg, dat bedoelde belasting of 'n gedeelte daarvan terugbetaal sal word nie.

(2) Elke verkoper wat die bepalinge van subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sodanige boete sowel as sodanige gevangenisstraf.

Kontrakprys of
teenprestasie kan
volgens belasting
gevarieer word.

34. (1) Wanneer 'n belasting gehef of vermeerder word ten opsigte van die belasbare waarde van 'n verkoop, bruikhuur, huurvergoeding, belasbare diens, kos en inwoning of huisvesting

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representative capacity, if, while the amount thereof remains unpaid—

- (a) he alienates, charges or disposes of any money received or accrued in respect of which the tax is chargeable; or
- 5 (b) he disposes of or parts with any fund or money belonging to the person whom he represents which is in his possession or comes to him after the tax, interest or penalty has become payable, if such tax, interest or
- 10 penalty could legally have been paid from or out of such fund or money.

PART VIII

Miscellaneous

32. (1) Where it is proved to the satisfaction of the Secretary— Refunds.

- 15 (a) that any amount of tax, penalty or interest paid by any person was in excess of the amount of tax, penalty or interest which should properly have been charged under this Act; or
- 20 (b) that any person who has furnished a declaration in accordance with the provisions of section 12 has borne tax in respect of any goods purchased by him or any leased property delivered to him or any rental consideration payable by him or any taxable service rendered to him or goods imported by him after the expiry of a
- 25 period of fifteen days reckoned from the date on which the said declaration was received by the Secretary, that such tax would not have been borne by him if he had been in possession of a registration certificate issuable under the said section and that the receipt by such person of a registration certificate issued by the
- 30 Secretary under the said section on the strength of the said declaration has been delayed beyond the said period of fifteen days,

the Secretary may authorize a refund to the person who paid the tax, penalty or interest referred to in paragraph (a) of any amount
35 thereof overpaid, or a refund to the person who bore the tax referred to in paragraph (b) of the tax so borne, as the case may be.

(2) The Secretary shall not authorize any refund under subsection (1) unless—

- 40 (a) a claim for any refund under the provisions of paragraph (a) of that subsection is made within two years after the date upon which payment of the amount claimed to be refundable was made; or
- 45 (b) a claim for any refund under the provisions of paragraph (b) of that subsection is made within three months after the date upon which the registration certificate referred to in that paragraph was received by the person concerned.

33. (1) No vendor shall advertise or hold out or state to the
50 public or to any purchaser, directly or indirectly, that the tax imposed by this Act or any part thereof will be borne or absorbed by him or that such tax will not be considered as an element in the price to the purchaser, or, if added to such price, that such tax or any part thereof will be refunded.

Prohibition against advertising that tax will be absorbed.

55 (2) Every vendor who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

60 34. (1) Whenever any tax is imposed or increased in respect of the taxable value of any sale, financial lease, rental consideration, taxable service, board and lodging or accommodation referred to

Contract price or consideration may be varied according to tax.

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bedoel in artikel 5 met betrekking waartoe 'n ooreenkoms aangegaan is deur die aanname van 'n aanbod gemaak voordat die belasting gehef of vermeerder was, na gelang van die geval, kan die verkoper, ondanks andersluidende bepalinge van 'n ooreenkoms of wet, op die koper, as 'n byvoeging by die bedrae 5 betaalbaar deur die koper aan die verkoper, 'n som verhaal gelyk aan 'n bedrag deur die verkoper betaalbaar by wyse van genoemde belasting of vermeerdering, na gelang van die geval, en enige bedrag aldus verhaalbaar deur die verkoper moet, hetsy dit verhaal is al dan nie, deur die verkoper in berekening gebring word 10 ingevolge die bepalinge van artikel 7 (1).

(2) Wanneer 'n belasting ingetrek of verminder word ten opsigte van die belasbare waarde van 'n verkoop, bruikhuur, huurvergoeding, belasbare diens, kos en inwoning of huisvesting bedoel in artikel 5 met betrekking waartoe 'n ooreenkoms 15 aangegaan is deur die aanname van 'n aanbod gemaak voordat die belasting ingetrek of verminder was, na gelang van die geval, moet die verkoper, ondanks andersluidende bepalinge van 'n ooreenkoms of wet, die bedrag wat aan hom deur die koper betaalbaar is by wyse van vergoeding waarby die bedrag van 20 bedoelde belasting ingesluit is of die bedrag aan hom betaalbaar deur die koper by wyse van bedoelde belasting, bykomend by die vergoeding betaalbaar deur die koper, verminder met 'n som gelyk aan die bedrag van die belasting wat ingetrek is of die bedrag waarmee die belasting verminder is, na gelang van die geval. 25

(3) Waar 'n konstruksie-ooreenkoms voor die aanvangsdatum gesluit is en 'n kontrakteur met betrekking tot bedoelde ooreenkoms die belasting gedra het ten opsigte van goed wat deur hom vir die doeleindes van die nakoming van die bepalinge van die ooreenkoms aangekoop moes word, kan bedoelde kontrakteur, 30 ondanks andersluidende bepalinge van bedoelde ooreenkoms of van 'n wet, 'n bedrag gelyk aan die belasting aldus deur hom gedra op die persoon deur wie die kontrakprys betaalbaar is, verhaal as 'n byvoeging by die kontrakprys in bedoelde ooreenkoms bepaal, tensy bedoelde bedrag op 'n ander wyse deur die 35 kontrakteur van bedoelde persoon ingevolge die konstruksie-ooreenkoms verhaalbaar is.

Registrasie van sekere goed verbied in sekere omstandighede.

35. Waar 'n vorm van registrasie ingevolge 'n wet vereis word ten opsigte van goed bestaande uit 'n lugvaartuig, boot, visvaartuig, skip, jag, motorfiets, -trekker of -voertuig, woonwa of 40 sleepwa (hieronder registreerbare goed genoem), mag geen registrasie-owerheid verantwoordelik vir sodanige registrasie ingevolge bedoelde wet bedoelde registrasie bewerkstellig nie by 'n oorgang van die eiendomsreg op registreerbare goed, tensy die persoon wat om registrasie aansoek doen aan bedoelde registra- 45 sie-owerheid voorlê—

- (a) 'n kwitansie of sertifikaat uitgereik deur die Sekretaris of 'n sertifikaat uitgereik deur die Sekretaris van Doeane en Aksyns wat aantoon dat enige belasting wat ingevolge hierdie Wet betaalbaar mag wees, ten opsigte 50 van 'n verkoop of invoer in die Republiek, na gelang van die geval, van die registreerbare goed ten gevolge waarvan die registrasie vereis word, betaal is; of
- (b) 'n verklaring, in die vorm wat die Sekretaris voorskryf, uitgereik deur 'n geregistreerde ondernemer wat, by die 55 bedryf van 'n onderneming in die gewone loop waarvan met registreerbare goed handel gedryf word, bedoelde goed verkoop het ten gevolge waarvan die registrasie vereis word, dat die belasting betaalbaar ingevolge hierdie Wet deur dié ondernemer betaal is of betaal sal 60 word; of
- (c) 'n vrystellingsbewys deur die Sekretaris uitgereik ten effekte dat geen belasting ingevolge hierdie Wet betaalbaar is nie ten opsigte van 'n verkoop of ander vandiehandsetting met betrekking tot die registreerbare 65 goed ten gevolge waarvan die registrasie vereis word.

Registrasie van liefdadigheids-inrigtings.

36. (1) Die Sekretaris kan op skriftelike aansoek deur 'n inrigting of organisasie wat hom oortuig dat dit 'n liefdadigheids-inrigting is, bedoelde inrigting of organisasie as 'n ondernemer

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in section 5 in relation to which any agreement was entered into by the acceptance of an offer made before the tax was imposed or increased, as the case may be, the seller may, notwithstanding anything to the contrary in any agreement or law, recover from the purchaser, as an addition to the amounts payable by the purchaser to the seller, a sum equal to any amount payable by the seller by way of the said tax or increase, as the case may be, and any amount so recoverable by the seller shall, whether or not it is recovered, be accounted for by the seller under the provisions of section 7 (1).

(2) Whenever any tax is withdrawn or decreased in respect of the taxable value of any sale, financial lease, rental consideration, taxable service, board and lodging or accommodation referred to in section 5 in relation to which any agreement was entered into by the acceptance of an offer made before the tax was withdrawn or decreased, as the case may be, the seller shall, notwithstanding anything to the contrary in any agreement or law, reduce the amount payable to him by the purchaser by way of any consideration in which the amount of such tax was included or the amount payable to him by the purchaser by way of such tax in addition to the consideration payable by the purchaser, by a sum equal to the amount of the tax withdrawn or the amount by which the tax is decreased, as the case may be.

(3) Where any construction agreement has been entered into before the commencement date and any contractor in relation to such agreement has borne the tax in respect of any goods which were required to be purchased by him for the purposes of carrying out the terms of such agreement, such contractor may, notwithstanding anything to the contrary in such agreement or in any law, recover from the person by whom the contract price is payable a sum equal to the amount of the tax so borne by him as an addition to the contract price stipulated in such agreement, unless such sum is otherwise recoverable by the contractor from the said person under the construction agreement.

35 35. Where any form of registration is required under any law in respect of goods consisting of any aircraft, boat, fishing vessel, ship, yacht, motor cycle, tractor or vehicle, caravan or trailer (hereinafter referred to as registrable goods) no registering authority responsible for such registration under such law shall effect such registration upon any change of ownership of registrable goods unless the person applying for registration produces to such registering authority—

Registration of certain goods prohibited in certain circumstances.

- 45 (a) a receipt or certificate issued by the Secretary or a certificate issued by the Secretary for Customs and Excise showing that any tax which may be payable under this Act has been paid in respect of any sale or importation into the Republic, as the case may be, of the registrable goods in consequence of which the registration is required; or
- 50 (b) a declaration, in such form as the Secretary may prescribe, issued by any registered vendor who, in carrying on any enterprise in the ordinary course of which registrable goods are dealt in, sold such goods in consequence of which the registration is required, that the tax payable under this Act has been, or will be, paid by such vendor; or
- 55 (c) an exemption certificate issued by the Secretary to the effect that no tax is payable under this Act in respect of any sale or other disposal relating to the registrable goods in consequence of which the registration is required.
- 60

36. (1) The Secretary may, on the written application by any institution or organization which satisfies him that it is a charitable institution, register such institution or organization as a vendor in

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registreer ten opsigte van die liefdadigheidsbedrywighede deur hom voortgesit wat bedoel word in die omskrywing van „liefdadigheidsinrigting” in artikel 1, en aan bedoelde inrigting of organisasie ’n registrasiesertifikaat in die vorm wat die Sekretaris doenlik ag, uitreik. 5

(2) Die bepalings van artikels 13, 14 en 15 is *mutatis mutandis* van toepassing met betrekking tot ’n liefdadigheidsinrigting aldus geregistreer en tot ’n registrasiesertifikaat aldus aan hom uitgereik.

(3) ’n Liefdadigheidsinrigting aldus geregistreer is nie geregtig 10 om ’n registrasiesertifikaat aan hom uitgereik ingevolge subartikel (1), vir enige doel behalwe vir die doeleindes van artikel 6 (1) (w) te gebruik nie.

Verkoop van goed
deur verkoopsagente.

37. By die toepassing van hierdie Wet, waar—

- (a) ’n persoon (hieronder die verkoopsagent genoem) goed 15 verkoop teen pryse bepaal of aanbeveel deur die vervaardiger van die goed of ’n verspreider daarvan van wie die verkoopsagent die goed verkry;
- (b) die verkoopsagent geregtig is op ’n kommissie of ander vergoeding bereken op die verkoopprijs van die goed; 20
- (c) bedoelde goed voorsien word deur die vervaardiger of verspreider op bestelling van die verkoopsagent geplaas as gevolg van bestellings deur die verkoopsagent van klante ontvang;
- (d) die volle verkoopprijs, na aftrekking van slegs die 25 bedoelde kommissie of ander vergoeding, deur die verkoopsagent aan die vervaardiger of verspreider oorbetaal moet word,

word die vervaardiger of verspreider aan wie die balans van die verkoopprijs aldus oorbetaal moet word, geag die verkoper van 30 bedoelde goed te wees en word bedoelde verkoopsagent geag bedoelde goed as die agent van die verskaffer te verkoop het.

Belastingverligting
aan sekere diplomate
toelaatbaar.

38. (1) Die Minister kan, in oorleg met die Minister van Buitelandse Sake, die verlening van verligting, by wyse van ’n terugbetaling, magtig ten opsigte van belasting betaal deur ’n 35 persoon wat volle of beperkte diplomatieke immuniteit geniet ingevolge ’n wet of ooreenkoms in die Republiek van krag of ingevolge die erkende beginsels van die volkereg of deur die vrou, kind of afhanklike van bedoelde persoon wat by hom woon, mits soortgelyke of gelykwaardige verligting in die land in wie se diens 40 bedoelde persoon is, verleen word aan ’n verteenwoordiger of werknemer van die Regering van die Republiek wat in bedoelde land gestasioneer is en volle of beperkte diplomatieke immuniteit in daardie land geniet.

(2) Bedoelde verligting word nie aan ’n Suid-Afrikaanse burger 45 of permanente inwoner van die Republiek verleen nie.

(3) Die Minister kan bedoelde verligting magtig op die voorwaardes en onderworpe aan die beperkings wat hy doenlik ag.

(4) ’n Eis om ’n terugbetaling van belasting ingevolge hierdie artikel word gemaak op die wyse en op die tydstip wat die 50 Sekretaris voorskryf en moet vergesel gaan van die bewys van betaling van belasting of ’n sertifikaat wat die Sekretaris mag vereis.

Reëlins vir
invordering van
belasting op goed in
die Republiek
ingevoer.

39. (1) Die Sekretaris, die Sekretaris van Doeane en Aksyns en die Posmeester-Generaal kan reëlins wat hulle nodig mag ag, 55 tref—

- (a) vir die invordering (op die wyse wat hulle mag bepaal) deur die Sekretaris van Doeane en Aksyns en die Posmeester-Generaal ten behoeve van die Sekretaris van die belasting betaalbaar ingevolge hierdie Wet ten 60 opsigte van die belasbare waarde van goed wat in die Republiek ingevoer word en ingevolge die Doeane- en Aksynswet, 1964, (Wet No. 91 van 1964), geklaar moet word; en
- (b) vir die uitruil van die inligting wat nodig is om bedoelde 65 reëlins uit te voer.

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respect of such charitable activities carried on by it as are referred to in the definition of "charitable institution" in section 1, and issue to such institution or organization a registration certificate in such form as the Secretary may see fit.

5 (2) The provisions of sections 13, 14 and 15 shall *mutatis mutandis* apply in relation to any charitable institution so registered and to any registration certificate so issued to it.

(3) Any charitable institution so registered shall not be entitled to utilize a registration certificate issued to it under subsection (1) 10 for any purpose other than for the purpose of section 6 (1) (w).

37. For the purposes of this Act, where—

Sale of goods by
selling agents.

- 15 (a) any person (hereinafter referred to as the selling agent) sells goods at prices fixed or recommended by the manufacturer of the goods or a distributor thereof from whom the selling agent obtains the goods;
- (b) the selling agent is entitled to a commission or other remuneration calculated on the selling price of the goods;
- 20 (c) such goods are supplied by the manufacturer or distributor on the order of the selling agent placed in consequence of orders received by the selling agent from customers;
- (d) the full selling price, less only the said commission or other remuneration, is required to be remitted by the 25 selling agent to the manufacturer or distributor, the manufacturer or distributor to whom the balance of the selling price is so required to be remitted shall be deemed to be the seller of such goods and such selling agent shall be deemed to have sold the goods as the agent of the supplier.

30 38. (1) The Minister may, in consultation with the Minister of Foreign Affairs, authorize the granting of relief, by way of a refund, in respect of tax paid by any person enjoying full or limited diplomatic immunity under any law or agreement in force in the Republic or under the recognized principles of international 35 law or by the wife, child or dependant of such person living with him, provided similar or equivalent relief is granted in the country by which such person is employed, to any representative or employee of the Government of the Republic stationed in such country who enjoys full or limited diplomatic immunity in that 40 country.

Tax relief allowable
to certain diplomats.

(2) Such relief shall not be granted to any South African citizen or permanent resident of the Republic.

(3) The Minister may authorize such relief on such conditions and subject to such restrictions as he may deem fit.

45 (4) Any claim for a refund of tax under this section shall be made in such form and at such time as the Secretary may prescribe and shall be accompanied by such proof of payment of tax or certification as the Secretary may require.

50 39. (1) The Secretary, the Secretary for Customs and Excise and the Postmaster-General may make such arrangements as they may deem necessary—

Arrangements for
collection of the tax
on goods imported
into the Republic.

- 55 (a) for the collection (in such manner as they may determine) by the Secretary for Customs and Excise and the Postmaster-General on behalf of the Secretary of the tax payable under this Act in respect of the taxable value of any goods imported into the Republic and which are required to be cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964); and
- 60 (b) for the exchange of such information as is necessary for the carrying out of such arrangements.

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(2) Die bepalings van die Doeane- en Aksynswet, 1964, met betrekking tot die invoer, deurvoer, kusvervoer en klaring van goed is *mutatis mutandis* van toepassing asof dit in hierdie Wet verorden is.

(3) Die verpligting opgelê deur hierdie Wet of 'n ander wet, 5 om geheimhouding te bewaar, belet nie die openbaarmaking van enige inligting wat nodig is vir die behoorlike uitvoering van enige reëlins getref ingevolge die bepalings van subartikel (1) nie.

Aantekeninge.

40. (1) Elke ondernemer moet die rekeningboeke of ander 10 aantekeninge hou wat hom in staat stel om die vereistes van hierdie Wet na te kom en die Sekretaris in staat stel om homself te oortuig dat die ondernemer bedoelde vereistes nagekom het, en elke ondernemer moet, in die besonder, die aantekeninge hou van alle bedrae deur hom ontvang of aan hom toegeval ten opsigte van 15 verkope van goed, bruikhure, huurvergoedings en gelewerde belasbare dienste ten opsigte waarvan belasting nie deur die ondernemer van die koper gevra is nie wat die Sekretaris in staat stel om bedoelde koper en die bedrae ontvang deur of toegeval aan die ondernemer van bedoelde koper te identifiseer en homself 20 te oortuig dat belasting nie ten opsigte van so 'n bedrag in die hande van die ondernemer of die koper vorderbaar is nie.

(2) Bedoelde rekeningboeke of ander aantekeninge en enige fakture of ander stukke met betrekking tot inskrywings in bedoelde boeke of aantekeninge, moet te alle redelike tye 25 gedurende die tydperk van vyf jaar beoog in subartikel (3) beskikbaar wees vir insae deur iemand wat op gesag van die Sekretaris handel.

(3) Alle bedoelde rekeningboeke, aantekeninge en ander stukke wat volgens voorskrif van subartikel (1) gehou moet word, 30 moet—

- (a) waar in boekvorm gehou, vir 'n tydperk van vyf jaar vanaf die datum van die laaste inskrywing in 'n boek behou en sorgvuldig bewaar word deur die ondernemer; 35 of
- (b) waar dit bestaan uit bankstate, inlegstrookies, fakture, inventarisse, betaalde tjeks of ander stukke nie in boekvorm nie, vir 'n tydperk van vyf jaar na afhandeling van die transaksies, handelinge of werksaamhede waarop hulle betrekking het, behou en sorgvuldig bewaar 40 word deur die ondernemer.

(4) Die Sekretaris kan, onderhewig aan die voorwaardes wat hy bepaal, en ten opsigte van enige stukke bedoel in paragraaf (b) van subartikel (3), die behoud van 'n mikrofilmafskrif of rekenaarband-aantekeninge van bedoelde stukke in plaas van die 45 oorspronklikes daarvan magtig.

(5) Elke ondernemer wat versuim om enige rekeningboeke, aantekeninge of ander stukke volgens voorskrif van subartikels (1) en (3) te behou of bewaar, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd 50 rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sodanige boete sowel as sodanige gevangenisstraf.

Inligting.

41. (1) Die Sekretaris kan by skriftelike kennisgewing van iemand eis dat hy binne die tydperk wat die Sekretaris bepaal, aan die Sekretaris die inligting verstrek waaroor hy beskik en wat die 55 Sekretaris vir die doeleindes van hierdie Wet nodig het, hetsy so iemand ingevolge artikel 12 'n verklaring moet verstrek of ingevolge dié artikel van hom vereis is dat hy dit doen, of nie.

(2) Ten einde volledige inligting te verkry by die uitvoering van die bepalings van hierdie Wet, kan die Sekretaris enige persoon 60 aansê om boeke, rekenings, handelslyste, inventarisse of ander aantekeninge of stukke wat die Sekretaris vir die doeleindes van hierdie Wet nodig ag, vir ondersoek deur die Sekretaris of deur 'n persoon deur hom vir dié doel aangestel, oor te lê op die tyd en plek wat die Sekretaris bepaal. 65

(3) (a) Die Sekretaris kan by skriftelike kennisgewing 'n persoon wat na die oordeel van die Sekretaris in staat is om inligting te verskaf, aansê om op 'n tyd en plek

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(2) The provisions of the Customs and Excise Act, 1964, relating to the importation, transit, coastwise carriage and entry of goods shall *mutatis mutandis* have effect as if enacted in this Act.

(3) The duty imposed by this Act or any other law to preserve 5 secrecy shall not prevent the disclosure of any information which is necessary for the proper carrying out of any arrangements made under the provisions of subsection (1).

40. (1) Every vendor shall keep such books of account or other 10 records as may enable him to observe the requirements of this Act and enable the Secretary to satisfy himself that the vendor has observed such requirements, and every vendor shall, in particular, keep such record of all amounts received by or accruing to him in respect of sales of goods, financial leases, rental considerations and taxable services rendered in respect of which tax has not been 15 charged by the vendor to the purchaser as may enable the Secretary to identify such purchaser and the amounts received by or accruing to the vendor from such purchaser and to satisfy himself that tax is not chargeable in respect of any such amount in the hands of the vendor or the purchaser.

20 (2) Such books of account or other records and any invoices or other documents relating to entries in such books or records shall at all reasonable times during the period of five years referred to in subsection (3) be open for inspection by any person acting under the authority of the Secretary.

25 (3) All such books of account, records and other documents required to be kept in terms of subsection (1) shall—

- (a) where kept in book form, be retained and carefully preserved by the vendor for a period of five years from the date of the last entry in any book; or
30 (b) where consisting of bank statements, deposit slips, invoices, stock lists, paid cheques or other documents not in book form, be retained and carefully preserved by the vendor for a period of five years after the completion of the transactions, acts or operations to which they relate.
35

(4) The Secretary may, subject to such conditions as he may determine, and in respect of any documents referred to in paragraph (b) of subsection (3), authorize the retention of a microfilm copy or computer tape record of such documents in lieu 40 of the originals thereof.

(5) Every vendor who fails to keep or to preserve any books of account, records and other documents as provided in subsections (1) and (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a 45 period not exceeding three months or to both such fine and imprisonment.

41. (1) The Secretary may by notice in writing require any 50 person to furnish the Secretary, within such period as he may determine, with such information at such person's disposal as the Secretary may require for the purposes of this Act, whether or not such person is or has been required in terms of section 12 to furnish the Secretary with a declaration.

(2) For the purpose of obtaining full information in carrying out the provisions of this Act, the Secretary may require any person to 55 produce for examination by the Secretary, or by any person appointed by him for that purpose, at such time and place as may be appointed by the Secretary, any books, accounts, trade lists, stock lists or other records or documents which the Secretary may deem necessary for the purposes of this Act.

60 (3) (a) The Secretary may by notice in writing require any person whom the Secretary may deem able to furnish information, to attend at a time and place named by the

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deur die Sekretaris bepaal, te verskyn ten einde onder eed ondervra te word aangaande enige transaksies of aangeleenthede wat op die uitvoering van die bepalings van hierdie Wet deur daardie persoon of 'n ander persoon betrekking het. 5

(b) Iemand wat ingevolge die bepalings van paragraaf (a) aangesê is om te verskyn ten einde onder eed ondervra te word, word deur die Sekretaris vergoed vir enige redelike uitgawes wat noodsaaklikerwys deur hom aangegaan is om aldus te verskyn. 10

(4) 'n Persoon wat versuim om aan 'n vereiste van die Sekretaris kragtens subartikel (1), (2) of (3) te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sodanige boete sowel as sodanige gevangenisstraf. 15

Bevoegdheid van betreding en deursoeking.

42. (1) 'n Amptenaar wat die bepalings van hierdie Wet uitvoer en wat skriftelik of telegrafies deur die Sekretaris daartoe gemagtig is, kan vir die doeleindes van die uitvoering van hierdie Wet— 20

(a) te eniger tyd gedurende die dag sonder voorafgaande kennisgewing enige perseel hoegenaamd betree en deursoek vir rekenings, boeke, geld, aantekeninge of ander stukke;

(b) by so 'n deursoeking enigiets wat na sy vermoede 25 rekenings, boeke, geld, aantekeninge of ander stukke bevat, oopmaak of laat oopmaak of laat verwyder en oopmaak;

(c) beslag lê op enige sodanige rekenings, boeke aantekeninge of ander stukke wat na sy mening bewys mag 30 lewer wat van wesenlike belang mag wees by die vasstelling van die aanspreeklikheid van enige persoon vir belasting betaalbaar ingevolge die bepalings van hierdie Wet;

(d) enige sodanige rekenings, boeke, aantekeninge of ander 35 stukke behou solank hulle vir enige aanslag of vir enige strafregtelike of ander verrigtings ingevolge hierdie Wet nodig mag wees.

(2) 'n In subartikel (1) bedoelde amptenaar moet op aanvraag die skriftelike magtiging toon wat die Sekretaris aan hom verstrek 40 het.

(3) Die persoon op wie se sake enige rekenings, boeke aantekeninge of ander stukke waarop kragtens subartikel (1) beslag gelê is, betrekking het, het die reg om gedurende kantoorure hulle onder die toesig wat die Sekretaris bepaal, te 45 ondersoek en afskrifte daarvan of uittreksels daaruit te maak.

(4) Iemand wat—

(a) 'n in subartikel (1) bedoelde amptenaar by die uitvoering van sy pligte hinder of in die weg staan of aanrand; 50 of

(b) opsetlik versuim om te voldoen aan 'n wettige vereiste van bedoelde amptenaar by die uitvoering van sy pligte of die uitoefening van sy bevoegdheid,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of gevangenisstraf vir 'n 55 tydperk van hoogstens twaalf maande.

Misdrywe.

43. Iemand wat—

(a) homself voordoen as 'n amptenaar wat die bepalings van hierdie Wet uitvoer; of

(b) homself voordoen as 'n amptenaar deur die Sekretaris 60 gemagtig vir die doeleindes van betreding en deursoeking bedoel in artikel 42 (1); of

(c) versuim om 'n registrasiesertifikaat af te gee vir intrekking soos bedoel in artikel 13 (2) of (4); of

(d) 'n afslaer of 'n verkoper is met betrekking tot 'n 65 verkoop van goed, belasbare diens, kos en inwoning of huisvesting en—

(i) aan 'n koper daarvan verklaar dat belasting ingesluit is in of bygevoeg sal word by die prys of

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Secretary for the purpose of being examined on oath regarding any transactions or matters related to the carrying out of the provisions of this Act by that person or any other person.

- 5 (b) Any person required under the provisions of paragraph (a) to attend for the purpose of being examined on oath, shall be compensated by the Secretary for any reasonable expenses necessarily incurred by him in so attending.
- 10 (4) Any person who fails to comply with any requirement of the Secretary under subsection (1), (2) or (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
- 15 42. (1) Any officer engaged in carrying out the provisions of this Act who has been authorized thereto by the Secretary in writing or by telegram, may, for the purposes of the administration of this Act— Powers of entry and search.
- 20 (a) without previous notice, at any time during the day enter any premises whatsoever and on such premises search for any accounts, books, moneys, records or other documents;
- (b) in carrying out any such search, open or cause to be opened or removed and opened, any article in which he suspects any accounts, books, moneys, records or other documents are kept;
- 25 (c) seize any such accounts, books, records or other documents which in his opinion may afford evidence which may be material in assessing the liability of any person for any tax payable under the provisions of this Act;
- 30 (d) retain any such accounts, books, records or other documents for as long as they may be required for any assessment or for any criminal or other proceedings under this Act.
- 35 (2) Any officer referred to in subsection (1) shall on demand produce the written authority issued to him by the Secretary.
- (3) The person to whose affairs any accounts, books, records or other documents seized under the provisions of subsection (1) relate, shall be entitled to examine and make copies thereof or extracts therefrom during office hours under such supervision as the Secretary may determine.
- 40 (4) Any person who—
- (a) hinders, obstructs or assaults an officer referred to in subsection (1); or
- 45 (b) wilfully fails to comply with any lawful demand made by such officer in the performance of his duties or the exercise of his powers,
- shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding twelve months.
- 50
43. Any person who— Offences.
- (a) holds himself out as an officer engaged in carrying out the provisions of this Act; or
- 55 (b) holds himself out as an officer authorized by the Secretary for the purposes of entry and search as contemplated in section 42 (1); or
- (c) fails to surrender for cancellation any registration certificate as contemplated in section 13 (2) or (4); or
- 60 (d) being an auctioneer or a seller in relation to any sale of goods, taxable service, board and lodging or accommodation—
- (i) declares to any purchaser thereof that tax has been included in or will be added on to the price or

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bedrag vorderbaar vir bedoelde goed, belasbare diens, kos en inwoning of huisvesting, waar in werklikheid geen belasting ingevolge hierdie Wet betaalbaar is nie; of

- (ii) belasting insluit in of byvoeg by die prys of bedrag gevorder van die koper van bedoelde goed, belasbare diens, kos en inwoning of huisvesting, waar in werklikheid geen belasting ingevolge hierdie Wet betaalbaar is nie,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige boete sowel as sodanige gevangenisstraf.

Misdrywe en strawwe
betreffende
belastingontduiking.

44. (1) Iemand wat met die opset om die betaling van die belasting ingevolge hierdie Wet te ontduik of om 'n ander persoon behulpzaam te wees om sodanige betaling te ontduik—

- (a) 'n valse verklaring of inskrywing doen of laat doen of toelaat dat dit gedoen word in 'n opgawe of verklaring ooreenkomstig hierdie Wet verstrek, of 'n aldus verstrekte verklaring of opgawe onderteken sonder redelike gronde om te glo dat dit waar is; of
- (b) 'n valse antwoord verstrek, hetsy mondeling of skriftelik, op 'n versoek om inligting ingevolge hierdie Wet gedoen deur die Sekretaris of 'n behoorlik deur hom gemagtigde persoon of 'n in artikel 3 (1) bedoelde amptenaar; of
- (c) valse rekeningboeke of ander aantekeninge opmaak of hou of die opmaak of hou daarvan magtig of die vervalsing van rekeningboeke of ander aantekeninge magtig; of
- (d) enige bedrog, lis of versinsel van welke aard ook al aanwend of die aanwending van sodanige bedrog, lis of versinsel magtig; of
- (e) 'n valse verklaring doen om 'n terugbetaling of 'n vrystelling van die belasting te verkry,

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.

(2) Wanneer by verrigtings ingevolge hierdie artikel bewys word dat 'n valse verklaring of inskrywing gedoen is in 'n opgawe of verklaring ingevolge hierdie Wet deur of namens 'n persoon verstrek, of in rekeningboeke of ander aantekeninge van 'n persoon, word, totdat die teendeel bewys word, vermoed dat daardie persoon daardie valse verklaring of inskrywing gedoen of laat doen het of toegelaat het dat dit gedoen word, met die opset om betaling van belasting te ontduik, en word, totdat die teendeel bewys word, vermoed dat enige ander persoon wat so 'n valse verklaring of inskrywing gedoen het, die valse verklaring of inskrywing gedoen het met die opset om eersgenoemde persoon by die ontduiking van betaling van belasting behulpzaam te wees.

(3) 'n Skuldigbevinding weens 'n misdryf ingevolge hierdie Wet stel nie die veroordeelde van die betaling van 'n belasting, rente of boete betaalbaar ooreenkomstig die bepalinge van hierdie Wet vry nie.

Jurisdiksie van
howe.

45. Iemand wat weens 'n misdryf ingevolge hierdie Wet aangekla word, kan ondanks andersluidende bepalinge van die een of ander wet ten opsigte van daardie misdryf verhoor word deur enige hof wat regsbevoeg is binne 'n gebied waarin hy woon of sake doen.

Waarmaking en
bestelling van stukke.

46. (1) 'n Vorm, kennisgewing, versoek of ander stuk uitgereik, gegee of gedoen deur of namens die Sekretaris of 'n ander amptenaar ingevolge hierdie Wet, is voldoende gewaarmerk indien die naam of ampsbenaming van die Sekretaris of amptenaar deur wie dit uitgereik, gegee of gedoen word, daarop gestempel of gedruk is.

(2) 'n Vorm, kennisgewing, versoek, stuk of ander mededeling wat ingevolge hierdie Wet aan 'n persoon uitgereik, gegee,

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- amount chargeable for such goods, taxable service, board and lodging or accommodation, where in fact no tax is payable in terms of this Act; or
- 5 (ii) includes in or adds on to the price or amount charged to the purchaser of such goods, taxable service, board and lodging or accommodation any tax, where in fact no tax is payable in terms of this Act,
- shall be guilty of an offence and liable on conviction to a fine not
- 10 exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

44. (1) Any person who with intent to evade or to assist any other person to evade the payment of the tax under this Act—
- 15 (a) makes or causes or allows to be made - any false statement or entry in any return or declaration rendered in terms of this Act, or signs any statement, return or declaration so rendered without reasonable grounds for believing the same to be true; or
- 20 (b) gives any false answer, whether verbally or in writing, to any request for information made under this Act by the Secretary or any person duly authorized by the Secretary or any officer referred to in section 3 (1); or
- 25 (c) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or authorizes the falsification of any books of account or other records; or
- 30 (d) makes use of any fraud, art or contrivance whatsoever, or authorizes the use of such fraud, art or contrivance; or
- (e) makes any false statement for the purposes of obtaining any refund of or exemption from the tax,
- 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 imprisonment.
- 35 (2) Whenever in any proceedings under this section it is proved that any false statement or entry has been made in any return or declaration rendered under this Act by or on behalf of any person or in any books of account or other records of any person, that person shall be presumed, until the contrary is proved, to have made that false statement or entry or to have caused that false
- 40 statement or entry to be made or to have allowed it to be made with intent to evade the payment of taxation, and any other person who made any such false statement or entry shall be presumed, until the contrary is proved, to have made such false statement or entry with intent to assist the first-mentioned person to evade the
- 45 payment of taxation.
- (3) A conviction for an offence in terms of this Act shall not exempt the person convicted from the payment of any tax, interest or penalty payable in accordance with the provisions of this Act.

Offences and penalties in regard to tax evasion.

45. Any person charged with an offence under this Act may,
- 50 notwithstanding anything to the contrary contained in any law, be tried in respect of that offence by any court having jurisdiction within any area in which he resides or carries on business.

Jurisdiction of courts.

46. (1) Any form, notice, demand or other document issued or given by or on behalf of the Secretary or any other officer under
- 55 this Act shall be sufficiently authenticated if the name or official designation of the Secretary or officer by whom the same is issued or given is stamped or printed thereon.
- (2) Any form, notice, demand, document or other communication required or authorized under this Act to be issued, given or

Authentication and service of documents.

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gestuur of bestel moet of kan word deur die Sekretaris of 'n ander amptenaar ingevolge hierdie Wet, word, behalwe waar daar in hierdie Wet anders bepaal word, geag behoorlik uitgereik, gegee, gestuur of bestel te gewees het—

- (a) indien aan hom afgelewer; of 5
- (b) indien gelaat by 'n volwasse persoon wat oënskynlik by sy laaste bekende woonplek of kantoor of sakeplek in die Republiek woon of dit okkupeer of aldaar in diens is; of
- (c) indien per aangetekende of enige ander soort pos gestuur 10 wat aan hom gerig is by sy laaste bekende adres, wat 'n plek of kantoor in paragraaf (b) bedoel of sy laaste bekende posbusnommer of dié van sy werkgewer kan wees; en
- (d) in die geval van 'n maatskappy— 15
 - (i) indien afgelewer aan die openbare amptenaar van die maatskappy beoog in artikel 101 van die Inkomstebelastingwet; of
 - (ii) indien gelaat by 'n volwasse persoon wat oënskynlik die plek deur die maatskappy as sy geregi- 20 streerde kantoor in die Republiek aangedui, bewoon of okkupeer of aldaar in diens is, of waar so 'n plek nie deur die maatskappy aangedui is nie, indien gelaat by 'n volwasse persoon wat oënskynlik die laaste bekende kantoor of sakeplek van die maat- 25 skappy in die Republiek bewoon of okkupeer of aldaar in diens is; of
 - (iii) indien per aangetekende of enige ander soort pos gestuur wat aan die maatskappy of sy openbare amptenaar gerig is by sy laaste bekende adres, wat 30 'n kantoor of plek in subparagraaf (ii) bedoel of sy laaste bekende posbusnommer of dié van sy werkgewer kan wees.

(3) 'n Vorm, kennisgewing, versoek, stuk of ander mededeling bedoel in subartikel (2) wat op die wyse beoog in paragraaf (c) of 35 (d) (iii) van daardie subartikel uitgereik, gegee, gestuur of bestel is, word geag ontvang te gewees het deur die persoon aan wie dit gerig is, op die tyd waarop dit in die gewone loop van die posdiens sou uitkom op die plek waarheen dit gerig is, tensy die Sekretaris oortuig is dat dit nie aldus ontvang is nie of op 'n ander 40 tyd ontvang is of, waar, in 'n geding ingevolge hierdie Wet in 'n hof wat regsbevoegdheid het om die saak te beslis, daar 'n geskil is omtrent die tyd waarop dit ontvang is of die feit dat dit ontvang is, die hof aldus oortuig is: Met dien verstande dat die voorgaande bepalings van hierdie subartikel nie van toepassing is nie waar 'n 45 persoon in 'n strafgeding daarvan beskuldig word dat hy 'n misdryf ingevolge hierdie Wet gepleeg het weens sy versuim, weiering of nalating om iets te doen wat hy ingevolge bedoelde vorm, kennisgewing, versoek, stuk of ander mededeling moet doen, tensy dit aan hom per geregistreerde of gesertifiseerde pos 50 gestuur is.

(4) Indien die Sekretaris oortuig is dat 'n vorm, kennisgewing, versoek, stuk of ander mededeling (behalwe 'n kennisgewing van aanslag) wat uitgereik, gegee, gestuur of bestel is op 'n wyse beoog in paragraaf (b), (c) of (d) (ii) of (iii) van subartikel (2), nie 55 ontvang is nie deur die persoon aan wie dit gerig is of deur daardie persoon ontvang is heelwat na die tyd wanneer dit deur hom behoort ontvang te gewees het en dat bedoelde persoon gevolglik benadeel is, kan die Sekretaris, indien hy oortuig is dat die omstandighede die optrede regverdig, gelas dat bedoelde 60 vorm, kennisgewing, versoek, stuk of ander mededeling ingetrek word en opnuut uitgereik, gegee, gestuur of bestel word.

Reëlins om
probleme of
ongerymdhede te
bowe te kom.

47. (1) Indien die Sekretaris in enige geval oortuig is dat as gevolg van die wyse waarop 'n ondernemer of verkoper sy besigheid, bedryf of beroep beoefen, probleme of ongerymdhede 65 ontstaan het of mag ontstaan met betrekking tot die toepassing van enige van die bepalings van hierdie Wet, kan die Sekretaris en die ondernemer of verkoper ooreenkom oor die wyse waarop bedoelde bepalings in die geval van bedoelde ondernemer of

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sent to or served upon any person by the Secretary or any other officer under this Act shall, except where otherwise provided in this Act, be deemed to have been effectually issued, given, sent or served—

- 5 (a) if delivered to him; or
- (b) if left with some adult person apparently residing at or occupying or employed at his last known abode or office or place of business in the Republic; or
- 10 (c) if despatched by registered or any other kind of post addressed to him at his last known address, which may be any such place or office as is referred to in paragraph (b) or his last known post office box number or that of his employer; and
- (d) in the case of a company—
 - 15 (i) if delivered to the public officer of the company contemplated in section 101 of the Income Tax Act; or
 - (ii) if left with some adult person apparently residing at or occupying or employed at the place appointed by the company as its registered office in the Republic or where no such place has been appointed by the company, 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 in the Republic; or
 - 25 (iii) if despatched by registered or any other kind of post addressed to the company or its public officer at its or his last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his last known post office box number or that of his employer.
- 30

(3) Any form, notice, demand, document or other communication referred to in subsection (2) which has been issued, given, sent or served in the manner contemplated in paragraph (c) or (d) (iii) of that subsection shall be deemed to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed, unless the Secretary is satisfied that it was not so received or was received at some other time or, where the time at which it was received or the fact that it was received is in dispute in proceedings under this Act in any court having jurisdiction to decide the matter, the court is so satisfied: Provided that the preceding provisions of this subsection shall not apply where any person is in criminal proceedings charged with the commission of an offence under this Act by reason of his failure, refusal or neglect to do anything which he is required to do in terms of the said form, notice, demand, document or other communication, unless it was despatched to such person by registered or certified post.

(4) If the Secretary is satisfied that any form, notice, demand, document or other communication (other than a notice of assessment) issued, given, sent or served in a manner contemplated in paragraph (b), (c) or (d) (ii) or (iii) of subsection (2), has not been received by the person to whom it was addressed or has been received by such person considerably later than it should have been received by him and that such person has in consequence been placed at a disadvantage, the Secretary may, if he is satisfied that the circumstances warrant such action, direct that such form, notice, demand, document or other communication be withdrawn and be issued, given, sent or served anew.

47. (1) If in any case the Secretary is satisfied that in consequence of the manner in which any vendor or seller conducts his business, trade or occupation, difficulties or anomalies have arisen or may arise in regard to the application of any of the provisions of this Act, the Secretary and the vendor or seller may agree as to the manner in which such provisions shall be applied in the case of such vendor or seller, and they may in such

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verkoper toegepas moet word, en kan hulle in bedoelde ooreenkoms sodanige reëlings tref in verband met die berekening of betaling van belasting of die toepassing van 'n vrystelling van belasting waarvoor in hierdie Wet voorsiening gemaak word, as wat na verwagting bedoelde probleme of ongerymdhede sal oorkom: Met dien verstande dat, behoudens die bepalinge van subartikel (2), bedoelde ooreenkoms nie die uitwerking mag hê dat die uiteindelijke aanspreeklikheid van die ondernemer of verkoper vir belasting gehef ingevolge hierdie Wet wesentlik verminder of verhoog word nie.

(2) Waar die Sekretaris oortuig is dat die omset van 'n onderneming geheel en al of hoofsaaklik uit bedrae bestaan wat verkry word uit verkope van 'n noodsaaklike kommoditeit in klein hoeveelhede verskaf, dat die prys per hoeveelheid sodanig is dat die belasting daarop, bereken teen die skaal in artikel 5 (1) bepaal, een of meer sent, plus 'n breukdeel van 'n sent, bedra en dat, vanweë die wyse waarop die ondernemer daardie onderneming bedryf, die ondernemer nie in staat sal wees om daardie breukdeel van 'n sent op kopers te verhaal nie sonder om die prys van die kommoditeit buitensporing te verhoog, kan die Sekretaris, in 'n ooreenkoms met die ondernemer ingevolge subartikel (1), die ondernemer magtig om bedoelde breukdeel by die berekening van sy aanspreeklikheid vir belasting te verontagsaam.

Regulasies.

48. Die Minister kan regulasies uitvaardig aangaande enige aangeleentheid wat by hierdie Wet toegelaat of vereis word en in die algemeen vir die verwesenliking van die oogmerke en doeleindes van hierdie Wet.

Wysiging van belastingsskaal of van Bylaes by hierdie Wet.

49. (1) Die Minister kan van tyd tot tyd en wanneer die Parlement nie sitting hou nie by kennisgewing in die *Staatskoerant*—

- (a) die bepalinge van subartikel (1) van artikel 5 wysig ten einde 'n verandering of verdere verandering van die belastingsskaal vasgestel deur bedoelde subartikel, aan te bring deur daardie skaal te verhoog of te verminder: Met dien verstande dat die skaal wat ingevolge bedoelde subartikel vasgestel is nie ingevolge hierdie paragraaf verander word nie sodat daar voorsiening gemaak word vir 'n verhoging van meer as twee persent in die belastingsskaal aldus vasgestel;
- (b) wanneer hy dit in die openbare belang dienstig ag, die Bylaes by hierdie Wet wysig.

(2) 'n Wysiging kragtens die bepalinge van subartikel (1) aangebring voor die datum waarop die Parlement vir die eerste keer vir die afhandeling van sake byeenkom in 'n sessie waarin die Minister die Begrotingswetsontwerp indien, verval, tensy die Parlement anders bepaal, dertig dae na die end van die sessie waarin die Minister sodanige wetsontwerp ingedien het, maar sonder om afbreuk te doen aan die geldigheid van die wysiging voordat dit aldus verval het.

(3) Wanneer by 'n regsgeding 'n vraag ontstaan of in 'n sessie van die Parlement die Begrotingswetsontwerp deur die Minister ingedien is of aangaande die datum waarop die Parlement vir die eerste keer vir die afhandeling van sake in sodanige sessie byeengekom het of aangaande die datum waarop sodanige sessie ten einde geloop het, word 'n afskrif of afskrifte van die notule van verrigtings van die Volksraad wat aandui dat in 'n sessie van die Parlement daardie Wetsontwerp aldus ingedien is en sodanige datum of datums aangee en wat deur die Sekretaris van die Parlement as 'n juiste afskrif of juiste afskrifte van sodanige notule gesertifiseer is, aanvaar as voldoende bewys dat daardie Wetsontwerp in sodanige sessie aldus ingedien is en van sodanige datum of datums.

Wysiging van artikel 99 van Wet 24 van 1936, soos vervang deur artikel 5 van Wet 6 van 1972

50. Artikel 99 van die Insolvensiewet, 1936, word hierby gewysig deur na paragraaf (cB) van subartikel (1) die volgende paragraaf in te voeg:

„(cC) die bedrag van 'n verkoopbelasting, rente, boete of pene wat ingevolge die Verkoopbelastingwet, 1978,

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agreement make such arrangements as to the calculation or payment of tax or the application of any exemption from tax provided in this Act as appear to overcome such difficulties or anomalies: Provided that subject to the provisions of subsection 5 (2), such agreement shall not have the effect of substantially reducing or increasing the ultimate liability of the vendor or seller for taxation levied under this Act.

(2) Where the Secretary is satisfied that the turnover of any enterprise consists wholly or mainly of amounts derived from sales of an essential commodity supplied in small measures, that the price per measure is such that the tax thereon, calculated at the rate provided in section 5 (1), amounts to one or more cents, plus a fraction of a cent, and that, by reason of the manner in which the vendor carries on such enterprise, the vendor will not be able to recover such fraction of a cent from purchasers without unduly increasing the price of the commodity, the Secretary may in any agreement with the vendor under subsection (1) authorize the vendor to disregard such fraction in calculating his liability for tax.

20 48. The Minister may make regulations in regard to any matter Regulations.
which is permitted or required by this Act and generally for the better carrying out of the objects and purposes of this Act.

49. (1) The Minister may from time to time and when Amendments varying
Parliament is not in session by notice in the *Gazette*— rate of tax or
Schedules to this Act.

25 (a) amend the provisions of subsection (1) of section 5 so as
to effect a variation or further variation of the rate of tax
fixed by the said subsection by increasing or reducing
that rate: Provided that the rate fixed under the said
subsection shall not be varied under this paragraph so as
30 to provide for an increase of more than two per cent in
the rate of tax so fixed;

(b) amend the Schedules to this Act whenever he deems it
expedient in the public interest to do so.

(2) Any amendment made under the provisions of subsection
35 (1) before the date upon which Parliament meets for the first time
for the dispatch of business in any session during which the
Minister introduces the Appropriation Bill shall, unless Parliament
otherwise provides, lapse thirty days after the end of the session
during which the Minister introduced such Bill, but without
40 detracting from the validity of such amendment before it has so
lapsed.

(3) Whenever in any legal proceedings any question arises as to
whether during any session of Parliament the Appropriation Bill
was introduced by the Minister or as to the date upon which
45 Parliament met for the first time for the dispatch of business in
such session or as to the date upon which such session ended, a
copy or copies of the minutes of proceedings of the House of
Assembly, indicating that during any session of Parliament that
Bill was so introduced, and specifying such date or dates, and
50 certified by the Secretary to Parliament to be a true copy or true
copies of such minutes, shall be accepted as sufficient evidence
that that Bill was so introduced during such session, and of such
date or dates.

50. Section 99 of the Insolvency Act, 1936, is hereby amended
55 by the insertion after paragraph (cB) of subsection (1) of the
following paragraph:

“(cC) the amount of any sales tax, interest, fine or penalty
which in terms of the Sales Tax Act, 1978, was,

Amendment of
section 99 of
Act 24 of 1936,
as substituted by
section 5 of
Act 6 of 1972

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en gewysig deur
artikel 30 van
Wet 90 van 1972,
artikel 6 van
Wet 62 van 1973,
artikel 9 van
Wet 29 van 1974
en artikel 69 van
Wet 85 van 1974.

onmiddellik voor die sekwestrasie van die boedel
verskuldig was deur die insolvent;".

Herroeping van Wet
32 van 1978.

51. Die Wet op Registrasie van Verkopers, 1978, word hierby herroep.

Wet bindend vir
Staat, en uitwerking
van sekere
vrystellings van
belasting.

52. Hierdie Wet is vir die Staat bindend, en geen bepaling vervat in 'n ander Wet afgekondig voor of op 31 Julie 1978 wat voorsiening maak vir 'n vrystelling van belasting is op verkoopbelasting van toepassing nie.

Kort titel.

53. Hierdie Wet heet die Verkoopbelastingwet, 1978.

Bylae I

(OMSKRYWING VAN „BELASBARE DIENS" IN ARTIKEL 1 VAN HIERDIE WET)

Dienste

1. Vir die doeleindes van hierdie Wet word enige diens ingesluit by die dienste hieronder vermeld, geag 'n belasbare diens te wees, naamlik:—

- (a) In die geval van iemand wat 'n onderneming bedryf in die loop waarvan goed verkoop of verhuur word, die aflewering, installasie, herstel, instandhouding of ander dienste gelewer deur bedoelde persoon in verband met of na die verkoop of verhuur van daardie goed.
- (b) Herstel-, instandhoudings-, restaurasie-, veranderings- of verfraaiingsdienste ten opsigte van goed wat uitgevoer word in die loop van die bedryf van 'n onderneming, met inbegrip van, maar sonder beperking van die algemeenheid van hierdie subparagraaf, herstel-, instandhoudings-, restaurasie-, veranderings- of verfraaiingsdienste gelewer—
 - (i) deur 'n skoenhersteller, skoenmaker, horlosiemaker, juwelier, hersteller van motorvoertuie, fotografiese toerusting of huishoudelike toestelle, duikklopper of bandversoler; of
 - (ii) ten opsigte van 'n bate bestaande uit—
 - (aa) verwarmings-, ventilasie-, lugreëlings-, verkoelings-, beeldradio- of radio-installasie of uitrusting of enige kommunikasiestelsel, behalwe een wat deur die Departement van Pos- en Telekommunikasiewese geïnstalleer is; of
 - (bb) 'n vloer (behalwe 'n baksteen- of betonvloer), tapyt of vloerbedekkingsmateriaal; of
 - (cc) 'n hyser of roltrap; of
 - (dd) masjinerie of installasie wat regstreeks by 'n vervaardigingsproses of vir kragopwekking of vir die pomp van water gebruik word of ten opsigte waarvan 'n vermindering vir die doeleindes van normale belasting ingevolge die bepalinge van artikel 11 (e), 12 (1) of (2), 12A (1) of (2), 15 (a) of 27 (2) (d) of (e) van die Inkomstebelastingwet toegestaan is of toegestaan kan word,

hetsy bedoelde bate roerende of onroerende eïendom is al dan nie.

- (c) Dienste gelewer of fasiliteite verskaf deur iemand in die loop van die bedryf deur so iemand van 'n onderneming wat die bedryf, besigheid of beroep uitmaak van 'n kleremaker, snyer, hoedemaker, barbier, haarkapper, droogskoonmaker, kleurder, wasser, grofsmid, slotmaker, drukker, graveur, fotograaf, ontwikkelaar van fotografiese materiaal, portretramer, voorsiener van afdrukdienste, voorsiener van bloudrukdienste, looier, verwerker van leer, taksidermis, insleper van motorvoertuie, verskaffer van berokings- of plaagbeheerdienste, voorsiener van diereversorgingsdienste (behalwe veeartsenykundige dienste).
- (d) Dienste gelewer of fasiliteite verskaf deur iemand in die loop van 'n onderneming wat hy bedryf, as hulpmiddels vir gesondheid, liggaamsbou of skoonheid, met inbegrip van, maar sonder beperking van die algemeenheid van hierdie subparagraaf, die gee van advies in verband met gesondheid, liggaamsbou of skoonheid, die toediening van masserings en ander behandelings, die voorsiening van turkse baddens en saunabaddens, verslankingskursusse of -apparaat, gimnasium-fasiliteite en dienste gelewer deur 'n tandwerktuigkundige, brilmaker of apteker in die loop van sy bedryf, besigheid of beroep as sodanig, maar uitgesonderd die professionele dienste wat gelewer word deur 'n geregistreerde geneesheer, tandarts, gesigkundige, homopaat, naturopaat, kruidkundige, verpleër, fisioterapeut, chiropraktisyn of ortoëptis in die gewone loop van sy praktyk as sodanig of dienste gelewer of fasiliteite verskaf in 'n geregistreerde hospitaal of verpleeginrigting of in 'n kliniek wat deur 'n plaaslike bestuur bedryf word.

2. Behoudens die bepalinge van paragraaf 1 (b) (ii), word 'n konstruksiebedrywigheid nie geag 'n belasbare diens vir die doeleindes van hierdie Wet te wees nie.

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immediately prior to the sequestration of the estate, due by the insolvent." and amended by section 30 of Act 90 of 1972, section 6 of Act 62 of 1973, section 9 of Act 29 of 1974 and section 69 of Act 85 of 1974.

51. The Registration of Vendors Act, 1978, is hereby repealed. Repeal of Act 32 of 1978.

52. This Act shall bind the State, and no provision contained in any other law promulgated on or before 31 July 1978 providing for an exemption from any taxes shall be applicable to sales tax. Act binding on State, and effect of certain exemptions from taxes.

53. This Act shall be called the Sales Tax Act, 1978. Short Title.

Schedule 1

(DEFINITION OF "TAXABLE SERVICE" IN SECTION 1 OF THIS ACT)

Services

1. For the purposes of this Act any service included in the services mentioned hereunder shall be deemed to be a taxable service, namely:—

- (a) In the case of a person who carries on any enterprise in the course of which goods are sold or let, the delivery, installation, repair, maintenance or other services rendered by such person in connection with or following upon the sale or letting of such goods.
- (b) Repair, maintenance, restoration, alteration or embellishment services in respect of goods carried out in the course of carrying on any enterprise, including, without limiting the generality of this subparagraph, repair, maintenance, restoration, alteration or embellishment services rendered—
 - (i) by any shoe-repairer, shoemaker, watchmaker, jeweller, repairer of motor vehicles, photographic equipment or domestic appliances, panelbeater or tyre retreader; or
 - (ii) in respect of any asset consisting of—
 - (aa) heating, ventilation, air-conditioning, refrigeration, television or radio plant or equipment or any communication system other than one installed by the Department of Posts and Telecommunications; or
 - (bb) any floor (other than a brick or concrete floor), carpet or floor-covering material; or
 - (cc) any lift or escalator; or
 - (dd) any machinery or plant used directly in a process of manufacture or for the generation of power or for the pumping of water or in respect of which any allowance has been or may be granted for normal tax purposes under the provisions of section 11 (e), 12 (1) or (2), 12A (1) or (2), 15 (a) or 27 (2) (d) or (e) of the Income Tax Act, whether or not such asset is movable or immovable property.
- (c) Services rendered or facilities provided by any person in the course of the carrying on by him of any enterprise which is the trade, business or occupation of a dressmaker, tailor, milliner, barber, hairdresser, dry-cleaner, dyer, launderer, blacksmith, locksmith, printer, engraver, photographer, processor of photographic material, picture framer, provider of duplicating services, provider of blueprint services, tanner, leather processor, taxidermist, owner of motor vehicles, provider of fumigation or pest-control services, provider of animal care services (other than veterinary services).
- (d) Services rendered or facilities provided by any person in the course of any enterprise carried on by him, as aids to health, strength or beauty, including, without limiting the generality of this subparagraph, the giving of advice in connection with health, strength or beauty, massages and other treatments, the provision of Turkish and sauna baths, slimming courses or devices, gymnasium facilities and services rendered by any dental mechanic, optician or pharmacist in the course of his trade, business or occupation as such, but excluding any such professional services as are provided by a registered medical practitioner, dentist, optometrist, homeopath, naturopath, herbalist, nurse, physiotherapist, chiropractor or orthoptist in the ordinary course of his practice as such or any services rendered or facilities provided in any registered hospital or nursing home, or in any clinic conducted by a local authority.

2. Subject to the provisions of paragraph 1 (b) (ii), any construction activity shall not be deemed to be a taxable service for the purposes of this Act.

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Bylae 2

(ARTIKEL 6 VAN HIERDIE WET)

Vrystellings: Sekere verkope van goed en belasbare dienste

Die kategorieë ondernemings en die goed en belasbare dienste ten opsigte waarvan die vrystellings ingevolge die bepalings van artikel 6 (1) (c), (t) en (v) van toepassing is, is soos hieronder uiteengesit.

AFDELING I

Vervaardigingsondernemings

In die geval van 'n onderneming in die gewone loop waarvan goed (behalwe goed ten opsigte waarvan 'n vrystelling ingevolge artikel 6 (1) (d) van toepassing is) vir verkoop vervaardig of gemonteer word of enige vervaardigingsproses teen vergoeding onderneem word, maar met uitsluiting van enige konstruksie-bedrywigheid:

1. Goed bestem om só gebruik of mee handel te word in bedoelde vervaardiging, montering of proses dat bedoelde goed of 'n bestanddeel daarvan 'n integrale deel sal uitmaak van ander goed wat in bedoelde onderneming vervaardig of voortgebring staan te word, en in die goed aldus vervaardig of voortgebring as 'n bestanddeel of noodsaaklike onderdeel daarvan in hul geheelvervaardigde of geheelvoortgebronge toestand sal voortbestaan.
2. 'n Belasbare diens regstreeks aangewend by bedoelde vervaardiging, montering of proses en wat gepaard gaan met die voortbrenging van goed wat vervaardig, gemonteer of verwerk staan te word.
3. 'n Herstel- of instandhoudingsdiens ten opsigte van masjinerie of installasie wat regstreeks by die vervaardiging, montering of verwerking van goed vir verkoop gebruik word, en onderdele gekoop vir inlywing in of aanhegting by bedoelde masjinerie of installasie ten einde bedoelde diens uit te voer.
4. (a) Houers waarin verbruikbare goed geplaas word en verpakkings- of toedraaimateriaal gebruik vir die verpakking of toedraai van bedoelde goed, by voltooiing van die vervaardiging van bedoelde goed, indien bedoelde houers of materiaal aangewend word ten einde aan eindverbruikers bedoelde goed in bedoelde houers of verpak of toegedraai in bedoelde materiaal te verkoop.
(b) Houers, verpakkingsmateriaal (behalwe hegstroke maar met inbegrip van wegdoenbare hegstroke) aangewend vir die verskeping of vervoer van vervaardigde goed wat uit die Republiek uitgevoer word.
5. Brandstof in losmaatvoorraad aangekoop of katalisators en verwante materiale, reduseermiddels, oksideermiddels en ander verwerkingsmateriale wat regstreeks by die vervaardiging of verwerking van goed deur bedoelde onderneming gebruik word en wat noodsaaklik vir bedoelde vervaardiging of verwerking is.
6. Goed bestem om verbruik te word of om waardeloos gemaak te word in die loop van die produksie, vir verkoop of kommersiële eksplorasie, van 'n rolprentfilm of 'n film, videoband of -plaat vir gebruik in verband met beeldradio.
7. Vuurvaste materiaal vir gebruik in oonde, booggoondelektrodes en staaloppervlakte-verwerkingsmiddele wat by die vervaardiging van primêre yster- en staalprodukte gebruik word.

AFDELING II

Drukwerkondernemings

In die geval van 'n onderneming in die gewone loop waarvan kommersiële drukwerk of die produksie van koerante, tydskrifte of verwante produkte uitgevoer word:

1. Papier, bordpapier, ink, oplosmiddele, inkbymiddels, proefmateriaal en ander materiale wat regstreeks by die drukproses gebruik word.
2. Materiale en chemikalieë wat vir die voorbereiding en maak van sink-, koper-, litografiese, diepdruk- of ander drukoppervlakke gebruik word.
3. Goed en materiale wat vir die bind en afwerking van boeke en ander drukwerk gebruik word.
4. Toedraai- en verpakkingsmateriale wat regstreeks by die bemaking van drukwerk aan eindverbruikers gebruik word.
5. Drukoppervlak-, boekbind-, boekafwerk- en ander dienste wat gepaard gaan met die regstreekse produksie van drukwerk.
6. Brandstof, chemikalieë en katalisators wat regstreeks gebruik word by die drukproses en die herwinning van ink en chemikalieë wat by bedoelde proses gebruik word.

AFDELING III

Mynbou- of Steengroefondernemings

In die geval van 'n onderneming in die gewone loop waarvan mynbou- of steengroefbedrywigheede onderneem word ten einde inkomste te verkry:

1. Goedere hieronder beskryf en regstreeks gebruik vir die vermelde doeleindes:

Item No. *	Beskrywing Breek van Klip
031	Pikbokse en pikke vir koolsnyers
	SPRINGSTOWWE:
050	Hoogste graad (74 persent en hoër)
051	Medium graad (51 persent en tot 73 persent)
052	Laagste graad (tot 50 persent)
053	Springstowwe wat toegelaat word (slegs brandgasmyne)
054	Slagdoppies (gewone)

(*Item Nos. is dié vervat in „Reference Key (Part I)” by Voorraadopgawe M.D. 272 (Hersien 1956), uitgereik deur die Departement van Mynwese).

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Schedule 2.

(SECTION 6 OF THIS ACT)

Exemptions: Certain sales of goods and taxable services

The categories of enterprises and the goods and taxable services in respect of which the exemptions applicable under the provisions of section 6 (1) (c), (t) and (v) shall apply, shall be as hereinafter set forth.

DIVISION I

Manufacturing Enterprises

In the case of any enterprise in the ordinary course of which goods (other than goods in respect of which an exemption under section 6 (1) (d) applies) are manufactured or assembled for sale or any process of manufacture is undertaken for reward, but excluding any construction activity:

1. Goods intended to be so used or dealt with in such manufacture, assembly or process that such goods or some element thereof will form an integral part of other goods to be manufactured or produced in such enterprise, and will remain in the goods so manufactured or produced as an element or essential thereof in their completely manufactured or produced condition.
2. Any taxable service employed directly in such manufacture, assembly or process and which is attendant upon the production of any goods to be manufactured, assembled or processed.
3. Any repair or maintenance service in respect of machinery or plant used directly in the manufacture, assembly or processing of goods for sale, and parts purchased for incorporation in or attachment to such machinery or plant in order to effect such service.
4. (a) Containers into which consumable goods are placed and packaging or wrapping material used for packing or wrapping such goods, on completion of the manufacture of such goods, if such containers or materials are used for the purpose of the sale to end consumers of such goods in such containers or packed or wrapped in such materials.
(b) Containers and packaging materials (excluding pallets but including disposable pallets) used for the shipment or conveyance of manufactured goods which are exported from the Republic.
5. Fuel purchased in bulk supply or catalysts and related materials, reductants, oxydants and other processing materials used directly in the manufacture or processing of goods by such enterprise and which are necessary for such manufacture or processing.
6. Goods intended to be consumed or rendered worthless in the course of the production for sale or commercial exploitation of any motion picture film or any film, video tape or disc for use in connection with television.
7. Refractory material for use in furnaces, arc furnace electrodes and steel surface process materials used in the manufacture of primary iron and steel products.

DIVISION II

Printing Enterprises

In the case of any enterprise in the ordinary course of which commercial printing or the production of newspapers, magazines or allied products is carried out:

1. Paper, paperboard, ink, solvents, ink additives, proofing material and other materials used directly in the process of printing.
2. Materials and chemicals used for the preparation and making of zinc, copper, lithographic, rotogravure or other printing faces.
3. Goods and materials used for the binding and finishing of books and other printed matter.
4. Wrapping and packaging materials used directly in the marketing of printed matter to end users.
5. Printing-face, bookbinding, book-finishing and other services attendant upon the direct production of printed matter.
6. Fuel, chemicals and catalysts used directly in the process of printing and the recovery of ink and chemicals used in such process.

DIVISION III

Mining or Quarrying Enterprises

In the case of any enterprise in the ordinary course of which mining or quarrying operations are undertaken in order to derive income:

1. Goods described below and used directly for the purposes mentioned:

<i>Item No. *</i>	<i>Description</i>
	<i>Breaking Rock</i>
031	Coal cutter pick boxes and coal cutter picks
	EXPLOSIVES:
050	High grade (74 per cent and over)
051	Medium grade (51 per cent and up to 73 per cent)
052	Low grade (up to 50 per cent)
053	Permitted explosives (fiery mines only)
054	Detonators (plain)

*Item Nos. are those contained in Reference Key (Part I) to Stores Return M.D. 272 (Revised 1956) issued by the Department of Mines).

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<i>Item No.*</i>	<i>Beskrywing</i>
055	Slagdoppies (elektries) (vertraging)
056	Lont—veiligheids (doppie)
057	Lont—veiligheids (nie-doppie)
058	Lontaanstekers
059	Springstofbenodigdhede—
-01	Aansteekkoord
-02	Ander—
	Skietwerkmasjiene
	Slagdoppiebuise
	Ontstekers of plowwers
	Lont—
	knippe
	riffeltange
	Ontstekerhouers
	Ruimnaalde
	Veiligheidsklemme
	Stopselproppe
	Onderdele en herstelwerk
079	Slange—Klipboor: Lug/Water
080	Slangtoebehore
083	Los bore
084	Boorstaal
<i>Ertsbehandeling</i>	
001	Essai, laboratorium- en smeltbenodigdhede
016	Chemikalieë—Sianied
017-01	Suur—salpeter
-02	Suur—swael
-03	Ammoniak
-04	Ammoniumnitraat
-05	Flokkuleermiddels (insluitende gom)
-06	Harssamestelling vir waterbehandeling
-07	Boraks—versmelt, Loodglit, Natriumkarbonaat, Uraanchemikalieë
188	Kwik
189	Sink—stof
205-01	Piriet
-02	Mangaandioksiederts
223	Draadomheining
<i>Veiligheid</i>	
021-01	Filtreerdoeke
-02	Filtreerdoeke (spesiaal)
-03	Klapperhaarmatte en -velle
093	Plofmatte
094	Veiligheidslampe—gastoetsing
095-01	Kalk—geblus en ongeblus
201	Waterstopselmateriaal
205	Klipstof (Steenkoolmyne)

AFDELING IV

Boerdery-ondernemings

In die geval van 'n onderneming in die gewone loop waarvan boerdery- of bosboubedrywighede onderneem word ten einde inkomste te verkry:

1. Misstowwe, insekdoders, swamdoders, onkruidodders, knaagdierdoders, veemedisyne en -entstowwe.
2. Saad, struik, plante, bolle, bome en ander plantmateriaal vir die produksie van oeste of produkte.
3. Verpakkings- of toedraaimateriaal en houers (behalwe hegstroke en terugsendbare houers) aangewend vir die bemarking van boerdery- of bosbouprodukte.
4. Lewendehawe.
5. Veevoere en -lekke.
6. Diesellole, kragparafien, steenkool of gas in losmaatvoorraad aangekoop en bedoel vir regstreekse aanwending by die produksie van boerdery- of bosbouprodukte.
7. 'n Belasbare diens aangewend vir die doeleindes van die bespuiting of berokking van gesaaides of boorde.
8. 'n Herstel- of instandhoudingsdiens ten opsigte van masjinerie, gereedskap of trekkers (behalwe ander motorvoertuie) wat regstreeks vir boerdery- of bosboudeleindes gebruik word, en onderdele gekoop vir inlywing in of aanhegting by bedoelde masjinerie, gereedskap of trekkers ten einde bedoelde diens uit te voer.

AFDELING V

Vissery-ondernemings

* In die geval van 'n onderneming in die gewone loop waarvan visserybedrywighede onderneem word ten einde inkomste te verkry:

1. Verpakkings- of toedraaimateriaal en houers (behalwe terugsendbare houers) regstreeks gebruik vir die bemarking van vis, ander seidiere of ongekweekte seeprodukte wat gevang, ingehaal of versamel word.
2. Diesel- of brandstofolie in losmaatvoorraad aangekoop en bedoel om regstreeks vir die aandrywing van visseryvaartuie aangewend te word.

(*Item Nos. is dié vervat in „Reference Key (Part I)” by Voorraadopgawe M.D. 272 (Hersien 1956), uitgereik deur die Departement van Mynwese).

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<i>Item No. *</i>	<i>Description</i>
055	Detonators (electric) (including delay action)
056	Fuse—safety (capped)
057	Fuse—safety (excluding capped)
058	Fuse igniters
059	<i>Explosive requisites—</i>
-01	Igniter cord
-02	Other—
	Blasting machines
	Detonator tubes
	Exploders or shot firers
	Fuse—
	clips
	crimpers
	Lighter holders
	Primer piercers
	Safety clips
	Tamping plugs
	Spares and repairs
079	Hose—Rock Drill: Air/Water
080	Hose Fittings
083	Detachable Bits
084	Drilling Steel
<i>Treating Ore</i>	
001	Assay, laboratory and smelting goods
016	Chemicals—Cyanide
017-01	Acid—Nitric
-02	Acid—Sulphuric
-03	Ammonia
-04	Ammonium Nitrate
-05	Flocculating Agents (including glue)
-06	Resin Compound for water treatment
-07	Borax—fused, Litharge, Sodium Carbonate, Uranium Chemicals
188	Mercury
189	Zinc—Dust
205-01	Pyrite
-02	Manganese Dioxide Ore
223	Wire Screening
<i>Safety</i>	
021-01	Filter Cloths
-02	Filter Cloths (special)
-03	Coco Mats and leaves
093	Blasting Mats
094	Safety Lamps—Gas Testing
095-01	Lime—slaked and unslaked
201	Water tamping material
205	Stone dust (collieries)

DIVISION IV

Farming Enterprises

In the case of any enterprise in the ordinary course of which any farming or forestry operations are undertaken in order to derive income:

1. Fertilizers, insecticides, fungicides, herbicides, rodenticides, livestock medicines and vaccines.
2. Seed, shrubs, plants, bulbs, trees and other plant material for the production of crops or produce.
3. Packing or wrapping materials and containers (other than pallets and returnable containers) used for the marketing of farming or forestry products.
4. Livestock.
5. Animal feeds and licks.
6. Diesel oil, power paraffin, coal or gas purchased in bulk supply and intended to be used directly in the production of farming or forestry products.
7. Any taxable service employed for the purposes of the spraying or fumigation of crops or orchards.
8. Any repair or maintenance service in respect of machinery, implements or tractors (excluding other motor vehicles) used directly for farming or forestry purposes, and parts purchased for incorporation in or attachment to such machinery, implements or tractors in order to effect such service.

DIVISION V

Fishing Enterprises

In the case of any enterprise in the ordinary course of which any fishing operations are undertaken in order to derive income:

1. Packaging or wrapping materials and containers (other than returnable containers) used directly for the marketing of fish, other marine animals or uncultivated marine products which are caught, netted or gathered.
2. Diesel or bunker oil purchased in bulk supply intended to be used directly in the propulsion of fishing vessels.

(* Item Nos. are those contained in Reference Key (Part I) to Stores Return M.D. 272 (Revised 1956) issued by the Department of Mines).

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3. Aas.
4. 'n Herstel of instandhoudingsdiens ten opsigte van visseryvaartuie of treilvisserygereedskap wat regstreeks vir die doeleindes van visserybedrywighede gebruik word, en onderdele aangekoop vir inlywing in of aanhegting by bedoelde visseryvaartuie of treilvisserygereedskap ten einde bedoelde diens uit te voer.

AFDELING VI

Huisvestings-, Hotel- en Spysenieringsondernemings

In die geval van 'n onderneming in die gewone loop waarvan 'n huisvestings-, hotel- of spysenieringsonderneming bedryf word:

1. Voedingstowwe vir die voorbereiding van maaltye en verversings wat aan klante voorsien staan te word.
2. Alkoholiese en nie-alkoholiese drankie en ander goed bedoel vir herverkoop, hetsy saam met maaltye of in 'n kroeg of in 'n buiteverbruikverkooppunt bedien.
3. Goed bedoel om aan klante van bedoelde onderneming verhuur te word.

Bylae 3

(OMSKRYWING VAN „KONSTRUKSIEBEDRYGWIGHEID” IN ARTIKEL 1 VAN HIERDIE WET)

Konstruksiebedrywighede

1. Behoudens die bepalings van paragraaf 2, word enige werksaamheid of bedrywigheid hieronder genoem, vir die doeleindes van hierdie Wet geag 'n konstruksiebedrywigheid te wees, naamlik:—

- (a) Die oprigting, konstruksie, montering, installering, verandering, herstel, instandhouding of versiering ter plaatse van 'n gebou of ander struktuur of werk van 'n permanente aard, met inbegrip van die installering ter plaatse van riolering, elektriese toerusting of ander onderdele of toerusting wat 'n integrerende deel uitmaak van 'n bedoelde gebou, struktuur of ander werk en die meng van beton of messelklei vir aflewering ter plaatse vir die doel om in bedoelde gebou, struktuur of werk opgeneem te word.
- (b) Tonnelgraving.
- (c) Die uitgraving van klip, grond en ander materiaal.
- (d) Die boor van putte en boorgate vir enige doel.
- (e) Die uitleë van gholfbane, tennisbane, rolbalbane, sportvelde, ander sportgeriewe van 'n permanente aard, grasperke en tuine.
- (f) Drooglegging en herwinning van grond.
- (g) Baggerwerk en die verwydering van onderwaterrots.
- (h) Heiwerk.
- (i) Skaggrawery, ondergrondse sementasie en die ter plaatse installering van 'n hys-, ventilasie- of pompstelsel waar bedoelde werksaamheid of bedrywigheid in die loop van mynbou- of steengroefbedrywighede onderneem word.

2. Vir die doeleindes van hierdie Wet word die oprigting, konstruksie, montering of installering van 'n bate van die aard wat in paragraaf 1 (b) (ii) van Bylae 1 beskryf word, nie geag 'n konstruksiebedrywigheid te wees nie indien bedoelde bate verskaf word deur die persoon deur wie die oprigting, konstruksie, montering of installasie daarvan uitgevoer word of deur 'n persoon wat 'n verbonde persoon met betrekking tot bedoelde eersgenoemde persoon is, en word die ooreenoms ten opsigte van bedoelde oprigting, konstruksie, montering of installasie geag 'n verkoop van goed te wees: Met dien verstande dat die voorgaande bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van die installasie van enige vloer, tapyt of vloerbedekkingsmateriaal geïnstalleer in 'n gebou of ander struktuur of werk van 'n permanente aard ten tyde van die oprigting, konstruksie of montering van bedoelde gebou, struktuur of werk.

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3. Bait.
4. Any repair or maintenance service in respect of fishing vessels or trawling gear used directly for the purposes of fishing operations, and parts purchased for incorporation in or attachment to such fishing vessels or trawling gear in order to effect such service.

DIVISION VI

Accommodation, Hotel and Catering Enterprises

In the case of any enterprise in the ordinary course of which any accommodation, hotel or catering enterprise is carried on:

1. Foodstuffs for the preparation of meals and refreshments to be supplied to patrons.
2. Alcoholic and non-alcoholic drinks and other goods intended for resale, whether served with meals or in a bar or in an off-sales outlet.
3. Goods intended to be hired out to patrons of such enterprise.

Schedule 3

(DEFINITION OF "CONSTRUCTION ACTIVITY" IN SECTION 1 OF THIS ACT)

Construction Activities

1. Subject to the provisions of paragraph 2, for the purposes of this Act any operation or activity mentioned hereunder shall be deemed to be a construction activity, namely:—

- (a) The erection, construction, assembly, installation, alteration, repair, maintenance or decoration on site of any building or other structure or work of a permanent nature, including the installation on site of plumbing, electrical fittings or other parts or fittings forming an integral part of any such building, structure or other work and the mixing of concrete or mortar for delivery on site in order to be incorporated in such building, structure or work.
- (b) Tunnelling.
- (c) The excavation of stone, soil and other material.
- (d) The drilling of wells and boreholes for any purpose.
- (e) The laying out of golf courses, tennis courts, bowling greens, sports fields, other sporting facilities of a permanent nature, lawns and gardens.
- (f) Land draining and reclamation.
- (g) Dredging and underwater rock removal.
- (h) Pile driving.
- (i) Shaft sinking, underground cementation and the installation on site of any hoisting, ventilation or pumping system, where such operation or activity is undertaken in the course of mining or quarrying operations.

2. For the purposes of this Act, the erection, construction, assembly or installation of any asset of the nature described in paragraph 1 (b) (ii) of Schedule 1 shall not be deemed to be a construction activity if such asset is supplied by the person by whom the erection, construction, assembly or installation thereof is effected or by a person who is a connected person in relation to such first-mentioned person, and the agreement in respect of such erection, construction, assembly or installation shall be deemed to be a sale of goods: Provided that the foregoing provisions of this paragraph shall not apply in respect of the installation of any floor, carpet or floor-covering material installed in any building or other structure or work of a permanent nature at the time of the erection, construction or assembly of such building, structure or work.

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Bylae 4

(OMSKRYWINGS VAN „BRUIKHUR”, „VERHUURDE EIENDOM”, „HUUROOREENKOMS” EN „HUURVERGOEDING” IN ARTIKEL 1 VAN HIERDIE WET)

Bruikhure en Huurooreenkoms

1. By die toepassing van hierdie Wet word 'n ooreenkoms geag 'n bruikhuur te wees indien—
 - (a) die ooreenkoms skriftelik is en voorsiening maak vir die verhuur en huur van 'n bate (hieronder die verhuurde eiendom genoem) bestaande uit goed of masjinerie of installasie regstreeks gebruik by 'n vervaardigingsproses of vir die opwekking van krag of vir die pomp van water of ten opsigte waarvan die verhuurder geregtig is of geregtig sal wees op 'n vermindering vir die doeleindes van normale belasting ingevolge die bepalinge van artikel 11 (e), 12 (l) of (2), 12A (1) of (2), 15 (a) of 27 (2) (d) of (e) van die Inkomstebelastingwet;
 - (b) die verhuurder ingevolge bedoelde ooreenkoms—
 - (i) 'n bankier of finansier is wat 'n saak bedryf in die gewone loop waarvan ooreenkoms te woen doen aan die vereistes van hierdie paragraaf, met lede van die algemene publiek aangegaan word; of
 - (ii) 'n handelaar is in goed, masjinerie of installasie van die aard wat ingevolge die bedoelde ooreenkoms verhuur word, en die ooreenkoms aangegaan word in die gewone loop van die saak van bedoelde bankier, finansier of handelaar wat in die Republiek bedryf word;
 - (c) die verhuurder die eienaar van die verhuurde eiendom is;
 - (d) die huurder geregtig is op die besit, gebruik of genot van die verhuurde eiendom vir 'n tydperk wat strek oor die bruikbare duur van bedoelde eiendom of 'n groot gedeelte daarvan, mits bedoelde tydperk in enige geval nie minder as twaalf maande is nie;
 - (e) die kontantwaarde van die verhuurde eiendom (synde die kontantwaarde bedoel in paragraaf 2) in die ooreenkoms vermeld word;
 - (f) die huurder die volle risiko van vernietiging of verlies van of ander benadeling van die verhuurde eiendom aanvaar en alle verpligtinge van welke aard ook al met betrekking tot die versekering, instandhouding en herstel van die verhuurde eiendom terwyl die ooreenkoms van krag bly, op hom neem.
2. Die kontantwaarde van die verhuurde eiendom ingevolge 'n bruikhuur is—
 - (a) waar die verhuurder 'n bankier of finansier is, die koste vir die bankier of finansier van die verhuurde eiendom, met inbegrip van enige oprigtings-, konstruksie-, monterings- of installeringskoste van die verhuurde eiendom deur die bankier of finansier gedra; of
 - (b) waar die verhuurder 'n handelaar is, die prys waarteen die verhuurde eiendom normaalweg deur hom vir kontant verkoop word of van hom verkry kan word vir kontant plus enige vordering deur die verhuurder gemaak ten opsigte van die oprigting, konstruksie, montering of installasie van die verhuurde eiendom, indien bedoelde vordering ingevolge die bruikhuur deur die verhuurder gefinansier word.
3. Waar 'n verhuurder ingevolge 'n bruikhuur 'n bate wat die onderwerp van bedoelde huur is of was, verkoop of vervreem (anders as ingevolge 'n sessie van sy regte ingevolge bedoelde huur aan 'n persoon behalwe die huurder), word bedoelde verkoop of vervreemding vir die doeleindes van hierdie Wet geag 'n verkoop van goed deur die verhuurder te wees, ongeag die feit dat die bate onroerende eiendom mag wees.
4. By die toepassing van hierdie Wet—
 - (a) word 'n ooreenkoms geag 'n huurooreenkoms te wees indien dit voorsiening maak vir die betaling van 'n huurvergoeding ten opsigte van goed roerende;
 - (b) beteken „huurvergoeding” met betrekking tot roerende goed, enige huur of ander vergoeding betaalbaar deur 'n persoon ten opsigte van die gebruik van of die reg op die gebruik van bedoelde goed of die verlening van toestemming om bedoelde goed te gebruik, met inbegrip van enige vergoeding betaalbaar aan die verhuurder van bedoelde goed ten opsigte van die dienste van 'n drywer of operateur van bedoelde goed (hetsy bedoelde huur of ander vergoeding binne of buite die Republiek betaalbaar is en hetsy die ooreenkoms ingevolge waarvan bedoelde huur of ander vergoeding betaalbaar is binne of buite die Republiek aangegaan of gesluit is) maar nie ook nie—
 - (i) enige huur of ander vergoeding betaalbaar ten opsigte van die huur van goed ingevolge 'n bruikhuur;
 - (ii) enige huur of ander vergoeding betaalbaar ten opsigte van die gebruik of die reg op die gebruik of die verlening van toestemming vir die gebruik van 'n taxi of openbare-vervoervoertuig of 'n voertuig gebruik deur 'n vervoerkontraakteur vir die vervoer van goed, indien bedoelde taxi of ander voertuig met 'n drywer verskaf word;
 - (iii) 'n geld of ander vergoeding betaalbaar ten opsigte van die gebruik of die reg op die gebruik of die verlening van toestemming vir die gebruik van 'n boek, klankopname, rolprentfilm of prent geleen van 'n biblioteek wat in stand gehou word uit toekennings uit gelde gestem deur die Parlement of 'n provinsiale raad of deur 'n liggaam of plaaslike bestuur of deur 'n liggaam ten opsigte waarvan die Sekretaris oortuig is dat dit nie vir winsbejag bedryf word nie.
 - (iv) 'n huur of ander vergoeding betaalbaar deur 'n bevrachter ten opsigte van 'n skip op vreemde vaart;
 - (v) tantieme betaal vir die reg om outeursregmateriaal te reproduseer of vir die reg om sodanige materiaal of 'n rolprentfilm of 'n film of videoband of -plaat in verband met beeldradio of 'n klankopname of advertensiestukke by 'n openbare opvoering of in 'n radio- of beeldradio-uitsending te gebruik.

SALES TAX ACT, 1978.

Act No. 103, 1978

Schedule 4

(DEFINITIONS OF "FINANCIAL LEASE", "LEASED PROPERTY", "RENTAL AGREEMENT" AND "RENTAL CONSIDERATION" IN SECTION 1 OF THIS ACT).

Financial Leases and Rental Agreements

1. For the purposes of this Act, an agreement shall be deemed to be a financial lease, if—
 - (a) the agreement is in writing and provides for the letting and hiring of any asset (hereinafter referred to as the leased property) consisting of goods or any machinery or plant used directly in a process of manufacture or for the generation of power or for the pumping of water or in respect of which the lessor is or will be entitled to any allowance for normal tax purposes under the provisions of section 11 (e), 12 (1) or (2), 12A (1) or (2), 15 (a) or 27 (2) (d) or (e) of the Income Tax Act;
 - (b) the lessor under such agreement is—
 - (i) a banker or financier carrying on a business in the ordinary course of which agreements conforming with the requirements of this paragraph are concluded with members of the general public; or
 - (ii) a dealer in goods, machinery or plant of the kind let under the said agreement, and the agreement is concluded in the ordinary course of the business of such banker, financier or dealer carried on in the Republic;
 - (c) the lessor is the owner of the leased property;
 - (d) the lessee is entitled to the possession, use or enjoyment of the leased property for a period extending over the useful life of such property or a major portion thereof, provided such period is in any case not less than twelve months;
 - (e) the cash value of the leased property (being the cash value referred to in paragraph 2) is stated in the agreement;
 - (f) the lessee accepts the full risk of destruction or loss of, or other disadvantage to, the leased property and assumes all obligations of whatever nature arising in connection with the insurance, maintenance and repair of the leased property while the agreement remains in force.
2. The cash value of the leased property under a financial lease shall be—
 - (a) where the lessor is a banker or financier, the cost to the banker or financier of the leased property, including any cost of erection, construction, assembly or installation of the leased property borne by the banker or financier; or
 - (b) where the lessor is a dealer, the price at which the leased property is normally sold by him for cash or may normally be acquired from him for cash plus any charge made by the lessor in respect of the erection, construction, assembly or installation of the leased property if such charge is financed by the lessor under the financial lease.
3. Where any lessor under a financial lease sells or alienates any asset which is or has been the subject of such lease (otherwise than under a cession of his rights under such lease to a person other than the lessee), such sale or alienation shall for the purposes of this Act be deemed to be a sale by the lessor of goods, notwithstanding the fact that the asset may be immovable property.
4. For the purposes of this Act—
 - (a) an agreement shall be deemed to be a rental agreement if it provides for the payment of any rental consideration in respect of movable goods;
 - (b) "rental consideration", in relation to movable goods, means any rental or other consideration payable by any person in respect of the use of or the right to use such goods or the grant of permission to use such goods, including any consideration payable to the lessor of such goods in respect of the services of a driver or operator of such goods (whether such rental or other consideration is payable in or outside the Republic and whether the agreement under which such rental or other consideration is payable was entered into or concluded within or outside the Republic) but does not include—
 - (i) any rental or other consideration payable in respect of the hiring of goods under a financial lease;
 - (ii) any rental or other consideration payable in respect of the use of or the right to use or the grant of permission to use any taxi or public transport vehicle or any vehicle used by a transport contractor for the conveyance of goods, if such taxi or other vehicle is supplied with a driver;
 - (iii) any fee or other consideration payable in respect of the use of or the right to use or the grant of permission to use any book, sound recording, motion picture film or picture borrowed from a library which is supported by grants out of funds voted by Parliament or a provincial council or by any local authority or by a body which the Secretary is satisfied is not conducted for purposes of profit;
 - (iv) any rental or other consideration payable under a charter party in respect of a foreign-going ship;
 - (v) any royalty paid for the right to reproduce copyright material or for the right to use any such material or any motion picture film or any film or video tape or disc used in connection with television or any sound recording or advertising matter in any public performance or in any radio or television broadcast.

Wet No. 103, 1978

VERKOOPBELASTINGWET, 1978.

Bylae 5

(ARTIKEL 6 (1) (u) VAN HIERDIE WET)

Verstelling: Sekere goed ingevoer in die Republiek

Die goed ten opsigte waarvan die verstelling ingevolge die bepalings van artikel 6 (1) (u) van toepassing is, is soos hieronder uiteengesit.

1. Goed ingevoer in die Republiek wat ressorteer onder enige pos en beskrywing hieronder vermeld, in die mate aangedui, en ten opsigte waarvan geen doeanereg ingevolge die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964) betaalbaar is nie:

<i>Item No.*</i>	<i>Pos en Beskrywing</i>
406.00	Goed vir Staatshoofde, Diplomatieke en ander Buitelandse Verteenwoordigers.
407.01	Gebruikte persoonlike artikels en sport- of ontspanningstoerusting, wat as passasiersbagasie ingevoer word.
407.02	Goed wat in dieselfde skip of voertuig as passasiersbagasie deur 'n persoon ingevoer word en by die plek waar hy aan wal gaan of die Republiek binnekom, geklaar word: (1) Met 'n totale waarde van hoogstens R50 per persoon:
	<i>Pos No.</i>
	22.00 (i) Spiritus- en alkoholiese drankke, 'n totale hoeveelheid van hoogstens een liter per persoon
	(ii) Wyn, 'n totale hoeveelheid van hoogstens een liter per persoon
	24.02 Bewerkte tabak, hoogstens 400 sigarette en 50 sigare en 250 g sigaret- of pyptabak per persoon
	33.06 Parfumerie, hoogstens 300 ml per persoon
	Ander goedere (nuut of gebruik)
407.06	Huisraad, ander huishoudelike goed en ander verplaasbare artikels, met inbegrip van toerusting nodig vir die uitoefening van die roeping, ambag of beroep van die persoon, maar nie industriële, kommersiële of landbouterusting nie en uitgesonderd motorvoertuie, woonwaens, sleepwaens, bote van alle soorte, alkoholiese drankke en tabakware, die <i>bona fide</i> -eiendom van 'n natuurlike persoon (met inbegrip van 'n terugkerende inwoner van die Republiek) en lede van sy gesin, ingevoer vir eie gebruik by verandering van sy woonplek na die Republiek; (1) Gebruik (2) Nuut, tot 'n waarde van R150 vir elke volwassene en R50 vir elke kind, met 'n maksimum van R500 vir elke gesin.
412.02	Kruike en doodkiste, wat die stoflike oorskot van mense bevat, tesame met blomme en kranse.
412.04	Gebruikte eiendom van 'n persoon wat gewoonlik in die Republiek woonagtig is en sterf terwyl tydelik buite die Republiek.
412.10	<i>Bona fide</i> -, ongevraagde geskenke van nie meer as twee pakkies per persoon per kalenderjaar nie en waarvan die waarde per pakkie nie R10 oorskry nie (uitgesonderd goed in passasiersbagasie ingesluit, wyn, spiritus en bewerkte tabak (met inbegrip van sigarette en sigare) versend deur natuurlike persone in die buiteland aan natuurlike persone in die Republiek.
412.11	Goed ingevoer— (a) vir die verligting van menslike nood in gevalle van hongersnood of ander nasionale rampe; (b) ingevolge enige tegniese hulp-ooreenkoms; of (c) ingevolge 'n verpligting ooreenkomstig enige multilaterale internasionale ooreenkoms waarby die Republiek 'n party is.
412.12	Goed ingevoer vir enige doel soos ooreengekom deur die Regerings van die Republiek, Botswana, Lesotho en Swaziland.
480.00	Goed tydelik toegelaat vir bepaalde doeleindes.
490.00	Goed tydelik toegelaat onderhewig aan uitvoer in dieselfde toestand.

2. Enige van die volgende goed wat in die Republiek ingevoer word en ten opsigte waarvan klaring nie ingevolge die voorbehoudsbepaling by artikel 38 (1) (a) van die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), gemaak hoef te word nie:

- (i) houers tydelik ingevoer;
- (ii) die stoflike oorskot van mense;
- (iii) goedere wat volgens die oordeel van die Sekretaris van Doeane en Aksyns van geen kommersiële waarde is nie;
- (iv) goed wat kragtens 'n internasionale carnet ingevoer is; en
- (v) goed met 'n waarde vir doeaneregdoeleindes van hoogstens R100, en waarop geen sodanige reg ingevolge Bylae No. 1 by daardie Wet betaalbaar is nie.

*[Item en Pos Nos. is dié vervat in Bylae No. 4 by die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964).]

SALES TAX ACT, 1978.

Act No. 103, 1978

Schedule 5

(SECTION 6 (1) (u) OF THIS ACT)

Exemption: Certain Goods imported into the Republic

The goods in respect of which the exemption under the provisions of section 6 (1) (u) shall apply, shall be as hereinafter set forth.

1. Goods imported into the Republic which fall under any heading and description mentioned below, to the extent indicated, and in respect of which no customs duty is payable in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964):

<i>Item No.*</i>	<i>Heading and Description</i>
406.00	Goods for Heads of State, Diplomatic and other Foreign Representatives.
407.01	Used personal effects and sporting or recreational equipment, imported as passengers' baggage.
407.02	Goods imported in the same ship or vehicle as passengers' baggage by any person and cleared at the place where he disembarks or enters the Republic:
	(1) To a total value not exceeding R50 per person:
	<i>Heading No.</i>
	22.00 (i) Spirituous and alcoholic beverages, not exceeding a total quantity of one litre per person
	(ii) Wine, not exceeding a total quantity of one litre per person
	24.02 Manufactured tobacco, not exceeding 400 cigarettes and 50 cigars and 250 g of cigarette or pipe tobacco per person
	33.06 Perfumery, not exceeding 300 ml per person
	Other goods (new or used)
407.06	Household furniture, other household effects and other removable articles, including equipment necessary for the exercise of the calling, trade or profession of the person, other than industrial, commercial or agricultural plant and excluding motor vehicles, caravans, trailers, boats of all kinds, alcoholic beverages and tobacco goods, the <i>bona fide</i> property of a natural person (including a returning resident of the Republic) and members of his family, imported for own use on change of his residence to the Republic:
	(1) Used
	(2) New, to the value of R150 for each adult and R50 for each child, with a maximum of R500 for each family.
412.02	Urns and coffins, containing human remains, together with flowers or wreaths.
412.04	Used property of a person normally resident in the Republic who dies while temporarily outside the Republic.
412.10	<i>Bona fide</i> unsolicited gifts of not more than two parcels per person per calendar year and of which the value per parcel does not exceed R10 (excluding goods contained in passengers' baggage, wine, spirits and manufactured tobacco (including cigarettes and cigars)) consigned by natural persons abroad to natural persons in the Republic.
412.11	Goods imported—
	(a) for the relief of distress of persons in cases of famine or other national disaster;
	(b) under any technical assistance agreement; or
	(c) in terms of an obligation under any multilateral international agreement to which the Republic is a party.
412.12	Goods imported for any purpose agreed upon between the Governments of the Republic, Botswana, Lesotho and Swaziland.
480.00	Goods temporarily admitted for specific purposes.
490.00	Goods temporarily admitted subject to exportation in the same state.

2. Any of the following items imported into the Republic in respect of which entry need not be made in terms of the proviso to section 38 (1) (a) of the Customs and Excise Act, 1964 (Act No. 91 of 1964):
 - (i) containers temporarily imported;
 - (ii) human remains;
 - (iii) goods which in the opinion of the Secretary for Customs and Excise are of no commercial value;
 - (iv) goods imported under an international carnet; and
 - (v) goods of a value for customs duty purposes not exceeding R100, and on which no such duty is payable in terms of Schedule No. 1 to the said Act.

[*Item and Heading Nos. are those contained in Schedule No. 4 to the Customs and Excise Act, 1964 (Act No. 91 of 1964).]

