



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 413

CAPE TOWN, 24 NOVEMBER 1999

No. 20656

KAAPSTAD, 24 NOVEMBER 1999

OFFICE OF THE PRESIDENCY

No. 1404.

24 November 1999

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

No. 53 of 1999: Revenue Laws Amendment Act, 1999.

KANTOOR VAN DIE PRESIDENSIE

No. 1404.

24 November 1999

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

No. 53 van 1999: Wysigingswet op Inkomstewette, 1999.

GENERAL EXPLANATORY NOTE:

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

*(English text signed by the President.)
(Assented to 18 November 1999.)*

ACT

To amend the Marketable Securities Tax Act, 1948, so as to effect certain textual alterations; to provide for an exemption; to further regulate the set-off of payments against penalty, interest and tax; and to increase the maximum period of imprisonment for certain offences; to amend the Transfer Duty Act, 1949, so as to effect certain textual alterations; to amend the Estate Duty Act, 1955, so as to effect certain textual alterations; and to delete the reference to an obsolete provision; to amend the Income Tax Act, 1962, so as to further define certain expressions; to provide that the secrecy provisions do not prevent the Commissioner from disclosing certain information to the Statistician-General or the Board administering the National Student Financial Aid Scheme; to further regulate the rebates in respect of foreign taxes paid; to effect certain textual alterations; to provide that a certain part of the salary of holders of public office is deemed to be an allowance; to further regulate the circumstances in which certain amounts received or accrued in relation to the disposal of listed shares are deemed to be of a capital nature; to further regulate the taxation of investment income of controlled foreign entities and investment income arising from donations, settlements or other dispositions; to limit the application of certain exemptions; to provide for further exemptions; to provide for the exemption of the capital element of purchased annuities in the name of a trust created for a person declared to be of unsound mind and incapable of managing his or her own affairs; to further regulate the allowance for tax purposes in respect of intellectual property; to further regulate the deduction of contributions to any retirement annuity fund; to repeal an obsolete provision; to further regulate the allowances for tax purposes in respect of buildings used in a process of manufacture; to further regulate the calculation of gains or losses on foreign exchange transactions; to insert a definition of "lending arrangement" in respect of the incurral and accrual of interest; to regulate the calculation of the incurral and accrual of amounts in respect of option contracts; to further regulate the taxation of long-term insurers; to extend the definition of "international agreement" for the purposes of the determination of taxable income of certain persons in respect of international transactions; to provide that the Commissioner may on his or her own initiative fix a different sum of the annual yield for the purposes of the valuation of property disposed of in terms of a donation; to further regulate the levy of secondary tax on companies in consequence of the further regulation of the taxation of long-term insurers; to extend the provisions relating to amounts distributed that are deemed to be dividends for the purposes of secondary tax on companies; to criminalise a failure to retain certain data in electronic form for a

ALGEMENE VERDUIDELIKENDE NOTA:

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

*(Engelse teks deur die President geteken.)
(Goedgekeur op 18 November 1999.)*

WET

Tot wysiging van die Handelseffektebelastingswet, 1948, ten einde sekere tekstuele wysigings aan te bring; voorsiening te maak vir 'n vrystelling; die verrekening van betalings teen boete, rente en belasting verder te reël; en die maksimum tydperk van gevangenisstraf vir sekere oortredings te verhoog; tot wysiging van die Wet op Hereregte, 1949, ten einde sekere tekstuele wysigings aan te bring; tot wysiging van die Boedelbelastingwet, 1955, ten einde sekere tekstuele wysigings aan te bring; en die verwysing na 'n verouderde bepaling te skrap; tot wysiging van die Inkomstebelastingwet, 1962, ten einde sekere uitdrukkings nader te omskryf; voorsiening te maak dat die geheimhoudingsbepalings nie die Kommissaris verhoed om sekere inligting aan die Statistikus-generaal en die Raad wat die "Nasionale Skema vir Finansiële Bystand vir Studente" administreer, te verskaf nie; die kortings ten opsigte van betaalde buitelandse belasting verder te reël; sekere tekstuele wysigings aan te bring; voorsiening te maak dat 'n sekere deel van die salaris van openbare ampsbekleërs geag word 'n toelae te wees; die omstandighede waarin sekere bedrae ontvang of toegeval met betrekking tot die vervreemding van genoteerde aandele geag word van kapitale aard te wees, verder te reël; die belasting van beleggingsinkomste van beheerde buitelandse entiteite en beleggingsinkomste wat ontstaan uit skenkings, oormakings of ander beskikkings verder te reël; die toepassing van sekere vrystellings te beperk; om voorsiening te maak vir verdere vrystellings; voorsiening te maak vir die vrystelling van die kapitale element van gekoopte jaargelde in die naam van 'n trust opgerig vir 'n persoon wat geestelik verstoord en onbevoeg verklaar is om sy of haar eie belang te behartig; die vermindering vir belastingdoeleindes ten opsigte van intellektuele goedere verder te reël; die aftrekking van bydraes aan 'n uitstredingannuiteitsfonds verder te reël; 'n verouderde bepaling te herroep; die aftrekking vir belastingdoeleindes ten opsigte van geboue by 'n vervaardigingsproses gebruik, verder te reël; die berekening van winste of verliese op buitelandse valutatransaksies verder te reël; 'n omskrywing van "leningsreëling" ten opsigte van die aangaan en toevalling van rente in te voeg; die berekening van die aangaan en toevalling van bedrae ten opsigte van opsiekontrakte te reël; die belasting van langtermynversekeraars verder te reël; die omskrywing van "internasionale ooreenkoms" vir die doeleindes van die vasstelling van belasbare inkomste van sekere persone ten opsigte van internasionale transaksies uit te brei; voorsiening te maak dat die Kommissaris uit eie beweging 'n ander som van die jaarlikse opbrengs kan vasstel vir die doeleindes van die waardasie van eiendom waaroor ingevolge 'n skenking beskik is; die heffing van sekondêre belasting op maatskappye verder te reël as gevolg van die verdere reëling van die belasting van langtermynversekeraars; die bepalings met betrekking tot bedrae uitgekeer wat vir die doeleindes van sekondêre belasting op maatskappye geag word dividende te wees, uit te brei; 'n versuim om sekere data in elektroniese formaat vir 'n

period of four years; to criminalise the conduct of any person who holds himself or herself out as an officer engaged in administering the said Act; to make further provision for the publication of information on tax offenders; to provide that an amount which accrues to the former spouse of a member of a pension fund shall be deemed for tax purposes to have accrued to such member and to provide for a right of recovery; and to provide that the Commissioner may issue estimated assessments for employees' tax; to amend the Customs and Excise Act, 1964, so as to further define certain expressions; to provide for additional powers of inspection of goods and documents relating to originating products; to provide for control over goods in transit to a territory outside the Republic; to provide for control measures over the beer industry; to provide for a prohibition on the mixing of distillate fuels, for the marking of certain distillate fuels and for certain control measures; to provide for a general limitation on liability in the absence of false statements; to provide for the submission of a certificate of origin for goods subject to anti-dumping or countervailing duties; to provide for the insertion of additional columns of duties in Part 1 of Schedule No. 1; to further regulate the power of the Minister to amend Part 1 of Schedule No. 1; to provide for the implementation of Free Trade Agreements; to provide for the implementation of the protocols of the Agreement on Trade Development and Cooperation between the European Community and the Republic and the Treaty Establishing the Southern African Development Community; to further provide for control over imported beer; to provide for more stringent registration measures for agents; to further regulate the licensing of clearing agents; to further regulate the determinations of value for customs duty purposes; to ensure uniformity of value determinations for excise duty purposes with other determination provisions; to provide for certain currency calculations for the purposes of the European Union Free Trade Agreement; to further provide for offences in terms of the said Act; to provide for the publication of information on customs-related offenders; to provide for the forfeiture of vehicles especially adapted to conceal illicit goods; to provide for representations by persons whose goods have been seized or detained; to extend the liability of clearing agents in respect of foreign principals; to provide for the registration of customs consultants; to provide for the production of computer generated documents and data; to provide for representations by persons whose goods are subject to liens; to provide for the delegation of certain powers of the Minister to the Deputy Minister; and to provide for the validation of certain amendments of the Schedules to the said Act; to amend the Stamp Duties Act, 1968, so as to effect certain textual alterations; and to further provide for the recovery of tax and the appointment of agents; to amend the Companies Act, 1973, so as to withdraw an exemption from stamp duty; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to include certain activities in the scope of the exemption for financial services; to make certain concessions to persons who cease to be vendors; to further regulate the application of the zero-rate in respect of goods which are exported; to limit the application of the zero-rate on the supply of going concerns; to limit the application of the zero-rate on the supply of services to non-residents; to extend the application of the zero rate to supplies which are paid for from donated funds obtained in terms of international agreements; to further regulate the time at which goods are deemed to be imported, the value to be placed on those goods and exemption from tax in respect of those goods, and to arrange for the payment of tax in respect of those goods; to provide for the documentation to be retained in support of the deduction of input tax in relation to imported goods; to provide for the deduction of input tax in respect of amounts paid to the National Lottery Distribution Trust Fund; to determine the time at which a vendor who accounts for tax on the payments basis has to account for output tax; to increase the 90 per cent or more use for the purposes of making taxable supplies without having

tydperk van vier jaar te behou, op straf te verbied; die gedrag van 'n persoon wat homself of haarself voordoen as 'n beampie wat genoemde Wet uitvoer, op straf te verbied; verder voorsiening te maak vir die publikasie van inligting oor belastingoortreders; voorsiening te maak dat 'n bedrag wat aan die vorige eggenoot van 'n lid van 'n pensioenfonds toeval, vir belastingdoeleindes geag word aan daardie lid toe te geval het en vir 'n verhaalsreg voorsiening te maak; en voorsiening te maak dat die Kommissaris geraamde aanslae vir werknehmersbelasting kan uitrek; tot wysiging van die Doeane- en Aksynswet, 1964, ten einde sekere uitdrukkings nader te omskryf; voorsiening te maak vir bykomende inspeksiebevoegdhede ten opsigte van boeke en dokumente met betrekking tot produkte van oorsprong; voorsiening te maak vir beheer oor goedere in transito na 'n gebied buite die Republiek; voorsiening te maak vir beheermaatreëls oor die biernywerheid; voorsiening te maak vir 'n verbod op die vermenging van distillaatbrandstowwe, vir die merk van sekere distillaatbrandstowwe en vir sekere beheermaatreëls; voorsiening te maak vir 'n algemene beperking van aanspreeklikheid in die afwesigheid van vals verklarings; voorsiening te maak vir die voorlegging van 'n sertifikaat van oorsprong vir goedere onderhewig aan anti-dumping- of kontra-regte; voorsiening te maak vir die invoeging van bykomende kolomme van regte in Deel 1 van Bylae No. 1; die bevoegdheid van die Minister om Deel 1 van Bylae No. 1 te wysig, verder te reël; voorsiening te maak vir die implementering van Vryhandelsooreenkoms; voorsiening te maak vir die implementering van die protokolle van die "Agreement on Trade Development and Cooperation between the European Community and the Republic" en die "Treaty Establishing the Southern African Development Community"; verder voorsiening te maak vir beheer oor ingevoerde bier; voorsiening te maak vir strenger registrasievereistes vir agente; die lisensiëring van klaringsagente verder te reël; die bepalings van waardes vir doeanebelastingdoeleindes verder te reël; eenvormige toepassing van waardebepalings vir aksynsregdoeleindes met ander bepalingsvoorsienings te verseker; voorsiening te maak vir sekere valutaberekening vir die doeleindes van die Europese Unie-Vryhandelsooreenkoms; verder voorsiening te maak vir misdrywe ingevolge genoemde Wet; voorsiening te maak vir die publikasie van inligting oor doeaneverwante oortreders; voorsiening te maak vir die verbeuring van voertuie spesial aangepas om onwettige goed te versteek; voorsiening te maak vir vertoë deur persone wie se goed aangehou word of op wie se goed beslag gelê is; die aanspreeklikheid van klaringsagente ten opsigte van buitelandse prinsipale uit te brei; voorsiening te maak vir die registrasie van doeanekonsultante; voorsiening te maak vir die voorlegging van rekenaargegenereerde dokumente en data; voorsiening te maak vir vertoë deur persone wie se goedere onderhewig is aan retensieregte; voorsiening te maak vir die delegasie van sekere bevoegdhede van die Minister aan die Adjunkminister; en voorsiening te maak vir die bekragtiging van sekere wysigings van die Bylaes by genoemde Wet; tot wysiging van die Wet op Seëlregte, 1968, ten einde sekere tekstuele wysigings aan te bring; en verder voorsiening te maak vir die invordering van belasting en die aanstelling van agente; tot wysiging van die Maatskap-pywet, 1973, ten einde 'n vrystelling van seëlreg terug te trek; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere uitdrukkings nader te omskryf; sekere aktiwiteitie by die omvang van die vrystelling vir finansiële dienste in te sluit; sekere toegewings te maak met betrekking tot persone wat ophou om ondernemers te wees; die toepassing van die nulkoers ten opsigte van goed wat uitgevoer word verder te reël; die toepassing van die nulkoers op die lewering van lopende sake te beperk; die toepassing van die nulkoers ten opsigte van dienste gelewer aan nie-inwoners te beperk; die toepassing van die nulkoers uit te brei na lewerings waarvoor betaling gemaak word uit donateursfondse ontvang ingevolge internasionale ooreenkomste; deur die tydstip waarop goed geag word ingevoer te wees, die waarde wat op daardie goed geplaas moet word en vrystelling van belasting ten opsigte van daardie goed verder te reël, en die betaling van belasting ten opsigte van daardie goed te reël; voorsiening te maak vir die dokumentasie wat ter stawing van 'n aftrekking van insetbelasting met betrekking tot ingevoerde goed gehou moet word; voorsiening te maak vir die aftrekking van insetbelasting op bedrae wat aan die Nasionale Loterye-Distribusietrustfonds betaal word; die tydstip waarop 'n ondernemer wat op die betalingsbasis vir belasting verantwoord, vir die uitsetbelasting moet verantwoord, te bepaal; die 90 persent of meer gebruik vir die doeleindes om belasbare

to apportion input tax, to 95 per cent; to provide that tax invoices must also be issued to persons who are not vendors and that the particulars which should be contained on a tax invoice may be furnished in another manner; to increase the compulsory registration threshold from R150 000 to R300 000 and to provide for a minimum registration threshold of R20 000; to authorise the Commissioner to cancel the registration of persons who do not meet the requirements for registration; to further regulate the circumstances in which a vendor must give notice of a change of status; to provide that certain decisions of the Commissioner are subject to objection and appeal; to determine which appeals are to be referred to a specially constituted board; to authorise the Commissioner to require of a member, shareholder or trustee of a vendor to provide surety for tax which may be due by the vendor; to increase the amount of R10 or less which need not be refunded by the Commissioner to R25; to oblige a representative vendor to give notice if he or she no longer acts in that capacity; to extend the obligations of an agent; to criminalise the failure to perform certain duties; to restate the penalty provisions; to further determine the circumstances in which additional tax may be levied; to further regulate the publication of information on tax offenders; to further regulate the exemption from tax on imported goods; and to effect certain textual alterations; to amend the Income Tax Act, 1993, so as to further define certain expressions; to amend the Taxation Laws Amendment Act, 1994, so as to extend the application of the rationalisation provisions; to amend the Uncertificated Securities Tax Act, 1998, so as to provide that the Commissioner must administer the Act; and to regulate the set-off of payments against penalty, interest and tax; to amend the Skills Development Levies Act, 1999, so as to further regulate the application of the levy on municipalities; to provide for a further exemption; and to correct a reference; and to repeal certain laws; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 32 of 1948, as substituted by section 1 of Act 37 of 1996 and amended by section 1 of Act 46 of 1996 and section 34 of Act 34 of 1997

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

- (a) by the insertion in the Afrikaans text before the definition of “effektebeurs” of the following definitions:
 - “‘aandelebeurs’ ‘n vereniging wat ingevolge die Wet op Beheer van Aandeleburse, 1985 (Wet No. 1 van 1985), gelisensieer is om die besigheid van ‘n aandelebeurs te dryf;
 - ‘aandelemakelaar’ ‘n aandelemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Aandeleburse, 1985 (Wet No. 1 van 1985);”;
- (b) by the deletion in the Afrikaans text of the definition of “effektebeurs”;
- (c) by the deletion in the Afrikaans text of the definition of “effektemakelaar”;
- (d) by the substitution in the Afrikaans text for the definition of “handelseffekte” of the following definition:
 - “‘handelseffekte’ enige genoemde [effekte] aandele soos in artikel 1 van die Wet op Beheer van [Effektebeurse] Aandeleburse, 1985, omskryf;”; and
- (e) by the substitution in the Afrikaans text for the definition of “lid” of the following definition:
 - “‘lid’ ‘n persoon wat as ‘n lid van ‘n [effektebeurs] aandelebeurs toegelaat is.”.

5

10

15

20

lewerings te maak sonder om 'n toedeling van insetbelasting te doen, na 95 persent te verhoog; voorsiening te maak dat belastingfakture ook aan persone wat nie ondernekmers is nie uitgereik moet word en dat die besonderhede wat op 'n belastingfaktuur aangedui moet word op 'n ander wyse verstrek kan word; die verpligte registrasiedrempel van R150 000 na R300 000 te verhoog en voorsiening te maak vir 'n minimum registrasiedrempel van R20 000; die Kommissaris te magtig om die registrasie van persone wat nie aan die vereistes vir registrasie voldoen nie, te kanselleer; die omstandighede waarin 'n ondernemer moet kennis gee van 'n verandering van status verder te reël; voorsiening te maak dat sekere besluite van die Kommissaris aan beswaar en appèl onderhewig is; te bepaal watter appèlle na 'n spesiaal ingestelde raad verwys moet word; die Kommissaris te magtig om van 'n lid, aandeelhouer of trustee van 'n ondernemer te vereis om borg te staan vir die belasting wat deur die ondernemer verskuldig mag wees; die bedrag van R10 of minder wat nie deur die Kommissaris terugbetaal hoef te word nie na R25 te verhoog; 'n verteenwoordigende ondernemer te verplig om kennis te gee indien hy of sy nie meer in daardie hoedanigheid optree nie; die verpligte van 'n agent uit te brei; die versuim om sekere pligte te verrig op straf te verbied; die strafbepalings te herformuleer; die omstandighede waarin addisionele belasting gehef kan word, verder te reël; die publikasie van inligting oor belastingoor-treders verder te reël; die vrystelling van belasting op ingevoerde goed verder te reël; en sekere tekstuele wysigings aan te bring; tot wysiging van die Inkomstebelastingwet, 1993, ten einde sekere uitdrukking nader te omskryf; tot wysiging van die Wysigingswet op Belastingwette, 1994, ten einde die toepassing van die rasionaliseringsbepalings uit te brei; tot wysiging van die Wet op die Belasting van Sertifikaatlose Aandele, 1998, ten einde te bepaal dat die Kommissaris die Wet moet administreer; en die verrekening van betalings teen boete, rente en belasting te reël; tot wysiging van die "uMthetho we Zibizontela woku Thuthukisa aMakhono, 1999", ten einde die toepassing van die heffing op munisipaliteite verder te reël; voorsiening te maak vir 'n verdere vrystelling; en 'n verwysing reg te stel; en sekere wette te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 1 van Wet 32 van 1948, soos vervang deur artikel 1 van Wet 37 van 1996 en gewysig deur artikel 1 van Wet 46 van 1996 en artikel 34 van Wet 5 34 van 1997

1. Artikel 1 van die Handelseffektebelastingwet, 1948, word hierby gewysig—
 - (a) deur die volgende omskrywings voor die omskrywing van "effektebeurs" in te voeg:

"'aandelebeurs' 'n vereniging wat ingevolge die Wet op Beheer van Aandelebeurse, 1985 (Wet No. 1 van 1985), gelisensieer is om die besigheid van 'n aandelebeurs te dryf;

'aandelemakelaar' 'n aandelemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Aandelebeurse, 1985;";
 - (b) deur die omskrywing van "effektebeurs" te skrap;
 - (c) deur die omskrywing van "effektemakelaar" te skrap;
 - (d) deur die omskrywing van "handelseffekte" deur die volgende omskrywing te vervang:

"'handelseffekte' enige genoteerde [effekte] aandele soos in artikel 1 van die Wet op Beheer van [Effektebeurse] Aandelebeurse, 1985, omskryf;"; en
 - (e) deur die omskrywing van "lid" deur die volgende omskrywing te vervang:

"'lid' 'n persoon wat as 'n lid van 'n [effektebeurs] aandelebeurs toegelaat is;".

Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982, section 1 of Act 92 of 1983, section 1 of Act 118 of 1984, section 1 of Act 81 of 1985, section 1 of Act 87 of 1988, section 1 of Act 136 of 1992, section 1 of Act 97 of 1993, section 3 of Act 37 of 1996, section 2 of Act 27 of 1997, section 1 of Act 30 of 1998 and section 1 of Act 32 of 1999 5

2. (1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended—
 (a) by the insertion after paragraph (a) of the following paragraph:
 “(b) in respect of the purchase of marketable securities that are acquired in terms of the provisions of section 85 of the Companies Act, 1973 (Act No. 61 of 1973);” and
 (b) by the substitution in the Afrikaans text for paragraph (d) of the following paragraph:
 “(d) ten opsigte van die koop van enige rentedraende skuldbriewe, met inbegrip van skuldbriefeffekte, skuldbriefverbande en enige ander sekuriteite van 'n regspersoon, hetsy dit 'n las teen die bates van die regspersoon uitmaak al dan nie, wat deur 'n [effektebeurs] aandelebeurs of deur 'n finansiële beurs soos omskryf in die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), genoem is.”.

(2) Subsection (1)(a) shall be deemed to have come into operation on 30 June 1999.

Amendment of section 6 of Act 32 of 1948, as substituted by section 2 of Act 97 of 1993 and amended by section 7 of Act 37 of 1996

3. (1) Section 6 of the Marketable Securities Tax Act, 1948, is hereby amended—
 (a) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:
 “Where, in addition to any amount of tax which is payable by any person in terms of this Act, an amount of penalty or interest is payable by him in terms of the provisions of this Act, any payment made by that person [on or after 1 April 1994] in respect of such tax, [or] penalty or interest, which is less than the total amount due by him in respect of such tax, [and] penalty and interest shall for the purposes of this Act be deemed to be made—”;
 (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
 “(b) to the extent that such payment exceeds the amount of such penalty, in respect of such [tax] interest; and”; and
 (c) by the addition to subsection (2) of the following paragraph:
 “(c) to the extent that such payment exceeds the amount of such penalty and interest, in respect of such tax.”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act.

Amendment of section 10 of Act 32 of 1948, as amended by section 7 of Act 37 of 1996 and section 3 of Act 46 of 1997

4. (1) Section 10 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the words following on paragraph (c) of subsection (1) of the following words:
 “shall be guilty of an offence and liable on conviction to a fine [not exceeding two hundred and fifty pounds] or to imprisonment for a period not exceeding [twelve months or both such fine and such imprisonment] two years.”.
 (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any offence committed on or after that date.

Substitution of long title of Act 32 of 1948, as substituted by section 6 of Act 37 of 1996

5. The long title in the Afrikaans text of the Marketable Securities Tax Act, 1948, is hereby substituted by the following long title: 55

Wysiging van artikel 3 van Wet 32 van 1948, soos gewysig deur artikel 12 van Wet 64 van 1960, artikel 36 van Wet 77 van 1968, artikel 2 van Wet 88 van 1974, artikel 2 van Wet 114 van 1977, artikel 1 van Wet 95 van 1978, artikel 2 van Wet 106 van 1980, artikel 1 van Wet 87 van 1982, artikel 1 van Wet 92 van 1983, artikel 1 van 5 Wet 118 van 1984, artikel 1 van Wet 81 van 1985, artikel 1 van Wet 87 van 1988, artikel 1 van Wet 136 van 1992, artikel 1 van Wet 97 van 1993, artikel 3 van Wet 37 van 1996, artikel 2 van Wet 27 van 1997, artikel 1 van Wet 30 van 1998 en artikel 1 van Wet 32 van 1999

2. (1) Artikel 3 van die Handelseffektebelastingswet, 1948, word hierby gewysig—
 10 (a) deur die volgende paragraaf na paragraaf (a) in te voeg:
 “(b) ten opsigte van die koop van handelseffekte wat ingevolge die bepalings van artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973), verky word;”; en
 15 (b) deur paragraaf (d) deur die volgende paragraaf te vervang:
 “(d) ten opsigte van die koop van enige rentedraende skuldbriewe, met inbegrip van skuldbriefeffekte, skuldbriefverbande en enige ander sekuriteite van 'n regspersoon, hetsy dit 'n las teen die bates van die regspersoon uitmaak al dan nie, wat deur 'n [effektebeurs] aandelebeurs of deur 'n finansiële beurs soos omskryf in die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), genoteer is.”.
 20 (2) Subartikel (1)(a) word geag op 30 Junie 1999, in werking te getree het.

Wysiging van artikel 6 van Wet 32 van 1948, soos vervang deur artikel 2 van Wet 97 van 1993 en gewysig deur artikel 7 van Wet 37 van 1996

3. (1) Artikel 6 van die Handelseffektebelastingswet, 1948, word hierby gewysig—
 25 (a) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:
 “Waar, benewens 'n bedrag belasting wat ingevolge hierdie Wet betaalbaar is deur 'n persoon, 'n bedrag aan boete of rente ingevolge die bepalings van hierdie Wet deur hom betaalbaar is, word enige betaling deur daardie persoon gedoen [op of na 1 April 1994] ten opsigte van daardie belasting, [of] boete of rente wat minder is as die totale bedrag deur hom betaalbaar ten opsigte van daardie belasting, [en] boete en rente, geag by die toepassing van hierdie Wet gedoen te wees—”;
 30 (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
 “(b) vir sover daardie betaling die bedrag van bedoelde boete oorskry, ten opsigte van bedoelde [belasting] rente; en” en
 35 (c) deur die volgende paragraaf by subartikel (2) te voeg:
 “(c) vir sover daardie betaling die bedrag van bedoelde boete en rente oorskry, ten opsigte van bedoelde belasting.”.
 40 (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet.

Wysiging van artikel 10 van Wet 32 van 1948, soos gewysig deur artikel 7 van Wet 37 van 1996 en artikel 3 van Wet 46 van 1997

4. (1) Artikel 10 van die Handelseffektebelastingswet, 1948, word hierby gewysig deur die woorde wat op paragraaf (c) van subartikel (1) volg deur die volgende woorde te vervang:
 45 “is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete [van hoogstens twee-honderd-en-vyftig pond] of met gevangenisstraf vir 'n tydperk van hoogstens [twaalf maande of met beide daardie boete en gevangenisstraf twee jaar].”
 50 (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige misdryf op of na daardie datum gepleeg.

Vervanging van lang titel van Wet 32 van 1948, soos vervang deur artikel 6 van Wet 37 van 1996

5. Die lang titel van die Handelseffektebelastingswet, 1948, word hierby deur die 55 volgende lang titel vervang:

“WET

“Om voorsiening te maak vir die oplegging van ’n belasting op die koop van handelseffekte deur die tussenkoms van of by ’n lid van ’n [effektebeurs] aandelebeurs.”.

Amendment of section 8 of Act 40 of 1949, as amended by section 2 of Act 81 of 1985 5

6. Section 8 of the Transfer Duty Act, 1949, is hereby amended by the substitution in the Afrikaans text for subparagraph (i) of paragraph (c) by the following subparagraph:

“(i) in die geval van aandele of sekuriteite wat op die datum van die transaksie op enige erkende [effektebeurs] aandelebeurs genoteer word, hulle middelmarkprys op daardie datum is; of”.

10

Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957, section 1 of Act 65 of 1960, section 7 of Act 77 of 1964, section 3 of Act 92 of 1971, section 9 of Act 106 of 1980, section 5 of Act 86 of 1987, section 7 of Act 87 of 1988, section 6 of Act 97 of 1993, section 2 of Act 140 of 1993, section 8 of Act 88 of 1996, section 5 of Act 27 of 1997 and section 34 of Act 34 of 1997 15

7. Section 1 of the Estate Duty Act, 1955, is hereby amended by the substitution in the Afrikaans text for the definition of “familiemaatskappy” in subsection (1) of the following definition:

“‘familiemaatskappy’, met betrekking tot ’n oorlede persoon, ’n maatskappy (behalwe ’n maatskappy waarvan die aandele op ’n erkende [effektebeurs] aandelebeurs gekwoteer word) wat op enige tersaaklike tydstip regstreeks of onregstreeks, hetsy deur ’n meerderheid van die aandele daarvan of ’n ander belang daarin of op watter ander wyse ook al, deur die oorledene of deur die oorledene en een of meer van sy familielede beheer is of kon geword het;”.

20

Amendment of section 5 of Act 45 of 1955, as amended by section 3 of Act 59 of 1957, section 4 of Act 65 of 1960, section 10 of Act 71 of 1961, section 10 of Act 77 of 1964, section 4 of Act 81 of 1965, section 2 of Act 56 of 1966, section 7 of Act 114 of 1977, section 7 of Act 81 of 1985, section 12 of Act 87 of 1988, section 2 of Act 136 of 1991 and section 9 of Act 97 of 1993 25

8. Section 5 of the Estate Duty Act, 1955, is hereby amended by the substitution in the Afrikaans text for the words preceding subparagraph (i) of paragraph (f)*bis* of subsection (1) of the following words:

“in die geval van aandele in ’n maatskappy wat nie op enige [effektebeurs] aandelebeurs gekwoteer word nie, die waarde van sodanige aandele in die besit van die oorledene op die datum van sy dood soos bepaal, behoudens die bepalings van artikel 8, deur een of ander deur die Kommissaris aangestelde onpartydige persoon onderworpe aan die volgende bepalings, te wete—”.

35

Amendment of section 24 of Act 45 of 1955, as substituted by section 15 of Act 77 of 1962 and amended by section 12 of Act 77 of 1964, section 2 of Act 104 of 1976, section 8 of Act 86 of 1987, section 10 of Act 97 of 1993 and section 8 of Act 27 of 1997 40

9. Section 24 of the Estate Duty Act, 1955, is hereby amended by the substitution for subsection (8) of the following subsection:

“(8) The provisions of subsections (8), (9), (10), (11), (12), (14), (15), (16) and (17) of section 83, and of sections 84, 85 [86] and 86A, of the Income Tax Act, 1962, and any regulations made under that Act and relating to any appeal to the special court referred to in subsection (4) and to any appeal in terms of the said [sections 86 and] section 86A, shall *mutatis mutandis* apply with reference to any appeal under this section.”.

45

“WET

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

5 Wysiging van artikel 8 van Wet 40 van 1949, soos gewysig deur artikel 2 van Wet 81 van 1985

6. Artikel 8 van die Wet op Hereregte, 1949, word hierby gewysig deur subparagraaf (i) van paragraaf (c) deur die volgende subparagraaf te vervang:

10 “(i) in die geval van aandele of sekuriteite wat op die datum van die transaksie op enige erkende [effektebeurs] aandelebeurs genoteer word, hulle middelmarkprys op daardie datum is; of”.

Wysiging van artikel 1 van Wet 45 van 1955, soos gewysig deur artikel 1 van Wet 59 van 1957, artikel 1 van Wet 65 van 1960, artikel 7 van Wet 77 van 1964, artikel 3 van Wet 92 van 1971, artikel 9 van Wet 106 van 1980, artikel 5 van Wet 86 van 15 1987, artikel 7 van Wet 87 van 1988, artikel 6 van Wet 97 van 1993, artikel 2 van Wet 140 van 1993, artikel 8 van Wet 88 van 1996, artikel 5 van Wet 27 van 1997 en artikel 34 van Wet 34 van 1997

7. Artikel 1 van die Boedelbelastingwet, 1955, word hierby gewysig deur die omskrywing van “familiemaatskappy” in subartikel (1) deur die volgende omskrywing te vervang:

20 “‘familiemaatskappy’, met betrekking tot 'n oorlede persoon, 'n maatskappy (behalwe 'n maatskappy waarvan die aandele op 'n erkende [effektebeurs] aandelebeurs gekwoteer word) wat op enige tersaaklike tydstip regstreeks of onregstreeks, hetsy deur 'n meerderheid van die aandele daarvan of 'n ander belang daarin of op watter ander wyse ook al, deur die oorledene of deur die oorledene en een of meer van sy familielede beheer is of kon geword het;”.

Wysiging van artikel 5 van Wet 45 van 1955, soos gewysig deur artikel 3 van Wet 59 van 1957, artikel 4 van Wet 65 van 1960, artikel 10 van Wet 71 van 1961, artikel 10 van Wet 77 van 1964, artikel 4 van Wet 81 van 1965, artikel 2 van Wet 56 van 30 1966, artikel 7 van Wet 114 van 1977, artikel 7 van Wet 81 van 1985, artikel 12 van Wet 87 van 1988, artikel 2 van Wet 136 van 1991 en artikel 9 van Wet 97 van 1993

8. Artikel 5 van die Boedelbelastingwet, 1955, word hierby gewysig deur die woorde wat subparagraaf (i) van paragraaf (f)*bis* van subartikel (1) voorafgaan deur die volgende woorde te vervang:

35 “in die geval van aandele in 'n maatskappy wat nie op enige [effektebeurs] aandelebeurs gekwoteer word nie, die waarde van sodanige aandele in die besit van die oorledene op die datum van sy dood soos bepaal, behoudens die bepalings van artikel 8, deur een of ander deur die Kommissaris aangestelde onpartydige persoon onderworpe aan die volgende bepalings, te wete—”.

40 **Wysiging van artikel 24 van Wet 45 van 1955, soos vervang deur artikel 15 van Wet 77 van 1962 en gewysig deur artikel 12 van Wet 77 van 1964, artikel 2 van Wet 104 van 1976, artikel 8 van Wet 86 van 1987, artikel 10 van Wet 97 van 1993 en artikel 8 van Wet 27 van 1997**

45 9. Artikel 24 van die Boedelbelastingwet, 1955, word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang:

50 “(8) Die bepalings van subartikels (8), (9), (10), (11), (12), (14), (15), (16) en (17) van artikel 83, en van artikels 84, 85 [86] en 86A, van die Inkomstebelastingwet, 1962, en enige regulasies wat kragtens daardie Wet uitgevaardig is en betrekking het op 'n appèl na die spesiale hof bedoel in subartikel (4) en op 'n appèl ingevolge bedoelde [artikels 86 en] artikel 86A, is *mutatis mutandis* met betrekking tot 'n appèl ingevolge hierdie artikel van toepassing.”.

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

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

- (a) by the substitution for paragraph (b) of the definition of “benefit fund” of the following paragraph:
“(b) any medical scheme registered under the provisions of the Medical Schemes Act, [1967 (Act No. 72 of 1967)] 1998 (Act No. 131 of 1998); or”;
- (b) by the substitution for paragraph (c) of the definition of “dividend” of the following paragraph:
“(c) in the event of the partial reduction or redemption of the capital of a company, including the acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973), so much of the sum of any cash and the value of any asset given to a shareholder as exceeds the cash equivalent of—
(i) the amount by which the nominal value of the shares of that shareholder is reduced; or
(ii) the nominal value of the shares so acquired from such shareholder, as the case may be; and”;
- (c) by the substitution for paragraph (f) of the definition of “dividend” of the following paragraph:
“(f) subject to the provisions of the [second] first proviso to this definition, any cash and the value of any asset given to a shareholder to the extent to which the cash and the value of the asset represents a reduction of the share premium account of a company; or”;
- (d) by the deletion of paragraph (g) of the definition of “dividend”;
- (e) by the substitution for paragraph (h) of the definition of “dividend” of the following paragraph:
“(h) the nominal value of any capitalization shares awarded to shareholders as part of the equity share capital of a company [if—
(i) such shares are or were awarded on or before 30 June 1975 and during the period of ten years ending the day before the date of such award the company has not made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets; or
(ii) such shares are awarded on or after 1 July 1975];”;
- (f) by the deletion of the first proviso to the definition of “dividend”;
- (g) by the substitution for the words preceding paragraph (i) of the second proviso to the definition of “dividend” of the following words:
“Provided [further] that, for the purposes of this definition—”;

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

10. (1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 20 (a) deur die omskrywing van “bedryf” deur die volgende omskrywing te vervang:
 25 “ ‘bedryf’ ook elke professie, handelsaak, besigheid, diens, beroep, vak of onderneming, met inbegrip van die verhuur van goed en die gebruik of die verleen van toestemming tot die gebruik van ’n patent soos in die Wet op Patente, 1978 (Wet No. 57 van 1978), omskryf, of ’n model soos in die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), omskryf, of ’n handelsmerk soos in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), omskryf, of ’n outeursreg soos in die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), omskryf, of van enige ander goed wat van dergelike aard is;”;
 30 (b) deur subparagraph (bb) van paragraaf (eA) van die omskrywing van “bruto inkomste” deur die volgende subparagraph te vervang:
 35 “(bb) in die geval van ’n omskakeling, van die bedrag wat die bedrag omgeskakel vir die voordeel of uiteindelike voordeel van die lid, of die afhanglikes of benoemdes van die oorlede lid, verteenwoordig, en daardie bedrag word geag ontvang te gewees het deur of toe te geval het aan of ten gunste van daardie lid, afhanglikes of benoemdes, na gelang van die geval: Met dien verstande dat waar ’n aantekening in die rekords van die fonds gemaak word wat bepaal dat ’n deel van daardie bedrag aan die vorige eggenoot van daardie lid betaal moet word, soos in artikel 7(8) van die Wet op Eggskeiding, 1979 (Wet No. 70 van 1979), bedoel, word daardie deel vir die doeleinades van hierdie paragraaf geag ’n bedrag vir die voordeel of uiteindelike voordeel van 40 daardie lid omgeskakel te wees; of”;
 45 (c) deur subparagraph (iii) van paragraaf (g) van die omskrywing van “bruto inkomste” deur die volgende subparagraph te vervang:
 50 “(iii) vir die gebruik of die reg van gebruik van ’n patent soos in die Wet op Patente, 1978 (Wet No. 57 van 1978), omskryf, of ’n model soos in die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), omskryf, of ’n handelsmerk soos in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), omskryf, of ’n outeursreg soos in die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), omskryf, of ’n ontwerp, patroon, plan, formule of proses of enige ander eiendom of reg van 55 dergelike aard;”;
 55 (d) deur paragraaf (b) van die omskrywing van “bystandsfonds” deur die volgende paragraaf te vervang:
 60 “(b) ’n mediese skema ingevolge die bepalings van die Wet op Mediese Skemas, [1967 (Wet No. 72 van 1967)] 1998 (Wet No. 131 van 1998), geregistreer; of”;

- (h) by the substitution for the words preceding subparagraph (aa) of paragraph (iii) of the second proviso to the definition of “dividend” of the following words:
- “if, in the event of the subsequent partial reduction or redemption of the share capital (including any share premium) of the company, including any acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973), or the reconstruction of the company, any cash or asset is given to shareholders and such cash or asset (or a portion thereof) represents a return of share capital or share premium, the amount of share capital or share premium so returned—”;
- (i) by the substitution for subparagraph (bb) of paragraph (eA) of the definition of “gross income” of the following subparagraph:
- “(bb) in the case of a conversion, of the amount representing the amount converted for the benefit or ultimate benefit of the member or the dependants or nominees of the deceased member, and such amount shall be deemed to have been received by or accrued to or in favour of such member, dependants or nominees, as the case may be: Provided that where any endorsement has been made in the records of the fund which provides that any part of such amount shall be paid to the former spouse of such member, as provided for in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), such part shall for the purposes of this paragraph be deemed to be an amount converted for the benefit or ultimate benefit of such member; or”;
- (j) by the substitution for subparagraph (iii) of paragraph (g) of the definition of “gross income” of the following subparagraph:
- “(iii) for the use or right of use of any patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), or any copyright as defined in the Copyright Act, 1978 (Act No. 98 of 1978), or any model, pattern, plan, formula or process or any other property or right of a similar nature;”; and
- (k) by the substitution for the definition of “trade” of the following definition:
- “‘trade’ includes every profession, trade, business, employment, calling, occupation or venture, including the letting of any property and the use of or the grant of permission to use any patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), or any copyright as defined in the Copyright Act, 1978 (Act No. 98 of 1978), or any other property which is of a similar nature;”.
- (2) (a) Subsection (1)(b) to (h) shall be deemed to have come into operation on 30 June 1999.
- (b) Subsection (1)(i) shall—
- (i) in so far as it adds words to the words preceding the proviso, be deemed to have come into operation on 12 March 1997, and shall apply in respect of any conversion on or after that date; and
- (ii) in so far as it adds the proviso, come into operation on the date of promulgation of this Act and shall apply in respect of any amount converted on or after that date.

- (e) deur paragraaf (c) van die omskrywing van "dividend" deur die volgende paragraaf te vervang:
- (c) in die geval van die gedeeltelike vermindering of aflossing van die kapitaal van 'n maatskappy, met inbegrip van die verkryging van aandele ingevolge artikel 85 van die Maatskappwyet, 1973 (Wet No. 61 van 1973), soveel van die som van enige kontant en die waarde van enige bate wat aan 'n aandeelhouer gegee word as wat die ekwivalent in kontant van—
- (i) die bedrag waarmee die nominale waarde van die aandele van daardie aandeelhouer verminder word, te bowe gaan; of
- (ii) die nominale waarde van die aandele aldus van daardie aandeelhouer verkry, te bowe gaan,
na gelang van die geval; en";
- (f) deur paragraaf (f) van die omskrywing van "dividend" deur die volgende paragraaf te vervang:
- "(f) behoudens die bepalings van die [tweede] eerste voorbehoudsbepaling by hierdie omskrywing, kontant en die waarde van 'n bate aan 'n aandeelhouer gegee vir sover die kontant en die waarde van die bate 'n vermindering van die aandelepremierekening van 'n maatskappy verteenwoordig; of";
- (g) deur paragraaf (g) van die omskrywing van "dividend" te skrap;
- (h) deur paragraaf (h) van die omskrywing van "dividend" deur die volgende paragraaf te vervang:
- "(h) die nominale waarde van kapitalisasie-aandele aan aandeelhouers toegeken as deel van die ekwiteitsaandelekapitaal van 'n maatskappy [indien—
- (i) bedoelde aandele op of voor 30 Junie 1975 toegeken is of word en gedurende die tydperk van tien jaar wat die dag voor die datum van bedoelde toekenning eindig, die maatskappy nie 'n gedeeltelike vermindering van sy opbetaalde aandelekapitaal wat 'n uitkering aan aandeelhouers van kontant of ander bates meegebring het, gemaak het nie; of
- (ii) bedoelde aandele op of na 1 Julie 1975 toegeken word];";
- (i) deur die eerste voorbehoudsbepaling by die omskrywing van "dividend" te skrap;
- (j) deur die woorde wat paragraaf (i) van die tweede voorbehoudsbepaling by die omskrywing van "dividend" voorafgaan deur die volgende woorde te vervang:
- "Met dien verstande [voorts] dat, by die toepassing van hierdie omskrywing—"; en
- (k) deur die woorde wat subparagraph (aa) van paragraaf (iii) van die tweede voorbehoudsbepaling by die omskrywing van "dividend" voorafgaan deur die volgende woorde te vervang:
- "indien, in geval van 'n daaropvolgende gedeeltelike vermindering of aflossing van die aandelekapitaal (met inbegrip van enige aandelepremie) van die maatskappy, met inbegrip van enige verkryging van aandele ingevolge artikel 85 van die Maatskappwyet, 1973 (Wet No. 61 van 1973), of die rekonstruksie van die maatskappy, enige kontant of enige bate aan aandeelhouers gegee word en daardie kontant of bate (of 'n gedeelte daarvan) 'n terugbetaling van aandelekapitaal of aandelepremie verleenwoordig, die bedrag aan aandelekapitaal of aandelepremie wat aldus teruggegee word—".
- (2) (a) Vir sover subartikel (1)(b)—
- (i) woorde by die woorde wat die voorbehoudsbepaling voorafgaan, byvoeg, word dit geag op 12 Maart 1997 in werking te getree het, en is van toepassing ten opsigte van enige omskakeling op of na daardie datum; en
- (ii) die voorbehoudsbepaling byvoeg, tree dit in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige bedrag omgeskakel op of na daardie datum.
- (b) Subartikel (1)(e) tot (k) word geag op 30 Junie 1999 in werking te getree het.

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

5

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

- (a) by the substitution for paragraph (c) of the proviso to subsection (1) of the following paragraph:
~~“(c) the provisions of this subsection shall not be construed as preventing the Commissioner from disclosing to the [Chief of the Central Statistical Services] Statistician-General such information in relation to any person as may be required by such [Chief] Statistician-General in connection with the collection of statistics in complying with the provisions of the Statistics Act, [1976 (Act No. 66 of 1976)] 1999 (Act No. 6 of 1999), or any [regulation] rule made thereunder.”;~~ 10
- (b) by the addition to the proviso to subsection (1) of the following paragraph:
~~“(d) the provisions of this subsection shall not be construed as preventing the Commissioner from disclosing to the Board administering the National Student Financial Aid Scheme, any information relating to the name and address of the employer of any borrower or bursar to whom any loan or bursary has been granted in terms of such scheme.”; and~~ 20
- (c) by the substitution for subsection (1A) of the following subsection:
~~“(1A) The [Chief of the Central Statistical Services] Statistician-General or any person acting under the direction and control of such [Chief] Statistician-General, shall not disclose any information supplied under subsection (1)(c) to any person or permit any person to have access thereto, except in the exercise of his powers or the carrying out of his duties to publish statistics in any anonymous form.”.~~ 25

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

30

12. Section 6~~quat~~ of the Income Tax Act, 1962, is hereby amended—

- (a) by the addition of the word “or” at the end of paragraph (b) of subsection (1);
- (b) by the addition of the following paragraph to subsection (1):
~~“(c) any income payable to such resident from the Republic, where such income is deemed to be from a source within the Republic in terms of the provisions of paragraphs (d), (d)^{bis} and (f) of section 9(1).”; and~~ 35
- (c) by the substitution in subsection (1) for the words following on paragraph (b) and preceding paragraph (i) of the following words:
~~“a rebate equal to the sum of any taxes on income proved to be payable, without any right of recovery by any person (other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment) by—”.~~ 40

Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141 of 1992, section 6 of Act 21 of 1995 and section 23 of Act 30 of 1998

45

13. Section 7 of the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (i) of paragraph (c) of subsection (2C) of the following subparagraph: 50

Wysiging van artikel 4 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 55 van 1966, artikel 4 van Wet 104 van 1979, artikel 32 van Wet 104 van 1980, artikel 3 van Wet 96 van 1981, artikel 3 van Wet 85 van 1987, artikel 3 van Wet 70 van 1989, artikel 4 van Wet 21 van 1994, artikel 3 van Wet 36 van 1996, artikel 5 34 van Wet 34 van 1997 en artikel 21 van Wet 30 van 1998

- 11.** Artikel 4 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- deur paragraaf (c) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

“(c) die bepalings van hierdie subartikel nie so uitgelê word dat dit die Kommissaris belet om die inligting met betrekking tot ’n persoon aan die [Hoof van die Sentrale Statistiekdiens] Statistikus-generaal te verskaf nie wat deur daardie [Hoof] Statistikus-generaal vereis word met betrekking tot die insameling van statistieke in die nakoming van die bepalings van die Wet op Statistieke, [1976 (Wet No. 66 van 1976)] 1999 (Wet No. 6 van 1999), of enige [regulasie] reël daarkragtens uitgereik.”;
 - deur die volgende paragraaf by die voorbehoudsbepaling by subartikel (1) te voeg:

“(d) die bepalings van hierdie subartikel nie so uitgelê word dat dit die Kommissaris belet om aan die Raad wat die Nasionale Skema vir Finansiële Bystand vir Studente administreer, inligting met betrekking tot die naam en adres van die werkgewer van enige lerner of beurshouer aan wie ’n lening of beurs ingevolge daardie skema toegeken is, te verskaf nie.”; en
 - deur subartikel (1A) deur die volgende subartikel te vervang:

“(1A) Die [Hoof van die Sentrale Statistiekdiens] Statistikus-generaal of enige persoon wat in opdrag en onder die beheer van daardie [Hoof] Statistikus-generaal optree, mag nie enige inligting wat ingevolge subartikel (1)(c) verskaf is, aan enige persoon openbaar nie of toelaat dat enige persoon toegang daartoe verkry nie, behalwe by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte om statistieke in ’n naamlose vorm te publiseer.”.

Wysiging van artikel 6^{quat} van Wet 58 van 1962, soos ingevoeg deur artikel 5 van Wet 85 van 1987 en gewysig deur artikel 5 van Wet 28 van 1997

- 12.** Artikel 6^{quat} van die Inkomstebelastingwet, 1962, word hierby gewysig—
- deur die woord “of” aan die einde van paragraaf (b) van subartikel (1) by te voeg;
 - deur die volgende paragraaf by subartikel (1) te voeg:

“(c) enige inkomste aan daardie inwoner vanuit die Republiek betaalbaar, waar daardie inkomste ingevolge die bepalings van paragrawe (d), (d)^{bis} en (f) van artikel 9(1) geag word uit ’n bron in die Republiek te wees.”; en
 - deur in subartikel (1) die woorde wat op paragraaf (ii) volg en die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“sonder enige reg van verhaal deur enige persoon, behalwe ’n reg van verhaal ingevolge ’n reg om enige verliese wat gedurende enige jaar van aanslag ontstaan na ’n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra, aan die regering van bedoelde ander land betaalbaar is ten opsigte van die bedrag aan inkomste wat aldus in daardie inwoner of persoon se belasbare inkomste ingesluit is.”.

Wysiging van artikel 7 van Wet 58 van 1962, soos gewysig deur artikel 5 van Wet 90 van 1962, artikel 8 van Wet 88 van 1965, artikel 9 van Wet 55 van 1966, artikel 7 van Wet 94 van 1983, artikel 2 van Wet 30 van 1984, artikel 5 van Wet 90 van 1988, artikel 5 van Wet 70 van 1989, artikel 4 van Wet 101 van 1990, artikel 7 van 55 Wet 129 van 1991, artikel 5 van Wet 141 van 1992, artikel 6 van Wet 21 van 1995 en artikel 23 van Wet 30 van 1998

- 13.** Artikel 7 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (i) van paragraaf (c) van subartikel (2C) deur die volgende subparagraaf te vervang:

“(i) registered holder of a patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993); or”.

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

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

(a) by the substitution for subparagraphs (i) and (ii) of paragraph (e) of subsection 15
(1) of the following subparagraphs:

“(i) the President, Deputy President, a Minister, Deputy Minister, a member of [Parliament] the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature;

(ii) any member of [any institution or body contemplated in section 84(1)(f) of the Republic of South Africa constitution Act, 1961 (Act No. 32 of 1961)] a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders; and”; and

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

“(f) Where it is expected of any person contemplated in paragraph (e)(i) to defray any expenditure referred to in paragraph (d) out of his salary received as the holder of any public office, an amount equal to a portion (which shall be determined [from time to time by the Minister by notice in the Gazette] by the National Assembly or the President, as the case may be, as provided for in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998)) of such salary shall for the purposes of paragraph (d) be deemed to be an allowance granted to such person.”.

(2) (a) Subsection (1)(a) shall—

(i) in so far as it amends subparagraph (i) of paragraph (e), be deemed to have come into operation on 1 March 1999; and

(ii) in so far as it amends subparagraph (ii) of paragraph (e), come into operation 40 on 1 March 2000.

(b) Subsection (1)(b) shall be deemed to have come into operation on 1 March 1999.

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 36 of Act 9 of 1989, section 10 of Act 129 of 1991, section 7 of Act 141 of 1992, section 5 of Act 113 of 1993, section 3 of Act 140 of 1993, section 7 of Act 21 of 1994, section 9 of Act 21 of 1995, section 7 of Act 28 of 1997 and section 25 of Act 50 30 of 1998 50

15. Section 9 of the Income Tax Act, 1962, is hereby amended—

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

“(i) any patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act,

- 5 “(i) geregistreerde houer van ’n patent soos omskryf in die Wet op Patente, 1978 (Wet No. 57 van 1978), of ’n model soos omskryf in die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), of ’n handelsmerk soos omskryf in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), is; of”.

Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van 10 Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van 15 1993, artikel 6 van Wet 21 van 1994, artikel 8 van Wet 21 van 1995, artikel 6 van Wet 36 van 1996, artikel 6 van Wet 28 van 1997 en artikel 24 van Wet 30 van 1998

14. (1) Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur subparagrawe (i) en (ii) van paragraaf (e) van subartikel (1) deur die volgende subparagrawe te vervang:
 “(i) die President, Adjunkpresident, ’n Minister, Adjunkminister ’n lid van die [Parlement] Nasionale Vergadering, ’n vaste afgevaardigde van die Nasionale Raad van Provincies, ’n Premier, ’n lid van ’n Uitvoerende Raad of ’n lid van ’n provinsiale wetgewer;
 (ii) ’n lid van [’n instelling of liggaam beoog in artikel 84 (1) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet 32 van 1961)] ’n munisipale raad, ’n tradisionele leier, ’n lid van ’n provinsiale Huis van Tradisionele Leiers en ’n lid van die Raad van Tradisionele Leiers; en”; en
 (b) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
 “(f) Waar dit van ’n persoon bedoel in paragraaf (e)(i) verwag word om enige onkoste bedoel in paragraaf (d) uit sy salaris ontvang as die bekleer van ’n openbare amp, te bestry, word ’n bedrag gelyk aan ’n gedeelte (wat [van tyd tot tyd deur die Minister by kennisgewing in die Staatskoerant] vasgestel word deur die Nasionale Vergadering of die President, na gelang van die geval, soos in die Wet op die Besoldiging van Openbare Ampsbekleers, 1998 (Wet No. 20 van 1998), bepaal) van bedoelde salaris, by die toepassing van paragraaf (d) geag ’n toelae aan bedoelde persoon toegestaan, te wees.”.
 (2) (a) Vir sover subartikel (1)(a)—
 (i) subparagraaf (i) van paragraaf (e) wysig, word dit geag op 1 Maart 1999 in werking te getree het; en
 (ii) subparagraaf (ii) van paragraaf (e) wysig, tree dit in werking op 1 Maart 2000.
 (b) Subartikel (1)(b) word geag op 1 Maart 1999 in werking te getree het.

Wysiging van artikel 9 van Wet 58 van 1962, soos gewysig deur artikel 7 van Wet 45 90 van 1962, artikel 6 van Wet 72 van 1963, artikel 7 van Wet 90 van 1964, artikel 9 van Wet 95 van 1967, artikel 12 van Wet 89 van 1969, artikel 6 van Wet 65 van 1973, artikel 9 van Wet 85 van 1974, artikel 8 van Wet 103 van 1976, artikel 9 van Wet 121 van 1984, artikel 5 van Wet 96 van 1985, artikel 6 van Wet 65 van 1986, artikel 2 van Wet 108 van 1986, artikel 7 van Wet 85 van 1987, artikel 36 van Wet 50 9 van 1989, artikel 10 van Wet 129 van 1991, artikel 7 van Wet 141 van 1992, artikel 5 van Wet 113 van 1993, artikel 3 van Wet 140 van 1993, artikel 7 van Wet 21 van 1994, artikel 9 van Wet 21 van 1995, artikel 7 van Wet 28 van 1997 en artikel 25 van Wet 30 van 1998

- 55 15. Artikel 9 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur subparagraaf (i) van paragraaf (b) van subartikel (1) deur die volgende suparagraaf te vervang:
 “(i) ’n patent soos in die Wet op Patente, 1978 (Wet No. 57 van 1978), omskryf, of ’n model soos in die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), omskryf, of ’n handelsmerk

- [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), or any copyright as defined in the Copyright Act, 1978 (Act No. 98 of 1978), or any model, pattern, plan, formula or process or any other property or right of a similar nature; or"; and
- (b) by the substitution for paragraph (fA) of subsection (1) of the following paragraph:
- “(fA) any services rendered by such person to, or work or labour done by such person for, any other person upon, beneath or above the continental shelf referred to in section [7] 8 of the [Territorial Waters Act, 1963 (Act No. 87 of 1963)] Maritime Zones Act, 1994 (Act No. 15 of 1994), in the course of any operations connected with operations carried on by any person under any prospecting permit or mining authorization issued or which may be issued under the Minerals Act, 1991 (Act No. 50 of 1991), or any prospecting or mining lease granted under the Mining Rights Act, 1967 (Act No. 20 of 1967), or under any sublease granted or which may be granted under any such lease, wheresoever payment for such services or work or labour is or is to be made.”.

Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991, section 9 of Act 141 of 1992, 20 section 6 of Act 113 of 1993, section 7 of Act 36 of 1996 and section 26 of Act 30 of 1998

16. (1) Section 9B of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the words preceding the proviso to subsection (1) of the following words:
- “For the purposes of this section ‘affected share’, in relation to any taxpayer, means a share listed on a [licensed] stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), which has been disposed of by the taxpayer [and of which he] who immediately prior to such disposal had been the owner of such share as a listed share for a continuous period of at least five years.”; and
- (b) by the insertion after subsection (4) of the following subsection:
- “(5) The provisions of this section shall not apply to any affected shares where such shares constitute shares which were deemed to be trading stock of the taxpayer in terms of section 24A(2)(a) of this Act.”.

(2) Subsection (1)(b) shall come into operation on the date of promulgation of this Act and shall apply in respect of any share acquired on or after that date.

Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997 and amended by section 28 of Act 30 of 1998

17. Section 9D of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (4) for the words following on paragraph (b) of the following words:
- “there shall be included in the income of such resident by whom such donation, settlement or other disposition was made, so much of the amount of any investment income as is attributable to such donation 45 settlement or other disposition.”;
- (b) by the substitution for paragraph (a) of the second proviso to subsection (8) of the following paragraph:
- “(a) any [such] deductions or allowances allowable in terms of this subsection shall be limited to the amount of such investment income; 50 and”; and
- (c) by the substitution in subsection (9) for the words preceding the proviso to paragraph (a) of the following words:

- soos in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), omskryf, of 'n oueursreg soos in die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), omskryf, of 'n ontwerp, patroon, plan, formule of proses of enige ander eiendom of reg van dergelike aard; of"; en
- 5 (b) deur paragraaf (fA) van subartikel (1) deur die volgende paragraaf te vervang:
- "(fA) enige dienste deur so iemand aan 'n ander persoon bewys, of werk of arbeid deur so iemand vir 'n ander persoon verrig, op, onder of bo die vastelandspot bedoel in artikel [7] 8 van die Wet op [Territoriale Waters, 1963 (Wet No. 87 van 1963)] Maritieme Sones, 1994 (Wet No. 15 van 1994), in die loop van enige werksaamhede wat verband hou met werksaamhede wat kragtens 'n prospekteerpermit of ontginningsmagtiging wat ingevolge die Mineraalwet, 1991 (Wet No. 50 van 1991), toegeken is of toegeken mag word of kragtens 'n prospekteer-of mynuur wat ingevolge die Wet op Mynregte, 1967 (Wet No. 20 van 1967), toegeken is, of wat kragtens 'n onderhuur ingevolge so 'n huur toegeken is of toegeken mag word, deur enige persoon voortgesit word, ongeag waar betaling vir sodanige dienste of werk of arbeid geskied of moet geskied;".
- 10
- 15
- 20

Wysiging van artikel 9B van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 129 van 1991, artikel 9 van Wet 141 van 1992, artikel 6 van Wet 113 van 1993, artikel 7 van Wet 36 van 1996 en artikel 26 van Wet 30 van 1998

- 25 16. (1) Artikel 9B van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur die woorde wat die voorbehoudsbepaling by subartikel (1) voorafgaan deur die volgende woorde te vervang:
- "By die toepassing van hierdie artikel beteken 'geaffekteerde aandeel', met betrekking tot enige belastingpligtige, 'n aandeel wat op 'n [gelisensieerde effektebeurs] aandelebeurs soos in die Wet op Beheer van [Effektebeurse] Aandelebeurse, 1985 (Wet No. 1 van 1985), omskryf, genoteer is, wat deur die belastingpligtige vervreem is [en] [waarvan hy] wat onmiddellik voor bedoelde vervreemding die eienaar van bedoelde aandeel as 'n genoteerde aandeel vir 'n ononderbroke tydperk van ten minste vyf jaar was;"; en
- 30
- (b) deur die volgende subartikel na subartikel (4) in te voeg:
- "(5) Die bepaling van hierdie artikel is nie van toepassing nie ten opsigte van enige geaffekteerde aandele waar daardie aandele aandele uitmaak wat ingevolge die bepaling van artikel 24A(2)(a) van hierdie 35 Wet, geag was handelsvoorraad te wees.".
- 40
- (2) Subartikel (1)(b) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige aandeel op of na daardie datum verkry.

Wysiging van artikel 9D van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 28 van 1997 en gewysig deur artikel 28 van Wet 30 van 1998

- 45 17. Artikel 9D van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (4) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:
- "word daar in die inkomste van bedoelde inwoner deur wie daardie skenking, oormaking of ander beskikking gemaak is, ingesluit soveel 50 van die bedrag van beleggingsinkomste wat aan bedoelde skenking, oormaking of ander beskikking toeskrybaar is;";
- (b) deur paragraaf (a) van die tweede voorbehoudsbepaling by subartikel (8) deur die volgende paragraaf te vervang:
- "(a) [bedoelde] enige aftrekings of verminderings wat ingevolge hierdie 55 subartikel toelaatbaar is, beperk word tot die bedrag van bedoelde beleggingsinkomste; en"; en
- (c) deur in subartikel (9) die woorde wat die voorbehoudsbepaling by paragraaf (a) voorafgaan deur die volgende woorde te vervang:

5
10

“where the foreign tax actually paid or payable without any right of recovery by any person (other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment) in any country other than the Republic, relating to the proportional amount contemplated in subsection (2) or (4), after taking into consideration any deductions or allowances under the taxation provisions of such other country determined at the ratio as contemplated in subsection (2) or (4), as the case may be, is more than 85 per cent of the normal tax payable in the Republic:”.

15
20
25

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

- 30
35
40
45
50
55
- 18. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—**
- (a) by the substitution for item (bb) of subparagraph (vii) of paragraph (cI) of subsection (1) of the following item:
“(bb) in securities listed on a [licensed] stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);”;
 - (b) by the substitution for item (bb) of subparagraph (iv) of paragraph (cJ) of subsection (1) of the following item:
“(bb) in securities listed on a [licensed] stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);”;
 - (c) by the substitution for subparagraph (v) of paragraph (cM) of subsection (1) of the following subparagraph:
“(v) [at least one of the members is a local authority] the business directly connected with the sole or principal object was previously carried on by a municipal council and the control of the company is exercised by such municipal council; and”;
 - (d) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
“(e) any levy received by or accrued to—
 - (i) any body corporate established in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), from its members;
 - (ii) a share block company established in terms of the Share Blocks Control Act, 1980 (Act No. 59 of 1980), from its shareholders; or
 - (iii) any other association of persons (other than a company registered or deemed to be registered under the Companies Act, 1973 (Act No. 61 of 1973), and any co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981), and any close corporation and any trust, but including a company incorporated under section 21 of the Companies Act, 1973), from its members, where the Commissioner is satisfied that, subject to such conditions as he may deem necessary, such association of persons—

5 “waar die buitelandse belasting werklik betaal of betaalbaar sonder enige reg van verhaal deur enige persoon (behalwe 'n reg van verhaal ingevolge 'n reg om enige verliese wat gedurende enige jaar van aanslag ontstaan na 'n jaar van aanslag wat bedoelde jaar van aanslag voorafgaan, terug te dra) in 'n ander land as die Republiek, met betrekking tot die proporsionele bedrag bedoel in subartikel (2) of (4), na inagneming van enige aftrekkings of verminderings kragtens die belastingbepalings van bedoelde ander land vasgestel in die verhouding soos in subartikel (2) of (4) beoog, na gelang van die geval, 85 persent van die normale belasting in die Republiek betaalbaar, te bowe gaan;”.

10

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van 15 Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 20 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, 25 artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996, artikel 10 van Wet 28 van 1997 en artikel 29 van Wet 30 van 1998

18. (1) Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- 30 (a) deur item (bb) van subparagraph (vii) van paragraaf (cI) van subartikel (1) deur die volgende item te vervang:
“(bb) in effekte genoteer op 'n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurse Aandelebeurse, 1985 (Wet No. 1 van 1985);”;
- 35 (b) deur item (bb) van subparagraph (iv) van paragraaf (cJ) van subartikel (1) deur die volgende item te vervang:
“(bb) in effekte genoteer op 'n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurse Aandelebeurse, 1985 (Wet No. 1 van 1985);”;
- 40 (c) deur subparagraph (v) van paragraaf (cM) van subartikel (1) deur die volgende subparagraph te vervang:
“(v) [ten minste een van die lede 'n plaaslike owerheid is] die besigheid wat regstreeks met die enigste of vernaamste oogmerk in verband staan, voorheen deur 'n munisipale raad bedryf is en beheer oor die maatskappy deur daardie munisipale raad uitgeoefen word; en”;
- 45 (d) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:
“(e) enige heffing ontvang deur of toegeval aan—
(i) enige regspersoon ingevolge die Wet op Deeltitels, 1986 (Wet No. 95 van 1986), ingestel, van sy lede;
(ii) 'n aandeblokmaatskappy ingevolge die Wet op die Beheer van Aandeblokke, 1980 (Wet No. 59 van 1980), ingestel, van sy aandeelhouers; of
(iii) enige ander vereniging van persone (behalwe 'n maatskappy geregistreer of geag geregistreer te wees ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), en 'n koöperasie ingevolge die Koöperasiewet, 1981 (Wet No. 91 van 1981), opgerig en ingelyf of geag opgerig en ingelyf te wees en enige beslote korporasie en enige trust, maar ingesluit enige maatskappy ingevolge artikel 21 van die Maatskappywet, 1973, ingelyf), van sy lede, waar die Kommissaris oortuig is dat, onderworpe aan die voorwaardes wat hy nodig ag, daardie vereniging van persone—
- 50
- 55
- 60

- (aa) has been formed solely for the purposes of managing the collective interests common to all its members, which includes expenditure applicable to the common property of such members and the collection of levies for which such members are liable; and 5
- (bb) is not permitted to distribute any of its funds to any person other than a similar association of persons:
Provided that such body, company or association is or was not knowingly a party to, or does not knowingly permit or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would become payable by any person under this Act or any other law administered by the Commissioner;"; 15
- (e) by the substitution for subitem (B) of item (bb) of subparagraph (ii) of paragraph (fA) of subsection (1) of the following subitem:
“(B) in securities listed on a [licensed] stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); or”; 20
- (f) by the addition of the word “or” at the end of subparagraph (B) of paragraph (bb) of the proviso to subparagraph (i) of paragraph (k) of subsection (1);
- (g) by the addition to the proviso to subparagraph (i) of paragraph (k) of subsection (1) of the following paragraph:
“(cc) to any dividend received by or accrued to or in favour of any person where such dividend constitutes or forms part of any consideration paid or payable to such person in respect of the disposal of shares (other than affected shares in respect of which the taxpayer has, in terms of the provisions of section 9B, elected the amount received or accrued on disposal to be deemed to be of a capital nature), which were held as trading stock by such person in a company and such shares were acquired by such company in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973).”; 25
- (h) by the substitution for paragraph (o) of subsection (1) of the following paragraph:
“(o) any remuneration derived by any person as an officer or crew member of a ship engaged—
(i) in the international transportation for reward of passengers or goods; or
(ii) in the prospecting (including surveys and other exploratory work) for, or the mining of, any minerals (including natural oils) from the seabed outside the continental shelf of the Republic as contemplated in section 8 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), where such officer or crew member is employed on board such ship solely for the purposes of the ‘passage’ of such ship, as defined in the Marine Traffic Act, 1981 (Act No. 2 of 1981), 40
if such person was outside the Republic for a period or periods exceeding 183 days in aggregate during the year of assessment;”; and 45
- (i) by the deletion of subparagraph (xi) of paragraph (t).
- (2) (a) Subsection (1)(d) shall come into operation on the date of promulgation of this Act and shall apply in respect of years of assessment commencing on or after that date. 50
(b) Subsection (1)(g) shall be deemed to have come into operation on 30 June 1999.
(c) Subsection (1)(h) shall come into operation on 1 March 2000.
(d) Subsection (1)(i) shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

- (aa) alleenlik opgerig is met die doel om die gesamentlike belang wat gemeenskaplik is aan al sy lede te bestuur, met inbegrip van uitgawes met betrekking tot die gemeenskaplike eiendom van daardie lede en die invordering van heffings waarvoor daardie lede aanspreeklik is; en
- (bb) nie bevoeg is om enige van sy fondse aan enige persoon uit te keer nie behalwe aan 'n soortgelyke vereniging van persone: Met dien verstande dat daardie liggaam, maatskappy of vereniging nie bewustelik 'n party is of was nie by, of nie bewustelik toelaat of toegelaat het nie, dat dit gebruik word as deel van 'n transaksie, handeling of skema waarvan die enigste of vernaamste oogmerk die vermindering, uitstel of vermyding is of was van die aanspreeklikheid vir enige belasting, reg of heffing wat, by ontstentenis van bedoelde transaksie, handeling of skema, deur 'n persoon ingevolge hierdie Wet of enige ander wet wat deur die Kommissaris geadministreer word, betaalbaar sou gewees het of geword het;"
- (e) deur subitem (B) van item (bb) van subparagraaf (ii) van paragraaf (fA) van subartikel (1) deur die volgende subitem te vervang:
- "(B) in effekte genoteer op 'n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurse] Aandelebeurse, 1985 (Wet No. 1 van 1985); of";
- (f) deur die woord "of" aan die end van subparagraaf (B) van paragraaf (bb) van die voorbehoudsbepaling by subparagraaf (i) van paragraaf (k) van subartikel (1) te voeg;
- (g) deur die volgende paragraaf by die voorbehoudsbepaling by subparagraaf (i) van paragraaf (k) van subartikel (1) te voeg:
- "(cc) op enige dividend ontvang deur of toegeval aan of ten gunste van 'n persoon waar daardie dividend vergoeding verteenwoordig of deel vorm van enige vergoeding wat betaal of betaalbaar is aan daardie persoon ten opsigte van die vervreemding van aandele (behalwe geaffekteerde aandele ten opsigte waarvan die belastingpligtige ingevolge die bepalings van artikel 9B, 'n keuse uitgeoefen het dat die bedrag ontvang of toegeval uit hoofde van die vervreemding van 'n kapitale aard geag word te wees), wat as handelsvoorraad deur daardie persoon in 'n maatskappy gehou is en daardie aandele deur daardie maatskappy ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973), verkry is;"
- (h) deur paragraaf (o) van subartikel (1) deur die volgende paragraaf te vervang:
- "(o) enige besoldiging verkry deur 'n persoon as 'n offisier of lid van die bemanning van 'n skip besig met—
- (i) die internasionale vervoer van passasiers of goedere vir beloning; of
- (ii) die prospektering (met inbegrip van opnames en ander ontdekingswerksaamhede) na, of die myn van, enige minerale (met inbegrip van aardolie) vanuit die seebodem buite die vastelandsplat van die Republiek, soos in artikel 8 van die Wet op Maritieme Sones, 1994 (Wet No. 15 van 1994), bedoel, waar daardie offisier of lid van die bemanning aan boord van daardie skip in diens geneem is alleenlik vir die doel van die 'deurvaart', soos in die Wet op Seeverkeer, 1981 (Wet No. 2 van 1981), omskryf, van daardie skip,
- indien bedoelde persoon buite die Republiek was vir 'n tydperk of tydperke wat gesamentlik 183 dae gedurende die jaar van aanslag te bove gaan;" en
- (i) deur subparagraaf (xi) van paragraaf (t) te skrap.
- (2) (a) Subartikel (1)(d) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum 'n aanvang neem.
- (b) Subartikel (1)(g) word geag op 30 Junie 1999 in werking te getree het.
- (c) Subartikel (1)(h) tree op 1 Maart 2000 in werking.
- (d) Subartikel (1)(i) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

Amendment of section 10A of Act 58 of 1962, as inserted by section 8 of Act 65 of 1973 and amended by section 11 of Act 85 of 1974, section 8 of Act 113 of 1993, section 11 of Act 21 of 1995 and section 11 of Act 28 of 1997

- 19.** Section 10A of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the definition of “annuity contract” of the following words:
“‘annuity contract’ means an agreement concluded between an insurer in the course of his insurance business and a [natural person **hereinafter referred to as the**] purchaser, in terms of which—”;
 - (b) by the insertion in subsection (1) after the definition of “expected return” of the following definitions:
“‘purchaser’, in relation to an annuity contract means—
(a) any natural person and includes such person’s deceased or insolvent estate; or
(b) a curator bonis of, or a trust created solely for the benefit of, any natural person where the High Court has declared such person to be of unsound mind and incapable of managing his own affairs and such Court has ordered the appointment of such curator or creation of such trust, as the case may be;
 - (c) by the deletion of the definition of “valuator” in subsection (1);
 - (d) by the substitution for subsection (2) of the following subsection:
“(2) There shall be exempt from normal tax so much of any annuity amount payable to a purchaser [or his deceased or insolvent estate] or his spouse or surviving spouse (as contemplated in paragraph (a) of the definition of ‘annuity contract’ in subsection (1)), or to the deceased or insolvent estate of such spouse or surviving spouse as is determined in accordance with subsection (3) to represent the capital element of such amount.”; and
 - (e) by the substitution for the word “valuator” in subsections (4), (5) and (6)(b) of the words “statutory actuary”.

(2) Subsection (1)(a), (b) and (d) shall come into operation on the date of promulgation of this Act and shall apply in respect of any amount payable on or after that date.

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

- 20.** Section 11 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for subparagraph (iii) of paragraph (f) of the following subparagraph:
“(iii) the right of use of any patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), or any copyright as defined in the Copyright Act, 1978 (Act No.

Wysiging van artikel 10A van Wet 58 van 1962, soos ingevoeg deur artikel 8 van Wet 65 van 1973 en gewysig deur artikel 11 van Wet 85 van 1974, artikel 8 van Wet 113 van 1993, artikel 11 van Wet 21 van 1995 en artikel 11 van Wet 28 van 1997

- 19.** Artikel 10A van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) die woorde wat paragraaf (a) van die omskrywing van "jaargeldkontrak" voorafgaan deur die volgende woorde te vervang:
"jaargeldkontrak" 'n ooreenkoms gesluit deur 'n versekeraar in die loop van sy versekeringsbesigheid en 'n [natuurlike persoon (hieronder die] koper [genoem)], waarkragtens";
- (b) deur in subartikel (1) die volgende omskrywings na die omskrywing van "jaargeldkontrak" in te voeg:
- (a) "koper", met betrekking tot 'n jaargeldkontrak—
- (a) 'n natuurlike persoon en ook daardie persoon se bestorwe of insolvente boedel; of
- (b) 'n kurator bonis van, of 'n trust opgerig alleenlik vir die voordeel van, 'n natuurlike persoon waar die Hoë Hof daardie persoon as geestelik verstoord en onbevoeg verklaar het om sy eie belangte behartig, en daardie Hof die aanstelling van daardie kurator of die oprigting van daardie trust, na gelang van die geval, beveel het;
- (c) 'statutêre aktuaris' 'n aktuaris ooreenkomstig artikel 20(1) of 21(1)(b) van die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), aangestel";;
- (d) deur die omskrywing van "waardeerdeerder" in subartikel (1) te skrap;
- (2) Van normale belasting word vrygestel soveel van 'n jaargeldbedrag wat betaalbaar is aan 'n koper [of sy bestorwe of insolvente boedel] of sy eggenoot of langslewende eggenoot (soos in paragraaf (a) van die omskrywing van 'jaargeldkontrak' in subartikel (1) beoog) of aan die bestorwe of insolvente boedel van bedoelde eggenoot of langslewende eggenoot as wat ooreenkomstig subartikel (3) vasgestel word om die kapitaal-element van daardie bedrag voor te stel."; en
- (e) deur die woorde "waardeerdeerder" in subartikels (4), (5) en (6)(b) deur die woorde "statutêre aktuaris" te vervang.
- (2) Subartikel (1)(a), (b) en (d) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige bedrag op of na daardie datum betaalbaar.

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

- 20.** Artikel 11 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur subparagraaf (iii) van paragraaf (f) deur die volgende subparagraaf te vervang:
- (iii) die reg van gebruik van 'n patent soos in die Wet op Patente, 1978 (Wet No. 57 van 1978), omskryf, of 'n model soos in die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), omskryf, of 'n handelsmerk soos in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), omskryf, of 'n outeursreg soos in die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), omskryf,

Act No. 53, 1999

REVENUE LAWS AMENDMENT ACT, 1999

- 98 of 1978), or of any other property which is of a similar nature, if such patent, design, trade mark, copyright or other property is used for the production of income or income is derived therefrom; or”;
- (b) by the substitution for subparagraphs (i) and (ii) of paragraph (gA) of the following subparagraphs:
- “(i) in devising or developing any invention as defined in the Patents Act, 1978 (Act No. 57 of 1978), or in creating or producing any design as defined in the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or any trade mark as defined in the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), or any copyright as defined in the Copyright Act, 1978 (Act No. 98 of 1978), or any other property which is of a similar nature; or
- (ii) in obtaining any patent or the restoration of any patent under the Patents Act, [1952] 1978, or the registration of any design under the Designs Act, [1967] 1993, or the registration of any trade mark under the Trade Marks Act, [1963] 1993; or”;
- (c) by the substitution for paragraph (aa) of the proviso to paragraph (gA) of the following paragraph:
- “(aa) where such expenditure exceeds R3 000, and was incurred—
- (A) before 29 October 1999, the allowance shall not exceed for any one year such portion of the amount of the expenditure as is equal to such amount divided by the number of years, which in the opinion of the Commissioner, represents the probable duration of use of the invention, patent, design, trade mark, copyright, other property or knowledge, or [one twenty-fifth] four per cent of the said amount, whichever is the greater;
- (B) on or after 29 October 1999, the allowance shall not for any one year exceed an amount equal to—
- (AA) five per cent of the amount of the expenditure in the case of any invention, patent, trade mark, copyright or other property of a similar nature or any knowledge connected with the use of such invention, patent, trade mark, copyright or other property or the right to have such knowledge imparted; or
- (BB) 10 per cent of the amount of the expenditure in the case of any design or other property of a similar nature or any knowledge connected with the use of such design or other property or the right to have such knowledge imparted;”;
- (d) by the addition to the proviso to paragraph (gA) of the following paragraph:
- “(ee) no allowance shall be made in respect of any expenditure incurred by such taxpayer on or after 29 October 1999, in respect of the acquisition from any other person of any trade mark or other property of a similar nature or any knowledge connected with the use of such trade mark or the right to have such knowledge imparted;”;
- (e) by the substitution for paragraph (gB) of the following paragraph:
- “(gB) expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section) actually incurred by the taxpayer during the year of assessment in obtaining the extension of the term of any patent under the Patents Act, 1978 (Act No. 57 of 1978), or the extension of the registration period of any design under the Designs Act, [1967 (Act No. 57 of 1967)] 1993 (Act No. 195 of 1993), or the renewal of the registration of any trade mark under the Trade Marks Act, [1963 (Act No. 62 of 1963)] 1993 (Act No. 194 of 1993), if such patent, design or

- of van enige ander goed wat van dergelike aard is, indien bedoelde patent, model, handelsmerk, outeursreg of ander goed vir die voortbrenging van inkomste gebruik word of inkomste daarvan verkry word; of”;
- 5 (b) deur subparagraawe (i) en (ii) van paragraaf (gA) deur die volgende subparagraawe te vervang:
- “(i) by die uitdink of ontwikkeling van 'n uitvinding soos in die Wet op Patente, 1978 (Wet No. 57 van 1978), omskryf, of by die skepping of voortbrenging van 'n model soos in die Wet op Modelle, [1967 (Wet 10 No. 57 van 1967)] 1993 (Wet No. 195 van 1993), omskryf, of 'n handelsmerk soos in die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), omskryf, of 'n outeursreg soos in die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), omskryf, of enige ander goed wat van 'n soortgelyke aard is; of
- 15 (ii) by die verkryging van 'n patent of die herstel van 'n patent ingevolge die Wet op Patente, [1952] 1978, of die registrasie van 'n model ingevolge die Wet op Modelle, [1967] 1993, of die registrasie van 'n handelsmerk ingevolge die Wet op Handelsmerke, [1963] 1993; of”;
- 20 (c) deur paragraaf (aa) van die voorbehoudsbepaling by paragraaf (gA) deur die volgende paragraaf te vervang:
- “(aa) waar bedoelde onkoste R3 000 te bowe gaan en—
- 25 (A) voor 29 Oktober 1999, aangegaan is, die vermindering nie in 'n enkele jaar so 'n gedeelte van die bedrag van die onkoste te bowe gaan nie as wat gelyk is aan daardie bedrag gedeel deur die aantal jare wat, volgens die oordeel van die Kommissaris, die waarskynlike duur van die gebruik van die uitvinding, patent, model, handelsmerk, outeursreg, ander goed of kennis verteenwoordig, of [een vyf-en-twintigste] vier persent van bedoelde bedrag, watter ook al die meeste is;
- 30 (B) op of na 29 Oktober 1999, aangegaan is, die vermindering nie in 'n enkele jaar 'n bedrag te bowe gaan nie gelyk aan—
- (AA) vyf persent van die bedrag van die onkoste in die geval van enige uitvinding, patent, handelsmerk, outeursreg of ander goed van 'n soortgelyke aard of enige kennis wat in verband staan met die gebruik van sodanige uitvinding, patent, handelsmerk, outeursreg of ander goed of die reg om daardie kennis meegedeel te word; of
- 35 (BB) 10 persent van die bedrag van die onkoste in die geval van enige model of ander goed van 'n soortgelyke aard of enige kennis wat in verband staan met die gebruik van sodanige model of ander goed of die reg om daardie kennis meegedeel te word.”;
- 40 (d) deur die volgende paragraaf by die voorbehoudsbepaling by paragraaf (gA) te voeg:
- 45 (ee) geen vermindering toegestaan word nie ten opsigte van enige onkoste deur daardie belastingpligtige op of na 29 Oktober 1999, aangegaan ten opsigte van die verkryging van 'n ander persoon van enige handelsmerk of ander goed van 'n soortgelyke aard of enige kennis wat in verband staan met die gebruik van sodanige handelsmerk of ander goed of die reg om daardie kennis meegedeel te word.”;
- 50 (e) deur paragraaf (gB) deur die volgende paragraaf te vervang:
- 55 (gB) onkoste (behalwe onkoste wat ingevolge enige van die ander bepalings van hierdie artikel geheel en al of gedeeltelik vir aftrekking of 'n vermindering in aanmerking gekom het) wat werklik deur die belastingpligtige gedurende die jaar van aanslag aangegaan is by die verkryging van die verlenging van die termyn van 'n patent ingevolge die Wet op Patente, 1978 (Wet No. 57 van 1978), of die verlenging van die registrasietermyn van 'n model ingevolge die Wet op Modelle, [1967 (Wet No. 57 van 1967)] 1993 (Wet No. 195 van 1993), of die hernuwing van die registrasie van 'n handelsmerk ingevolge die Wet op Handelsmerke, [1963 (Wet No. 62 van 1963)] 1993 (Wet No. 194 van 1993), indien sodanige patent, model of handelsmerk deur die

- trade mark is used by the taxpayer in the production of his income or income is derived by him therefrom;”;
- (f) by the substitution for item (A) of subparagraph (aa) of paragraph (n) of the following item:
- “(A) 15 per cent of an amount equal to the amount remaining after deducting from, or setting off against, the income derived by the taxpayer during the year of assessment (excluding income derived from any retirement-funding employment (being the income or part thereof referred to in the definition of ‘retirement-funding employment’ in section 1)) the deductions or assessed losses admissible against such income under this Act (excluding this paragraph, sections 17A, 18, 18A and 19(3) of this Act and paragraph 12(1)(c) to (i), inclusive, of the First Schedule); or”; and
- (g) by the substitution for item (ii) of the proviso to paragraph (n) of the following item:
- “(ii) the deductions in terms of subparagraph (aa) shall not exceed an amount equal to the amount remaining after deducting from or setting off against the income derived by the taxpayer during the year of assessment the deductions and assessed losses admissible against such income under this Act (excluding the said subparagraph, sections 17A and 19(3) of this Act and paragraph 12(1)(c) to (i), inclusive, of the First Schedule);.”.

5

10

15

20

Repeal of section 11oct of Act 58 of 1962, as inserted by section 10 of Act 91 of 1982

21. (1) Section 11oct of the Income Tax Act, 1962, is hereby repealed.

(2) Subsection (1) shall come into operation on 1 March 2000.

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981, section 10 of Act 96 of 1985, section 12 of Act 85 of 1987, section 12 of Act 90 of 1988, section 12 of Act 113 of 1993 and section 11 of Act 46 of 1996

25

30

22. Section 13 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for paragraph (b) of the proviso to subsection (1) of the following paragraph:
- “(b) in the case of any such building the erection of which has or is commenced on or after 1 January 1989 and any such improvements which have or are commenced on or after that date, other than any building or improvements in respect of which the increased allowance contemplated in paragraph (c) of this proviso applies, the allowance under this subsection shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (3)) to the taxpayer of such building or improvements; and”;
- (b) by the substitution for the words following on subparagraph (ii) of paragraph (c) of the proviso to subsection (1) of the following words:
- “where such building has or is or such improvements have been or are brought into use by the taxpayer on or before 31 March 2000, the allowance under this subsection shall be increased to 10 per cent of the cost (after the deduction of any amount as provided for in subsection (3)) to the taxpayer of such building or improvements.”.

35

40

45

- belastingpligtige by die voortbrenging van sy inkomste gebruik word of inkomste daaruit deur hom verkry word.”;
- (f) deur item (A) van subparagraaf (aa) van paragraaf (n) deur die volgende item te vervang:
- “(A) 15 persent van ’n bedrag [**gelykstaande met**] gelyk aan die bedrag wat oorbly na aftrekking van, of verrekening teen, die inkomste deur die belastingpligtige gedurende die jaar van aanslag verkry (uitgesonderd inkomste verkry uit enige uittredingfunderingsdiens (synde die inkomste of gedeelte daarvan bedoel in die omskrywing van ‘uittredingfunderingsdiens’ in artikel 1)) van die aftrekkins of vasgestelde verliese wat teen daardie inkomste ingevolge hierdie Wet (behalwe hierdie paragraaf, artikels 17A, 18, 18A en 19(3) van hierdie Wet en paragraaf 12(1)(c) tot en met (i) van die Eerste Bylae) toelaatbaar is; of”; en
- (g) deur paragraaf (ii) van die voorbehoudsbepaling by paragraaf (n) deur die volgende paragraaf te vervang:
- “(ii) die aftrekkins ingevolge subparagraaf (aa) nie meer mag bedra nie as ’n bedrag gelyk aan die bedrag wat oorbly na aftrekking van, of verrekening teen, die inkomste deur die belastingpligtige gedurende die jaar van aanslag verkry, van die aftrekkins of vasgestelde verliese, wat teen daardie inkomste ingevolge hierdie Wet (behalwe genoemde subparagraaf, artikels 17A en 19(3) van hierdie Wet en paragraaf 12(1)(c) tot en met (i) van die Eerste Bylae) toelaatbaar is;”.

Herroeping van artikel 11^{oet} van Wet 58 van 1962, soos ingevoeg deur artikel 10 van Wet 91 van 1982

21. (1) Artikel 11^{oet} van die Inkomstebelastingwet, 1962, word hierby herroep.
 (2) Subartikel (1) tree op 1 Maart 2000 in werking.

Wysiging van artikel 13 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 90 van 1962, artikel 5 van Wet 6 van 1963, artikel 11 van Wet 72 van 1963, artikel 12 van Wet 90 van 1964, artikel 14 van Wet 88 van 1965, artikel 17 van Wet 55 van 1966, artikel 13 van Wet 52 van 1970, artikel 13 van Wet 88 van 1971, artikel 12 van Wet 90 van 1972, artikel 13 van Wet 65 van 1973, artikel 16 van Wet 85 van 1974, artikel 13 van Wet 69 van 1975, artikel 7 van Wet 101 van 1978, artikel 10 van Wet 104 van 1980, artikel 14 van Wet 96 van 1981, artikel 10 van Wet 96 van 1985, artikel 12 van Wet 85 van 1987, artikel 12 van Wet 90 van 1988, artikel 12 van Wet 113 van 1993 en artikel 11 van Wet 46 van 1996

22. Artikel 13 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur paragraaf (b) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:
 40 “(b) in die geval van so ’n gebou waarvan die oprigting op of na 1 Januarie 1989 ’n aanvang geneem het of neem en enige bedoelde verbeterings wat op of na daardie datum ’n aanvang geneem het of neem, behalwe ’n gebou of verbeterings ten opsigte waarvan die verhoogde vermindering in paragraaf (c) van hierdie voorbehoudsbepaling beoog van toepassing is, die vermindering ingevolge hierdie subartikel verhoog word na 5 persent van die koste (na die aftrekking van enige bedrag volgens voorskrif van subartikel (3)) vir die belastingpligtige van bedoelde gebou of verbeterings; en”; en
 45 (b) deur die woorde wat op subparagraaf (ii) van paragraaf (c) van die voorbehoudsbepaling by subartikel (1) volg deur die volgende woorde te vervang:
 50 “waar bedoelde gebou of bedoelde verbeterings voor of op 31 Maart 2000, deur die belastingpligtige in gebruik geneem is of word, die vermindering ingevolge hierdie subartikel verhoog word na 10 persent van die koste (na die aftrekking van enige bedrag volgens voorskrif van subartikel (3)) vir die belastingpligtige van bedoelde gebou of verbeterings.”.

Amendment of section 18 of Act 58 of 1962, as inserted by section 12 of Act 104 of 1980 and amended by section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990, section 19 of Act 129 of 1991, section 18 of Act 141 of 1992 and section 16 of Act 21 of 1995

5

23. Section 18 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) any contributions made by him during the year of assessment to any medical scheme registered under the provisions of the Medical Schemes Act, [1967 (Act No. 72 of 1967)] 1998 (Act No. 131 of 1998); and”.

10

Repeal of section 21ter of Act 58 of 1962, as inserted by section 20 of Act 89 of 1969 and amended by section 17 of Act 52 of 1970, section 18 of Act 88 of 1971, section 17 of Act 90 of 1972, section 16 of Act 65 of 1973, section 21 of Act 85 of 1974, section 19 of Act 69 of 1975, section 14 of Act 103 of 1976, section 16 of Act 113 of 1977, section 17 of Act 91 of 1982 and section 1 of Act 49 of 1996

15

24. (1) Section 21ter of the Income Tax Act, 1962, is hereby repealed.

(2) Subsection (1) shall come into operation on 1 March 2000.

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

20

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

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

“(b) in the case of any trading stock which consists of any instrument, interest rate agreement or option contract in respect of which a company has made an election which has taken effect as contemplated in section 24J(9), the market value of such trading stock as contemplated in such section.”; and

30

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

“(iii) trading stock of any company has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium), [or] a redemption of redeemable preference shares or an acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973)), to any shareholder of that company; or”.

40

(2) (a) Subsection (1)(a) shall come into operation on the date of promulgation of this Act.

(b) Subsection (1)(b) shall be deemed to have come into operation on 30 June 1999.

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 11 of Act 140 of 1993, section 18 of Act 21 of 1994, section 13 of Act 36 of 1996, section 18 of Act 28 of 1997 and section 35 of Act 30 of 1998

45

26. Section 24I of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (6) of the following subsection:

50

“(6) Any inclusion in or deduction from income in terms of this section in respect of an exchange difference, transitional exchange difference or a premium or discount in respect of a forward exchange contract or a premium or other

Wysiging van artikel 18 van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 104 van 1980 en gewysig deur artikel 15 van Wet 96 van 1981, artikel 15 van Wet 121 van 1984, artikel 11 van Wet 96 van 1985, artikel 14 van Wet 90 van 1988, artikel 11 van Wet 70 van 1989, artikel 16 van Wet 101 van 1990, artikel 19 van 5 Wet 129 van 1991, artikel 18 van Wet 141 van 1992 en artikel 16 van Wet 21 van 1995

23. Artikel 18 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

10 “(a) enige bydraes deur hom gedurende die jaar van aanslag gedoen aan 'n mediese skema ingevolge die bepalings van die Wet op Mediese Skemas, [1967 (Wet No. 72 van 1967)] 1998 (Wet No. 131 van 1998), geregistreer; en”.

Herroeping van artikel 21ter van Wet 58 van 1962, soos ingevoeg deur artikel 20 van Wet 89 van 1969 en gewysig deur artikel 17 van Wet 52 van 1970, artikel 18 15 van Wet 88 van 1971, artikel 17 van Wet 90 van 1972, artikel 16 van Wet 65 van 1973, artikel 21 van Wet 85 van 1974, artikel 19 van Wet 69 van 1975, artikel 14 van Wet 103 van 1976, artikel 16 van Wet 113 van 1977, artikel 17 van Wet 91 van 1982 en artikel 1 van Wet 49 van 1996

24. (1) Artikel 21ter van die Inkomstebelastingwet, 1962, word hierby herroep.
20 (2) Subartikel (1) tree op 1 Maart 2000 in werking.

Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 25 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990 artikel 22 van Wet 129 van 1991, artikel 17 van Wet 113 van 1993, artikel 1 van Wet 168 van 1993, artikel 19 van Wet 21 van 1995 en artikel 12 van Wet 36 van 1996

25. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig—
30 (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:
“(b) in die geval van handelsvoorraad wat bestaan uit 'n instrument, rentekoersooreenkoms of opsiekontrak ten opsigte waarvan 'n maatskappy 'n keuse uitgeoefen het wat in werking getree het soos beoog in artikel 24J(9), die markwaarde van bedoelde handelsvoorraad soos in bedoelde artikel beoog.”; en
35 (b) deur subparagraaf (iii) van paragraaf (b) van subartikel (8) deur die volgende subparagraaf te vervang:
“(iii) handelsvoorraad van 'n maatskappy op of na 21 Junie 1993 aan 'n aandeelhouer van daardie maatskappy *in specie* uitgekeer is (hetso 40 daardie uitkering plaasgevind het by wyse van 'n dividend, met inbegrip van 'n likwidasie-dividend, 'n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandelepremie), [of] 'n aflossing van aflosbare voorkeuraandele of 'n verkryging van aandele ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973)).”;
45 (2) (a) Subartikel (1)(a) tree op die datum van afkondiging van hierdie Wet in werking.
 (b) Subartikel (1)(b) word geag op 30 Junie 1999 in werking te getree het.

Wysiging van artikel 24I van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 113 van 1993 en gewysig deur artikel 11 van Wet 140 van 1993, artikel 18 van 50 Wet 21 van 1994, artikel 13 van Wet 36 van 1996, artikel 18 van Wet 28 van 1997 en artikel 35 van Wet 30 van 1998

26. Artikel 24I van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

55 “(6) Enige insluiting in of aftrekking van inkomste ingevolge hierdie artikel ten opsigte van 'n valutaverskil, oorgangsvalutaverskil of 'n premie of diskonto ten opsigte van 'n valutatermynkontrak of 'n premie of ander vergoeding ten opsigte

consideration in respect of or in terms of a foreign currency option contract, shall be in lieu of any deduction or inclusion which may otherwise be allowed or included under any other provision of this Act.”.

Amendment of section 24J of Act 58 of 1962, as inserted by section 21 of Act 21 of 1995 and amended by section 14 of Act 36 of 1996 and section 19 of Act 28 of 1997 5

27. (1) Section 24J of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the definition of “interest” of the following paragraph:
“(b) [gross amount of any] amount (or portion thereof) payable by a borrower to the lender [in respect of any interest-bearing] in terms of any lending arrangement [irrespective of the term of such arrangement, which would have constituted a ‘lending arrangement’ as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968), had the term of such arrangement been less than six months] as represents compensation for any amount to which the lender would, 15 but for such lending arrangement, have been entitled; and”; and
- (b) by the insertion in subsection (1) after the definition of “issuer” of the following definition:
“‘lending arrangement’ means any arrangement or agreement in terms of which—
(a) a person (in this section referred to as the lender) lends any instrument to another person (in this section referred to as the borrower); and
(b) the borrower in return undertakes to return any instrument of the same kind and of the same or equivalent quantity and quality to the lender.”;
- (c) by the substitution for paragraph (a) of subsection (9) of the following paragraph:
“(a) Any company whose business comprises the dealing in instruments (including the short selling of instruments), [or] interest rate agreements or option contracts may elect that the provisions of subsections (2) to (8), inclusive, [and] section 24K and section 24L shall not apply to all such 30 instruments, [or] interest rate agreements or option contracts in respect of which it so deals in.”;
- (d) by the substitution for subparagraph (ii) of paragraph (b) of subsection (9) of the following subparagraph:
“(ii) be accompanied by a statement setting forth full details of the methodology to be applied by the company to determine the market value as contemplated in paragraph (c) in relation to all instruments, [or] interest rate agreements or option contracts contemplated in paragraph (a);”;
- (e) by the substitution for items (A) and (B) of subparagraph (iii) of paragraph (b) of subsection (9) of the following items:
“(A) the methodology to be applied by such company to determine the market value as contemplated in paragraph (c) in respect of such instruments, [or] interest rate agreements or option contracts; and
(B) the manner in which such market value in relation to such instruments, 45 [or] interest rate agreements or option contracts is to be taken into account in the determination of the taxable income of such company during any year of assessment; and”;
- (f) by the substitution for subparagraph (iv) of paragraph (b) of subsection (9) of the following subparagraph:
“(iv) subject to the provisions of paragraphs (e) and (f), be binding upon such company in respect of all such instruments, [and] interest rate agreements and option contracts during the year of assessment in which it took effect and every succeeding year of assessment.”;
- (g) by the substitution for paragraphs (c) and (d) of subsection (9) of the following paragraphs:
“(c) The market value in relation to all instruments, [and] interest rate agreements and option contracts contemplated in paragraph (a) of a company

van of ingevolge 'n buitelandse valuta-opsiekontrak, geskied in plaas van enige aftrekking of insluiting wat andersins ingevolge enige ander bepaling van hierdie Wet toegestaan of ingesluit mag word."

Wysiging van artikel 24J van Wet 58 van 1962, soos ingevoeg deur artikel 21 van 5 Wet 21 van 1995 en gewysig deur artikel 14 van Wet 36 van 1996 en artikel 19 van Wet 28 van 1997

27. (1) Artikel 24J van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in subartikel (1) die volgende omskrywing na die omskrywing van "instrument" in te voeg:
“leningsreëling” enige reëling of ooreenkoms ingevolge waarvan—
 - (a) 'n persoon (in hierdie artikel die uitlener genoem) 'n instrument aan 'n ander persoon (in hierdie artikel die lener genoem) leen; en
 - (b) die lener as teenprestasie onderneem om 'n instrument van dieselfde soort en van dieselfde of gelyke hoeveelheid en gehalte aan die uitlener terug te gee;”;
- (b) deur in subartikel (1) paragraaf (b) van die omskrywing van “rente” deur die volgende paragraaf te vervang:
“(b) [bruto bedrag van enige] bedrag (of gedeelte daarvan) betaalbaar deur 'n lener aan die uitlener [ten opsigte van enige rentedraende reëling ongeag die termyn van bedoelde reëling, wat 'n 'leningsreëling' soos omskryf in artikel 23 (1) van die Wet op Seëlregte, 1968 (Wet No. 77 van 1968), sou uitgemaak het indien die termyn van bedoelde reëling minder as ses maande was] ingevolge enige leningsreëling wat vergoeding van 'n bedrag verteenwoordig waarop die uitlener, as dit nie vir bedoelde reëling was nie, [op] geregtig sou gewees het; en”; en
- (c) deur paragraaf (a) van subartikel (9) deur die volgende paragraaf te vervang:
“(a) 'n Maatskappy wie se besigheid die handel drywe in instrumente (met inbegrip van die daalverkoping van instrumente), [of] rentekoersooreenkoms of opsiekontrakte uitmaak, kan kies dat die bepalings van subartikels (2) tot en met (8), [en] artikel 24K en artikel 24L nie van toepassing is nie op alle bedoelde instrumente, [of] rentekoersooreenkoms of opsiekontrakte ten opsigte waarvan dit aldus in handel drywe.”;
- (d) deur subparagraph (ii) van paragraaf (b) van subartikel (9) deur die volgende subparagraph te vervang:
“(ii) word vergesel van 'n verklaring waarin volle besonderhede verstrek word van die metodologie wat deur die maatskappy toegepas staan te word om die markwaarde soos beoog in paragraaf (c) vas te stel met betrekking tot alle instrumente, [of] rentekoersooreenkoms of opsiekontrakte in paragraaf (a) beoog.”;
- (e) deur items (A) en (B) van subparagraph (iii) van paragraaf (b) van subartikel (9) deur die volgende items te vervang:
“(A) die metodologie wat deur bedoelde maatskappy toegepas staan te word om die markwaarde soos beoog in paragraaf (c) ten opsigte van bedoelde instrumente, [of] rentekoersooreenkoms of opsiekontrakte vas te stel; en
(B) die wyse waarop bedoelde markwaarde met betrekking tot bedoelde instrumente, [of] rentekoersooreenkoms of opsiekontrakte in rekening gebring staan te word by die vasstelling van die belasbare inkomste van bedoelde maatskappy gedurende 'n jaar van aanslag, goedgekeur het; en”;
- (f) deur subparagraph (iv) van paragraaf (b) van subartikel (9) deur die volgende subparagraph te vervang:
“(iv) is, behoudens die bepalings van paragrawe (e) en (f), bindend op bedoelde maatskappy ten opsigte van alle bedoelde instrumente, [en] rentekoersooreenkoms en opsiekontrakte gedurende die jaar van aanslag waarin dit van krag word en elke daaropvolgende jaar van aanslag.”;
- (g) deur paragrawe (c) en (d) van subartikel (9) deur die volgende paragrawe te vervang:
“(c) Die markwaarde met betrekking tot alle instrumente, [en] rentekoersooreenkoms en opsiekontrakte beoog in paragraaf (a) van 'n maatskappy

which made an election as contemplated in such paragraph shall be determined in accordance with commercially accepted practice which is applied by such company consistently in respect of all such instruments, [and] interest rate agreements and option contracts for financial reporting purposes to its shareholders.

(d) Any instrument, [or] interest rate agreement or option contract contemplated in paragraph (a) which as a result of an election made in terms of such paragraph is to be dealt with on a market value basis as contemplated in the foregoing provisions of this subsection shall (subject to the provisions of paragraphs (e) and (f)) be so dealt with until the date of redemption or transfer of such instrument, [or] interest rate agreement or option contract."; and

(h) by the substitution in subsection (9) for the words preceding the proviso to subparagraph (ii) of paragraph (f) of the following words:

"an appropriate adjustment shall be made to the taxable income of such company during such year of assessment in relation to all instruments, [or] interest rate agreements or option contracts contemplated in paragraph (a) of the company held and not disposed of or not redeemed by it, as the case may be, as at the end of such year of assessment, having regard to all interest or amounts which would have been deemed to have been incurred by or accrued to such company had the provisions of this subsection not been applicable during all years of assessment before such year of assessment and all amounts which have been included in or deducted from the income of such company during such years of assessment:".

(2) Subsection (1) shall come into operation on the date of promulgation of this Act. 25

Insertion of section 24L in Act 58 of 1962

28. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 24K:

"Incurral and accrual of amounts in respect of option contracts

24L. (1) For the purposes of this section—

'intrinsic value', in relation to an option contract, means an amount equal to the difference between the market price or value of an asset, index, currency, rate of interest or any other factor, as provided for in the option contract, on the date of acquisition of the option contract and the pre-arranged price or value provided for in the option contract; and 'option contract' means an agreement the effect of which is that any person acquires the option (excluding a foreign currency option contract as defined in section 24I(1))—

(a) to buy from or to sell to another person a certain quantity of corporeal or incorporeal things before or on a future date at a pre-arranged price; or

(b) that an amount of money will be paid to or received from another person before or on a future date depending on whether the value or price of an asset, index, currency, rate of interest or any other factor is higher or lower before or on that future date than a pre-arranged value or price.

(2) The amount of—

(a) any premium or like consideration paid or payable by a person in terms of an option contract; or

(b) any consideration paid or payable by a person in respect of the acquisition of an option contract by such person,

shall for the purposes of this Act be deemed to have been incurred by such person on a day to day basis during the term of such option contract: Provided that—

(i) where such option contract is exercised, terminated or is disposed of, the portion of the amount attributable to the period from the date of exercise, termination or disposal until the end of the original term of

wat 'n keuse gedoen het soos in bedoelde paragraaf beoog, word vasgestel ooreenkomsdig kommersieel aanvaarde praktyk wat konsekwent deur bedoelde maatskappy ten opsigte van alle bedoelde instrumente, [en] rentekoersooreenkoms en opsiekontrakte vir finansiële verslagdoeningsdoeleindes aan sy aandeelhouers toegepas word.

5 (d) 'n Instrument, [of] rentekoersooreenkoms of opsiekontrak beoog in paragraaf (a) wat as gevolg van 'n keuse gemaak ingevolge bedoelde paragraaf op 'n markwaardegrondslag soos beoog in die voorgaande bepalings van hierdie subartikel mee gehandel staan te word, word (behoudens die bepalings van paragrawe (e) en (f)) aldus mee gehandel tot die datum van aflossing of oordrag van bedoelde instrument, [of] rentekoersooreenkoms of opsiekontrak"; en

10 (h) deur in subartikel (9) die woorde wat die voorbehoudbepaling by subparagraph (ii) van paragraaf (f) voorafgaan deur die volgende woorde te vervang: " 'n toepaslike aanpassing aan die belasbare inkomste van bedoelde maatskappy gedurende bedoelde jaar van aanslag gemaak met betrekking tot alle instrumente, [en] rentekoersooreenkoms of opsiekontrakte beoog in paragraaf (a) deur die maatskappy besit en nie van die hand gesit of afgelos nie, na gelang van die geval, soos aan die einde van bedoelde jaar van aanslag, met inagneming van alle rente of bedrae wat sou geag aangegaan gewees het deur of toegeval het aan bedoelde maatskappy, sou die bepalings van dié subartikel nie van toepassing gewees het nie gedurende alle jare van aanslag voor bedoelde jaar van aanslag en alle bedrae wat ingesluit is in of afgetrek is van die inkomste van bedoelde maatskappy gedurende bedoelde jare van aanslag:".

15 20 25 (2) Subartikel (1) tree op die datum van afkondiging van hierdie Wet in werking.

Invoeging van artikel 24L in Wet 58 van 1962

28. (1) Die volgende artikel word hierby in die Inkomstebelastingwet, 1962, na artikel 24K ingevoeg:

30 "Aangaan en toevalling van bedrae ten opsigte van opsiekontrakte

24L. (1) By die toepassing van hierdie artikel beteken—

'intrinsiese waarde', met betrekking tot 'n opsiekontrak, 'n bedrag gelyk aan die verskil tussen die markprys of waarde van 'n bate, indeks, valuta, rentekoers of enige ander faktor, waarvoor in die opsiekontrak voorsiening gemaak is, op die datum van verkryging van die opsiekontrak en die vooraf ooreengekome prys of waarde waarvoor in die opsiekontrak voorsiening gemaak is; en

35 40 (2) 'opsiekontrak' 'n ooreenkoms waarvan die uitwerking is dat 'n persoon die opsie (uitgesonderd 'n buitelandse valuta-opsiekontrak soos in artikel 24I(1) omskryf) verkry—

(a) om 'n sekere hoeveelheid liggaamlike of onliggaamlike goed voor of op 'n toekomstige datum teen 'n vooraf ooreengekome prys van 'n ander persoon te koop of aan 'n ander persoon te verkoop; of

45 (b) dat 'n bedrag geld betaal sal word aan of ontvang sal word van 'n ander persoon voor of op 'n toekomstige datum afhangende of die waarde of prys van 'n bate, indeks, valuta, rentekoers of enige ander faktor hoër of laer is voor of op daardie toekomstige datum as die vooraf ooreengekome waarde of prys.

(2) Die bedrag van—

50 (a) enige premie of dergelike vergoeding betaal of betaalbaar deur 'n persoon ingevolge 'n opsiekontrak; of

(b) enige vergoeding betaal of betaalbaar deur 'n persoon ten opsigte van die verkryging van 'n opsiekontrak deur daardie persoon,

55 word by die toepassing van hierdie Wet geag deur daardie persoon op 'n dag-tot-dag grondslag gedurende die termyn van bedoelde opsiekontrak aangegaan te gewees het: Met die verstande dat—

(i) waar daardie opsiekontrak uitgeoefen, beëindig of van die hand gesit word, daardie deel van die bedrag wat aan die tydperk vanaf die datum van uitoefening, beëindiging of vandiehandsetting tot die

the option contract shall be deemed to have been incurred by such person on the date of exercise, termination or disposal of the option contract;

(ii) the provisions of this section shall not be applied to an option contract held by a person as trading stock;

(iii) where such amount includes an amount representing the intrinsic value in relation to the option contract, so much of such amount so representing the intrinsic value shall for the purposes of this Act be deemed to have been incurred by such person on the date of exercise, termination or disposal of the option contract.

(3) The amount of any premium or like consideration received or receivable by a person in terms of an option contract shall for the purposes of this Act be deemed to have accrued to such person on a day to day basis during the term of such option contract: Provided that where such option contract is exercised, terminated or disposed of, the portion of the amount attributable to the period from the date of exercise, termination or disposal of such option contract until the end of the original term of the option contract shall be deemed to have accrued to such person on the date of exercise, termination or disposal of the option contract.”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act, and shall apply in respect of any option contract entered into on or after that date.

Amendment of section 29 of Act 58 of 1962, as inserted by section 25 of Act 113 of 1993 and amended by section 22 of Act 21 of 1995 and section 16 of Act 36 of 1996

29. Section 29 of the Income Tax Act, 1962, is hereby amended—

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

“(2) The taxable income derived by any insurer in respect of any year of assessment commencing before 1 January 2000, shall be determined in accordance with the provisions of this Act, but subject to the provisions of this section.”; and

(b) by the addition to paragraph (d) of subsection (14) of the following proviso:

“Provided that any transfer relating to the redetermination of the prescribed value in terms of subsection (6) in respect of the last year of assessment commencing before 1 January 2000, shall be deemed to have been made on the last day of such year of assessment and shall be included in or deducted from the income of the relevant fund in determining the taxable income of such fund for such year of assessment;”.

Insertion of section 29A in Act 58 of 1962

30. The following section is hereby inserted in the Income Tax Act, 1962, after section 29:

“Taxation of long-term insurers

29A. (1) For the purposes of this section—

‘business’ means any long-term insurance business as defined in section 1 of the Long-term Insurance Act;

‘insurer’ means any long-term insurer as defined in section 1 of the Long-term Insurance Act;

‘Long-term Insurance Act’ means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

‘market value’, in relation to any asset, means the sum which a person having the right freely to dispose of such asset might reasonably expect to obtain from a sale of such asset in the open market;

‘owner’, in relation to a policy, means the person who is entitled to enforce any benefit provided for in the policy: Provided that where a policy has been—

(a) ceded or pledged solely for the purpose of providing security for the performance of any obligation, the owner shall be the person who retains the beneficial interest in such policy; or

- einde van die oorspronklike termyn van die opsiekontrak toeskrybaar is, geag word deur daardie persoon op die datum van uitoefening, beëindiging of vandiehandsetting van die opsiekontrak aangegaan te gewees het;
- (ii) die bepalings van hierdie artikel nie van toepassing is nie ten opsigte van 'n opsiekontrak deur 'n persoon as handelsvoorraad gehou;
- (iii) waar bedoelde bedrag 'n bedrag insluit wat die intrinsiese waarde met betrekking tot die opsiekontrak verteenwoordig, word soveel van bedoelde bedrag wat die intrinsiese waarde aldus verteenwoordig by die toepassing van hierdie Wet geag deur bedoelde persoon aangegaan te gewees het op die datum van uitoefening, beëindiging of vandiehandsetting van bedoelde opsiekontrak.
- (3) Die bedrag van enige premie of dergelike vergoeding ontvang of ontvangbaar deur 'n persoon ingevolge 'n opsiekontrak word by die toepassing van hierdie Wet geag op 'n dag-tot-dag-grondslag gedurende die termyn van daardie opsiekontrak aan daardie persoon toe te geval het: Met dien verstande dat waar bedoelde opsiekontrak uitgeoefen, beëindig of van die hand gesit is, daardie deel van die bedrag wat toeskrybaar is aan die tydperk vanaf die datum van uitoefening, beëindiging of vandiehandsetting van bedoelde opsiekontrak tot die einde van die oorspronklike termyn van die opsiekontrak is, geag word aan daardie persoon op die datum van uitoefening, beëindiging of vandiehandsetting van die opsiekontrak toe te geval het.”.

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige opsiekontrak op of na daardie datum aangegaan.

Wysiging van artikel 29 van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 113 van 1993 en gewysig deur artikel 22 van Wet 21 van 1995 en artikel 16 van Wet 36 van 1996

- 29.** Artikel 29 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Die belasbare inkomste wat deur 'n versekeraar verkry word ten opsigte van enige jaar van aanslag beginnende voor 1 Januarie 2000, word ooreenkomsdig die bepalings van hierdie Wet, maar behoudens die bepalings van hierdie artikel, vasgestel.”; en
- (b) deur die volgende voorbehoudsbepaling by paragraaf (d) van subartikel (14) te voeg:
- “Met dien verstande dat enige oorplasing met betrekking tot die herbepaling van die voorgeskrewe waarde ingevolge subartikel (6) ten opsigte van die laaste jaar van aanslag beginnende voor 1 Januarie 2000, geag word gemaak te gewees het op die laaste dag van daardie jaar van aanslag en ingerekken word by of afgetrek word van die inkomste van die betrokke fonds by die vasstelling van die belasbare inkomste van daardie fonds vir daardie jaar van aanslag;”.

Invoeging van Artikel 29A in Wet 58 van 1962

- 45 **30.** Die volgende artikel word hierby na artikel 29 in die Inkomstebelastingwet, 1962, ingevoeg:

“Belasting van langtermynversekeraars

- 29A. (1)** By die toepassing van hierdie artikel beteken—
 ‘besigheid’ enige langtermynversekeringsbesigheid soos omskryf in artikel 1 van die Langtermynversekeringswet;
 ‘eienaar’, met betrekking tot 'n polis, die persoon wat geregtig is om 'n voordeel waarvoor in die polis voorsiening gemaak word, af te dwing: Met dien verstande dat waar 'n polis—
- (a) gesedeer of verpand is alleenlik met die doel om vir die nakoming van 'n verpligting sekerheid te stel, die eienaar die persoon is wat die voordele belang in daardie polis behou; of

(b) reinsured by one insurer with another insurer, the reinsurance policy shall be deemed to be owned by the owner of the insurance policy so insured;	
‘policy’ means a long-term policy as defined in section 1 of the Long-term Insurance Act;	5
‘policyholder fund’ means any fund contemplated in subsection (4)(a), (b) or (c);	
‘value of liabilities’, means an amount equal to the value of the liabilities of the insurer in respect of the business conducted by it in the fund concerned calculated on the basis as shall be determined by the Chief Actuary of the Financial Services Board in consultation with the Commissioner.	10
(2) The taxable income derived by any insurer in respect of any year of assessment commencing on or after 1 January 2000, shall be determined in accordance with the provisions of this Act, but subject to the provisions of this section.	15
(3) Every insurer shall establish four separate funds as contemplated in subsection (4), and shall thereafter maintain such funds in accordance with the provisions of this section: Provided that where any insurer which carries on long-term insurance business has prior to the commencement of this section established four separate funds in terms of the provisions of section 29(3), such funds shall for the purposes of this section continue to be maintained in terms of this section.	20
(4) The funds referred to in subsection (3) shall be—	
(a) a fund, to be known as the untaxed policyholder fund, in which shall be placed assets having a market value equal to the value of liabilities determined in relation to—	25
(i) business carried on by the insurer with, and any policy of which the owner is, any pension fund, provident fund, retirement annuity fund or benefit fund;	
(ii) any policy of which the owner is a person or body the entire receipts and accruals of whom or of which are exempt from tax under any provision of section 10: Provided that an insurer shall not deal with a policy in terms of the provisions of this subparagraph unless it has satisfied itself beyond all reasonable doubt that the owner of such policy is such a person or body;	30
(iii) any annuity contracts entered into by it in respect of which annuities are being paid;	35
(b) a fund, to be known as the individual policyholder fund, in which shall be placed assets having a market value equal to the value of liabilities determined in relation to any policy (other than a policy contemplated in paragraph (a)) of which the owner is any person other than a company;	40
(c) a fund, to be known as the company policyholder fund, in which shall be placed assets having a market value equal to the value of liabilities determined in relation to any policy (other than a policy contemplated in paragraph (a)) of which the owner is a company; and	45
(d) a fund, to be known as the corporate fund, in which shall be placed all the assets (if any) held by the insurer, and all liabilities owed by it, other than those contemplated in paragraphs (a), (b) and (c).	
(5) For the purposes of subsection (4), where the owner of a policy is the trustee of any trust or where two or more owners jointly own a policy—	50
(a) if all the beneficiaries in such trust or all such joint owners are funds, persons or bodies contemplated in subsection (4)(a), the owner of such	

- (b) deur een versekeraar by 'n ander versekeraar herverseker is, die herversekeringspolis geag word die eiendom te wees van die eienaar van die versekeringspolis wat aldus verseker is;
- 5 'Langtermynversekeringswet' die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998);
- 'markwaarde', met betrekking tot 'n bate, die som wat 'n persoon wat die reg het om bedoelde bate vrylik te vervreem, redelikerwys kan verwag om te verkry uit die verkoop van bedoelde bate op die ope mark;
- 10 'polis' 'n langtermynpolis soos in artikel 1 van die Langtermynversekeringswet omskryf;
- 'polishouerfonds' 'n fonds beoog in subartikel (4)(a), (b) of (c);
- 'versekeraar' 'n langtermynversekeraar soos in artikel 1 van die Langtermynversekeringswet omskryf;
- 15 'waarde van verpligtinge' 'n bedrag gelyk aan die waarde van die verpligtinge van die versekeraar ten opsigte van die besigheid deur hom in die betrokke fonds gedryf, bereken op die grondslag soos deur die Hoofkantoor van die Raad op Finansiële Dienste in oorleg met die Kommissaris bepaal moet word.
- 20 (2) Die belasbare inkomste wat deur 'n versekeraar verkry word ten opsigte van enige jaar van aanslag wat op of na 1 Januarie 2000 begin, word ooreenkomsdig die bepalings van hierdie Wet, maar behoudens die bepalings van hierdie artikel, vasgestel.
- 25 (3) Elke versekeraar stig vier afsonderlike fondse soos in subartikel (4) beoog, en hou bedoelde fondse daarna ooreenkomsdig die bepalings van hierdie artikel in stand: Met dien verstande dat waar 'n versekeraar wat langtermynversekeringsbesigheid bedryf, voor die inwerkingtreding van hierdie artikel vier afsonderlike fondse ingevolge die bepalings van artikel 29(3) gestig het, daardie fondse vir die doeleindes van hierdie artikel voortduur om in stand gehou te word ingevolge hierdie artikel.
- 30 (4) Die fondse in subartikel (3) bedoel, is—
- (a) 'n fonds, wat die onbelaste polishouerfonds heet, waarin bates geplaas word met 'n markwaarde gelyk aan die waarde van verpligtinge vasgestel met betrekking tot—
- 35 (i) besigheid wat deur die versekeraar gedryf word met 'n pensioenfonds, voorsorgsfonds, uittredingannuïteitsfonds of bystands-fonds, en enige polis waarvan die eienaar so 'n fonds is;
- (ii) enige polis waarvan die eienaar 'n persoon of liggaaam is wie se totale ontvangste en toevallings ingevolge 'n bepaling van artikel 10 van belasting vrygestel is: Met dien verstande dat 'n versekeraar nie met 'n polis ingevolge die bepalings van hierdie subparagraaf handel nie tensy hy homself bo alle redelike twyfel tevreden gestel het dat die eienaar van bedoelde polis so 'n persoon of liggaaam is;
- 40 (iii) enige jaargeldkontrakte deur hom gesluit ten opsigte waarvan jaargelde betaal word;
- (b) 'n fonds, wat die individuele polishouerfonds heet, waarin bates geplaas word met 'n markwaarde gelyk aan die waarde van verpligtinge vasgestel met betrekking tot 'n polis (behalwe 'n polis beoog in paragraaf (a)) waarvan die eienaar 'n persoon behalwe 'n maatskappy is;
- 45 (c) 'n fonds, wat die maatskappypolishouerfonds heet, waarin bates geplaas word met 'n markwaarde gelyk aan die waarde van verpligtinge vasgestel met betrekking tot 'n polis (behalwe 'n polis beoog in paragraaf (a)) waarvan die eienaar 'n maatskappy is; en
- 50 (d) 'n fonds, wat die korporatiewe fonds heet, waarin al die bates (as daar is) wat deur die versekeraar gehou word, en alle verpligtinge wat deur hom verskuldig is, behalwe dié in paragrawe (a), (b) en (c) beoog.
- 55 (5) By die toepassing van subartikel (4), waar die eienaar van 'n polis die trustee van 'n trust is of waar twee of meer eienaars gesamentlik 'n polis besit, word—
- (a) indien al die begunstigdes in bedoelde trust of al bedoelde gesamentlike eienaars fondse, persone of liggame beoog in subartikel (4)(a) is,

<p>policy shall be deemed to be such a fund, person or body, as the case may be; or</p> <p>(b) where paragraph (a) is not applicable and all the beneficiaries in such trust or all such joint owners are persons other than a company, the owner of such policy shall be deemed to be a person other than a company; or</p> <p>(c) where paragraphs (a) and (b) are not applicable, the owner of such policy shall be deemed to be a company.</p> <p>(6) An insurer who becomes aware that, in consequence of—</p> <p>(a) a change of ownership of any policy issued by it; or</p> <p>(b) any change affecting the status of the owner of any policy, the assets held by it in relation to such policy should in terms of the provisions of subsection (4) be held in a policyholder fund other than the policyholder fund in which such assets are actually held, shall forthwith transfer from such lastmentioned fund to such firstmentioned fund assets having a market value equal to the value of liabilities determined on the date of such transfer in relation to the said policy.</p> <p>(7) Every insurer shall within a period of four months after the end of every year of assessment redetermine the value of liabilities in relation to each of its policyholder funds as at the last day of such year, and—</p> <p>(a) where the market value of the assets actually held by it in any such fund exceeds the value of liabilities in relation to such fund on such last day, it shall within the said period transfer from such fund to its corporate fund assets having a market value equal to such excess; or</p> <p>(b) where the market value of the assets actually held by it in any such fund is less than the value of liabilities in relation to such fund on such last day, it shall within the said period transfer from its corporate fund to such fund assets having a market value equal to the shortfall, and such transfer shall for the purposes of this section be deemed to have been made on such last day.</p> <p>(8) Any transfer of an asset effected by an insurer between one fund and another fund otherwise than in terms of the provisions of subsection (6), (7) or (15) shall be effected by way of a sale of such asset at the market value thereof and shall for the purposes of this Act be treated as a purchase or sale of such asset, as the case may be, in each such fund.</p> <p>(9) Subject to the provisions of subsection (11)(d), there shall be exempt from tax any income received by or accrued to an insurer from assets held by it in, and business conducted by it in relation to, its untaxed policyholder fund.</p> <p>(10) The taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund shall be determined separately in accordance with the provisions of this Act as if each such fund had been a separate taxpayer.</p> <p>(11) In the determination of the taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund in respect of any year of assessment—</p> <p>(a) the amount of any expenses, allowances and transfers to be allowed as a deduction in the policyholder funds in terms of this Act shall be limited to the total of—</p> <p>(i) the amount of expenses and allowances directly attributable to the income of such fund;</p> <p>(ii) such percentage of the amount of—</p> <p>(aa) all expenses allocated to such fund which are directly incurred during such year of assessment in respect of the selling and administration of policies; and</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>
---	--

- die eienaar van bedoelde polis geag so 'n fonds, persoon of liggaam, na gelang van die geval, te wees; of
- (b) waar paragraaf (a) nie van toepassing is nie en al die begunstigdes in bedoelde trust of al bedoelde gesamentlike eienaars persone behalwe 'n maatskappy is, die eienaar van bedoelde polis geag word 'n persoon behalwe 'n maatskappy te wees; of
- (c) waar paragrawe (a) en (b) nie van toepassing is nie, die eienaar van bedoelde polis geag 'n maatskappy te wees.
- (6) 'n Versekeraar wat daarvan bewus word dat, as gevolg van—
- (a) 'n verandering van eiendomsreg van 'n polis wat deur hom uitgereik is; of
- (b) enige verandering wat die status van die eienaar van 'n polis raak, die bates wat met betrekking tot bedoelde polis deur hom gehou word ingevolge die bepalings van subartikel (4) in 'n ander polishouerfonds gehou behoort te word as die polishouerfonds waarin bedoelde bates werklik gehou word, moet onmiddellik bates vanaf bedoelde laasgenoemde fonds na bedoelde eersgenoemde fonds oorplaas met 'n markwaarde gelyk aan die waarde van verpligte met betrekking tot genoemde polis soos op die datum van bedoelde oorplasing vasgestel.
- (7) Elke versekeraar moet binne 'n tydperk van vier maande na die einde van elke jaar van aanslag die waarde van verpligte met betrekking tot elkeen van sy polishouerfondse soos op die laaste dag van bedoelde jaar herbepaal, en—
- (a) waar die markwaarde van die bates werklik deur hom in so 'n fonds gehou die waarde van verpligte met betrekking tot sodanige fonds op daardie laaste dag oorskry, moet hy binne genoemde tydperk bates met 'n markwaarde gelyk aan bedoelde oorskot vanaf bedoelde fonds na sy korporatiewe fonds oorplaas; of
- (b) waar die markwaarde van die bates werklik deur hom in so 'n fonds gehou minder is as die waarde van verpligte met betrekking tot so 'n fonds op daardie laaste dag, moet hy binne genoemde tydperk bates met 'n markwaarde gelyk aan dié tekort vanaf sy korporatiewe fonds na bedoelde fonds oorplaas,
- en bedoelde oorplasing word by die toepassing van hierdie artikel geag op bedoelde laaste dag gemaak te gewees het.
- (8) 'n Oorplasing van 'n bate tussen een fonds en 'n ander fonds wat anders as ingevolge die bepalings van subartikel (6), (7) of (15) deur 'n versekeraar bewerkstellig word, geskied by wyse van 'n verkoop van bedoelde bate teen die markwaarde daarvan en word by die toepassing van hierdie Wet as 'n aankoop of verkoop van daardie bate, na gelang van die geval, in elke sodanige fonds behandel.
- (9) Behoudens die bepalings van subartikel (11)(d) word daar van belasting vrygestel enige inkomste ontvang deur of toegeval aan 'n versekeraar vanaf bates deur hom gehou in, en besigheid deur hom gedryf met betrekking tot, sy onbelaste polishouerfonds.
- (10) Die belasbare inkomste deur 'n versekeraar verkry ten opsigte van sy individuele polishouerfonds, sy maatskappypolishouerfonds en sy korporatiewe fonds word afsonderlik ooreenkomsdig die bepalings van hierdie Wet vasgestel asof elke bedoelde fonds 'n afsonderlike belastingpligte was.
- (11) By die vasstelling van die belasbare inkomste wat deur 'n versekeraar verkry word ten opsigte van sy individuele polishouerfonds, sy maatskappypolishouerfonds en sy korporatiewe fonds ten opsigte van enige jaar van aanslag—
- (a) word die bedrag van enige onkoste, toelaes en oorplasings wat as aftrekking in die polishouerfondse ingevolge hierdie Wet toegelaat word, beperk tot die totaal van—
- (i) die bedrag van onkoste en toelaes direk toeskryfbaar aan die inkomste van daardie fonds;
- (ii) daardie persentasie van die bedrag van—
- (aa) alle onkoste aan bedoelde fonds toegedeel wat gedurende daardie jaar van aanslag direk aangegaan is ten opsigte van die verkoop en administrasie van polisse; en

(bb) all expenses and allowances allocated to such fund which are not included in subparagraph (i), but excluding any expenses directly attributable to any amounts received or accrued which do not constitute income as defined in section 1, which percentage shall be determined in accordance with the formula

$$Y = \frac{(I + R)}{(I + 3R + 6D)} \times \frac{100}{1}$$

in which formula—

- (A) 'Y' represents the percentage to be applied to such amount;
- (B) 'I' represents the gross amount of any interest as defined in section 24J of this Act, received by or accrued to such fund;
- (C) 'R' represents the rental income of such fund after deduction of expenses directly attributable to such income; and
- (D) 'D' represents the dividend income of such fund; and

(iii) such percentage, determined in accordance with the formula contemplated in subparagraph (ii), of 50 per cent of the amount transferred from the policyholder fund in terms of subsection (7)(a), to the extent that the amount of such transfer is required to be included in the income of the corporate fund during such year of assessment in terms of paragraph (d)(i) of this subsection: Provided that the amount of the deduction in terms of this subparagraph shall not exceed the balance of the amount of the income of the policyholder fund remaining after taking into account any other amounts allowed to be deducted from the income of such fund in terms of this section;

(b) any amount received or accrued from a source outside the Republic in respect of business conducted by the insurer in the Republic, shall be deemed to have been received or accrued from a source within the Republic;

(c) there shall be exempt from tax income derived by the insurer from assets held by it in the Republic in respect of business conducted by it in Namibia;

(d) any amount required to be transferred—

- (i) to the corporate fund in terms of the provisions of subsection (7)(a) shall be included in the income of the corporate fund; and
- (ii) from the corporate fund in terms of the provisions of subsection (7)(b) shall not be deducted from the income of the corporate fund,

for the purposes of determining the taxable income of such fund for the year of assessment in respect of which the value of liabilities in relation to its policyholder funds was redetermined in terms of that subsection: Provided that where any amount is transferred from the corporate fund to any policyholder fund as contemplated in subparagraph (ii), any subsequent transfers from the policyholder fund to the corporate fund of any amounts which in the aggregate do not exceed the total amount of such transfer, shall not be included in the income of the corporate fund in terms of the provisions of subparagraph (i) of this paragraph;

(e) subject to the provisions of paragraph (a)(iii), no amount transferred to or from the corporate fund in terms of the provisions of subsection (7), shall be deducted from or included in the income of the policyholder fund from or to which such amount was transferred, as the case may be;

5

10

15

20

25

30

35

40

45

50

55

- (bb) alle onkoste en toelaes aan daardie fonds toegedeel wat nie by subparagraaf (i) ingesluit is nie, maar uitgesonderd enige onkoste direk toeskryfbaar aan enige bedrae ontvang of toegeval wat nie inkomste soos in artikel 1 omskryf, uitmaak nie,
 5 welke persentasie vasgestel word ooreenkomstig die formule
- $$10 Y = \frac{(I + R)}{(I + 3R + 6D)} \times \frac{100}{1},$$
- in welke formule—
 15 (A) 'Y' die persentasie wat op die bedrag toegepas moet word, verteenwoordig;
 (B) 'I' die bruto bedrag van enige rente soos in artikel 24J van hierdie Wet omskryf, ontvang deur of toegeval aan bedoelde fonds, verteenwoordig;
 20 (C) 'R' die huurinkomste van bedoelde fonds na aftrekking van onkoste direk aan daardie inkomste toeskryfbaar, verteenwoordig;
 (D) 'D' die dividendinkomste van bedoelde fonds verteenwoordig; en
 25 (iii) daardie persentasies, ooreenkomstig die formule in subparagraaf (ii) beoog, vasgestel, van 50 persent van die bedrag wat ingevolge subartikel (7)(a) vanaf die polishouerfonds oorgeplaas is, vir sover die bedrag van daardie oorplasing ingevolge paragraaf (d)(i) van hierdie subartikel gedurende daardie jaar van aanslag in die inkomste van die korporatiewe fonds ingesluit moet word: Met dien verstande dat die bedrag van die aftrekking ingevolge hierdie subparagraaf nie die balans van die bedrag van die inkomste van die polishouerfonds wat oorbly nadat enige ander bedrae wat ingevolge hierdie artikel van die inkomste van daardie fonds afgetrek mag word, in berekening gebring is, mag oorskry nie;
- 30 (b) word 'n bedrag ontvang of toegeval uit 'n bron buite die Republiek ten opsigte van besigheid gedryf deur die versekeraar in die Republiek, geag uit 'n bron binne die Republiek ontvang of toegeval te gewees het;
 35 (c) word daar van belasting vrygestel inkomste verkry deur die versekeraar uit bates deur hom in die Republiek gehou ten opsigte van besigheid deur hom in Namibië gedryf;
 (d) word 'n bedrag wat oorgeplaas moet word—
 40 (i) na die korporatiewe fonds ingevolge die bepalings van subartikel (7)(a), ingereken by die inkomste van die korporatiewe fonds; en
 (ii) vanaf die korporatiewe fonds ingevolge die bepalings van subartikel (7)(b), nie van die inkomste van die korporatiewe fonds afgetrek nie,
 45 vir die doeleindes van die berekening van die belasbare inkomste van bedoelde fonds vir die jaar van aanslag ten opsigte waarvan die waarde van verpligte met betrekking tot die polishouerfondse ingevolge daardie subartikel herbepaal is: Met dien verstande dat waar 'n bedrag oorgeplaas is vanaf die korporatiewe fonds na 'n polishouerfonds soos in subparagraaf (ii) beoog, enige daaropvolgende oorplasings vanaf die polishouerfonds na die korporatiewe fonds van enige bedrae wat in totaal nie die totale bedrag van daardie oorplasing te bove gaan nie, nie in die inkomste van die korporatiewe fonds ingevolge die bepalings van subparagraaf (i) van hierdie paragraaf ingesluit word nie;
- 50 (e) word behoudens die bepalings van paragraaf (a)(iii) geen bedrag van enige oorplasing na of van die korporatiewe fonds ingevolge die bepalings van subartikel (7) afgetrek van of ingesluit by die inkomste van die polishouerfonds waarvan of waarna dit, na gelang van die geval, oorgeplaas is nie;
- 55
- 60

(f) the amount of any transfer contemplated in subsection (6) or (8) shall not be deducted from the income of the fund from which it is transferred and shall not be included in the income of the fund to which it is transferred; and	5
(g) premiums and reinsurance claims received and claims and reinsurance premiums paid shall be disregarded.	
(12) In the allocation of any asset, expenditure or liability to any fund contemplated in subsection (4), an insurer shall, when establishing such fund and at all times thereafter—	10
(a) to the extent to which such asset, expenditure or liability relates exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability to that fund; and	
(b) to the extent to which such asset, expenditure or liability does not relate exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability in a manner which is consistent with and appropriate to the manner in which its business is conducted.	15
(13) An insurer who as at the commencement of its first year of assessment commencing on or after 1 January 2000 has not established the separate funds contemplated in subsection (4) shall as at the commencement of that year determine the value of liabilities required in respect of each of its policyholder funds, and shall be deemed for the purposes of applying this section in that year and in any succeeding year of assessment in which it has not yet established such funds, to have established and maintained such funds in accordance with the provisions of this section.	20
(14) For the purposes of subsection (13)—	25
(a) an appropriate portion of all the assets and liabilities of an insurer shall be deemed to have been placed by it in each of its funds in accordance with the provisions of this section;	
(b) an appropriate portion of any income received by or accrued to an insurer and any expenditure incurred by it shall be deemed to have been received by or to have accrued to, or to have been incurred by, as the case may be, each of its funds in accordance with the provisions of this section; and	30
(c) any amount which would have been required to be transferred in terms of the provisions of subsection (7)(a) or (b) had such separate funds been so established and maintained, shall be deemed to have been so transferred.	35
(15) Every insurer shall, within 6 months after the commencement of the first year of assessment commencing on or after 1 January 2000, determine the value of liabilities in relation to each of its policyholder funds as at the first day of such year of assessment and where the market value of the assets held in such policyholder fund, after taking into account any transfers required to be made in terms of section 29 in respect of the last year of assessment commencing before 1 January 2000—	40
(a) exceeds the value of the liabilities so determined in relation to such policyholder fund, the insurer shall, within such period, transfer from such policyholder fund to its corporate fund assets having a market value equal to such excess; or	45
(b) is less than the value of liabilities so determined in relation to such policyholder fund, the insurer shall, within such period, transfer from the corporate fund to such policyholder fund assets having a market value equal to such shortfall,	50
and such transfer shall for the purposes of this section be deemed to have been made on such first day of such first year.	
(16) Any amount transferred from—	55
(a) the policyholder fund to the corporate fund in terms of subsection (15)(a), shall be included in the income of the corporate fund in respect of its first year of assessment commencing on or after 1 January 2000, and—	
(i) such amount shall in the first instance be reduced by the balance of any assessed loss incurred by the corporate fund in any	60

- (f) word die bedrag van enige oorplasing ingevolge subartikel (6) of (8) nie afgetrek van die inkomste van die fonds waarvan dit oorgeplaas word nie en nie ingesluit in die inkomste van die fonds waarna dit oorgeplaas word nie; en
- 5 (g) word premies en herversekeringspremies ontvang en eise en herversekeringspremies betaal, buite rekening gelaat.
- (12) By die toedeling van enige bate, onkoste of verpligting aan 'n in subartikel (4) beoogde fonds, moet 'n versekeraar wanneer hy bedoelde fonds stig en te alle tye daarna—
- 10 (a) vir sover bedoelde bate, onkoste of verpligting uitsluitlik betrekking het op besigheid wat in 'n enkele fonds deur hom gedryf word, bedoelde bate, onkoste of verpligting aan daardie fonds toedeel; en
- (b) vir sover bedoelde bate, onkoste of verpligting nie uitsluitlik betrekking het op besigheid wat in 'n enkele fonds deur hom gedryf word nie, bedoelde bate, onkoste of verpligting toedeel op 'n wyse wat konsekwent is met en toepaslik is op die wyse waarop sy besigheid gedryf word.
- (13) 'n Versekeraar wat aan die begin van sy eerste jaar van aanslag wat op of na 1 Januarie 2000 begin, nog nie die in subartikel (4) beoogde afsonderlike fondse gestig het nie, stel aan die begin van daardie jaar die waarde van verpligte vas wat ten opsigte van elkeen van sy polishouerfondse vereis word, en word by die toepassing van hierdie artikel in daardie jaar en enige daaropvolgende jaar van aanslag waarin hy nog nie bedoelde fondse gestig het nie, geag bedoelde fondse ooreenkomsdig die bepalings van hierdie artikel te gestig en in stand te gehou het.
- 20 (14) By die toepassing van subartikel (13)—
- (a) word 'n toepaslike deel van al die bates en verpligte van 'n versekeraar geag deur hom in elkeen van die fondse geplaas te gewees het ooreenkomsdig die bepalings van hierdie artikel;
- (b) word 'n toepaslike deel van enige inkomste deur 'n versekeraar ontvang of aan hom toegeval en enige onkoste deur hom aangegaan, geag ontvang te gewees het deur of toe te geval het aan, of aangegaan te gewees het deur, na gelang van die geval, elkeen van die fondse ooreenkomsdig die bepalings van hierdie artikel; en
- 30 (c) word 'n bedrag wat ingevolge die bepalings van subartikel (7)(a) of (b) oorgeplaas sou moes word indien bedoelde afsonderlike fondse aldus gestig en in stand gehou was, geag aldus oorgeplaas te gewees het.
- (15) Elke versekeraar moet, binne 6 maande na die begin van die eerste jaar van aanslag wat op of na 1 Januarie 2000 'n aanvang neem, die waarde van die verpligte met betrekking tot elkeen van sy polishouerfondse soos op die eerste dag van daardie jaar van aanslag bepaal en waar die markwaarde van die bates in daardie polishouerfonds gehou, nadat enige oorplasings wat ingevolge artikel 29 gemaak moet word met betrekking tot die laaste jaar van aanslag wat voor 1 Januarie 2000 begin in ag gemeen is—
- 40 (a) die waarde van die verpligte met betrekking tot daardie polishouerfonds aldus bepaal, oorskry, moet die versekeraar, binne daardie tydperk, bates met 'n markwaarde gelyk aan daardie oorskot vanaf daardie polishouerfonds na die korporatiewe fonds oorplaas; of
- (b) minder is as die waarde van verpligte met betrekking tot daardie polishouerfonds aldus bereken, moet die versekeraar, binne daardie tydperk, bates met 'n markwaarde gelyk aan daardie tekort vanaf die korporatiewe fonds na daardie polishouerfonds oorplaas,
- 50 55 en bedoelde oorplasing word by die toepassing van hierdie artikel geag op bedoelde eerste dag van bedoelde eerste jaar gemaak te gewees het.
- (16) Enige bedrag oorgeplaas vanaf—
- (a) die polishouerfonds na die korporatiewe fonds ingevolge subartikel (15)(a), word by die inkomste van die korporatiewe fonds ten opsigte van sy eerste jaar van aanslag beginnende op of na 1 Januarie 2000 ingesluit, en—
- (i) daardie bedrag moet eerstens verminder word met die balans van 'n vasgestelde verlies deur die korporatiewe fonds in enige vorige

<p>previous year which has been carried forward from the year preceding such year of assessment and the balance of the assessed loss shall be reduced accordingly; and</p> <p>(ii) where such amount so transferred exceeds the balance of the assessed loss contemplated in subparagraph (i), there shall be allowed to be deducted in the corporate fund from the amount of the remainder of such transfer, an amount equal to—</p> <p>(aa) the balance of any special transfer contemplated in section 29(10)(b) and (11), which has not been utilised as at the last day of the last year of assessment commencing before 1 January 2000; and</p> <p>(bb) such percentage, determined in accordance with the formula contemplated in subsection (11)(a)(ii), in respect of its first year of assessment commencing on or after 1 January 2000, of the amount of any selling expenses contemplated in section 29(14)(a) incurred during the last year of assessment commencing before 1 January 2000 and the four preceding years of assessment which were not allowed as a deduction in terms of that section during such years of assessment:</p> <p>Provided that—</p> <p>(A) the amount to be deducted in terms of items (aa) and (bb) shall be limited to such remainder of the transfer; and</p> <p>(B) so much of the special transfers contemplated in item (aa) and the selling expenses contemplated in item (bb) as is not deducted from the amount of the transfer included in the income of the corporate fund in terms of subsection (15) shall be forfeited and not be allowed as a special transfer or deduction in any future year of assessment; and</p> <p>(b) the corporate fund to the policyholder fund in terms of subsection (15)(b) shall be dealt with as if such transfer was made in terms of subsection (7)(b).”.</p>	5 10 15 20 25 30
---	---------------------------------

Amendment of section 31 of Act 58 of 1962, as substituted by section 23 of Act 21 of 1995 and amended by section 37 of Act 30 of 1998

31. (1) Section 31 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the word “and” at the end of paragraph (b) of the definition of “international agreement” or the word “or”, and
 - (b) by the addition in subsection (1) to the definition of “international agreement” of the following paragraph:
- “(c) (i) a person who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person is managed or controlled in the Republic; and
- (ii) any other person who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person is managed or controlled in the Republic, for the supply of goods or services to or by a permanent establishment as contemplated in section 9C(1) of either of such persons outside the Republic; and”.
- (2) Subsection (1) shall come into operation on the date of promulgation of this Act, and shall apply in respect of any transaction, operation or scheme entered into on or after that date.

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

32. Section 38 of the Income Tax Act, 1962, is hereby amended—

55

- jaar gely wat van die jaar wat daardie jaar van aanslag voorafgaan, oorgebring is en die balans van die vasgestelde verlies moet dienooreenkomsdig verminder word; en
- (ii) waar daardie bedrag aldus oorgeplaas die balans van die vasgestelde verlies beoog in subparagraph (i) te bowe gaan, word 'n aftrekking in die korporatiewe fonds toegelaat teen die bedrag van die oorblywende gedeelte van daardie oorplasing, van 'n bedrag gelyk aan—
- (aa) die balans van enige spesiale oordrag in artikel 29(10)(b) en (11) beoog, wat nie soos op die laaste dag van die laaste jaar van aanslag wat voor 1 Januarie 2000 'n aanvang neem, aangewend is nie; en
- (bb) daardie persentasie, ooreenkomsdig die formule in subparagraph (11)(a)(ii) vasgestel ten opsigte van sy eerste jaar van aanslag wat op of na 1 Januarie 2000 'n aanvang neem, van die bedrag van enige verkoopsuitgawes in artikel 29(14)(a) beoog gedurende die laaste jaar van aanslag wat voor 1 Januarie 2000 'n aanvang neem en die vier voorafgaande jare van aanslag aangegaan wat nie as 'n aftrekking ingevolge daardie artikel gedurende daardie jare van aanslag toegelaat is nie:
- Met dien verstande dat—
- (A) die bedrag aftrekbaar ingevolge items (aa) en (bb) tot daardie oorblywende gedeelte van die oorplasing beperk word; en
- (B) soveel van die spesiale oordragte in item (aa) beoog en die verkoopsuitgawes in item (bb) beoog wat nie van die bedrag van die oorplasing wat ingevolge subartikel (15) in die inkomste van die korporatiewe fonds ingesluit is, afgetrek is nie, verbeur word en nie as 'n spesiale oordrag of aftrekking in enige toekomstige jaar van aanslag toegelaat word nie; en
- (b) die korporatiewe fonds na die polishouerfonds ingevolge subartikel (15)(b) word mee gehandel asof daardie oorplasing ingevolge subartikel (7)(b) gedoen is.”.

Wysiging van artikel 31 van Wet 58 van 1962, soos vervang deur artikel 23 van Wet 21 van 1995 en gewysig deur artikel 37 van Wet 30 van 1998

- 31.** (1) Artikel 31 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) die woord “of” aan die einde van paragraaf (b) van die omskrywing van “internasionale ooreenkoms” in te voeg; en
- (b) deur in subartikel (1) die volgende paragraaf by die omskrywing van “internasionale ooreenkoms” te voeg:
- (c) (i) ‘n persoon wat, in die geval van ‘n natuurlike persoon, gewoonlik in die Republiek woonagtig is of in die geval van ‘n persoon behalwe ‘n natuurlike persoon, in die Republiek bestuur of beheer word; en
- (ii) ‘n ander persoon wat, in die geval van ‘n natuurlike persoon, gewoonlik in die Republiek woonagtig is of in die geval van ‘n persoon behalwe ‘n natuurlike persoon, in die Republiek bestuur of beheer word,
vir die levering van goedere of dienste aan of deur ‘n permanente saak soos beoog in artikel 9C(1) van enige van daardie persone buite die Republiek; en’.
- (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige transaksie, handeling of skema op of na daardie datum aangegaan.
- 55 Wysiging van artikel 38 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1962, artikel 16 van Wet 90 van 1964, artikel 28 van Wet 89 van 1969, artikel 31 van Wet 85 van 1974, artikel 27 van Wet 94 van 1983 en artikel 24 van Wet 121 van 1984**
- 32.** Artikel 38 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) by the substitution in the Afrikaans text for the words preceding subparagraph (i) of paragraph (a) of subsection (2) of the following words:
 “ ‘n maatskappy waarvan alle kategorieë van ekwiteitsaandele op die bepaalde datum openbaar deur ’n **[effektebeurs]** aandelebeurs in die onder sy magtiging uitgereikte lys genoteer word, mits die Kommissaris oortuig is—”;
- (b) by the substitution in the Afrikaans text for subparagraphs (i) and (ii) of paragraph (a) of subsection (2) of the following subparagraphs:
 “(i) dat die **[effektebeurs]** aandelebeurs ’n erkende en *bona fide* **[effektebeurs]** aandelebeurs onder behoorlike beheer is;
 (ii) dat die reëls en regulasies van die **[effektebeurs]** aandelebeurs met betrekking tot die toestaan en voortduring van ’n notering vir die koop en verkoop van aandele volle beskerming verleen aan die belang van die publiek met betrekking tot transaksies in die aandele van die maatskappy;”; and
- (c) by the substitution for paragraph (e) of subsection (2) of the following paragraph:
 “(e) any insurance society or company subject to assessment in terms of section **[twenty-eight]** 28, 29 or 29A;”.

Amendment of section 62 of Act 58 of 1962, as amended by section 8 of Act 114 of 1977, section 36 of Act 101 of 1990 and section 23 of Act 28 of 1997 20

- 33.** Section 62 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in the Afrikaans text for subsection (1A) of the following subsection:
 “(1A) Waar ’n maatskappy wat nie op enige **[effektebeurs]** aandelebeurs genoteer word nie onroerende goed besit waarop *bona fide*-boerdery in die Republiek voortgesit word, word die waarde van bedoelde onroerende goed, vir sover dit toepaslik is vir die doeleindes van die bepaling van die waarde van enige aandele in bedoelde maatskappy, volgens voorskrif van die omskrywing van ‘billike markwaarde’ in artikel 55 (1) bepaal.”; and
- (b) by the substitution for paragraph (a) of the proviso to subsection (2) of the following paragraph:
 “where [it is established to the satisfaction of] the Commissioner is satisfied that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to 12 per cent on such value of the property, the Commissioner may fix such sum as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraphs (a) and (c) of subsection (1) be deemed to be the annual value of the enjoyment of such property.”.

Substitution of section 63 of Act 58 of 1962

- 34.** Section 63 of the Income Tax Act, 1962, is hereby substituted by the following section:

“Objection and appeal

63. The decision of the Commissioner in the exercise of his discretion under [subsection (3) of section *fifty-seven*, sub-paragraph (iii) of paragraph (c) of subsection (1) of section *sixty-two* or the proviso to paragraph (d) of the said subsection (1), or subsection (4) of section *sixty-two*] section 57(3), section 62(1)(c)(iii), the proviso to section 62(1)(d) or section 62(2)(a) or 62(4), and any determination by the Commissioner under [paragraph (g) of subsection (2) of section *fifty-five*] section 55(2)(g) of the value of the mineral rights attaching to any property, shall be subject to objection and appeal.”.

Amendment of section 64B of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996 and section 25 of Act 28 of 1997 55

- 35.** Section 64B of the Income Tax Act, 1962, is hereby amended—

- (a) deur die woorde wat subparagraaf (i) van paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:
 “ ‘n maatskappy waarvan alle kategorieë van ekwiteitsaandele op die bepaalde datum openbaar deur ‘n **[effektebeurs]** aandelebeurs in die onder sy magtiging uitgerekte lys genoteer word, mits die Kommissaris oortuig is”;
- (b) deur subparagrawe (i) en (ii) van paragraaf (a) van subartikel (2) deur die volgende subparagrawe te vervang:
 (i) dat die **[effektebeurs]** aandelebeurs ‘n erkende en *bona fide* **[effektebeurs]** aandelebeurs onder behoorlike beheer is;
 (ii) dat die reëls en regulasies van die **[effektebeurs]** aandelebeurs met betrekking tot die toestaan en voortduring van ‘n notering vir die koop en verkoop van aandele volle beskerming verleen aan die belang van die publiek met betrekking tot transaksies in die aandele van die maatskappy;”;
- (c) deur paragraaf (e) van subartikel (2) deur die volgende paragraaf te vervang:
 “(e) ‘n versekeringsvereniging of -maatskappy wat ooreenkomsdig artikel **[agt-en-twintig]** 28, 29 of 29A aangeslaan moet word;”.

Wysiging van artikel 62 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 20 114 van 1977, artikel 36 van Wet 101 van 1990 en artikel 23 van Wet 28 van 1997

33. Artikel 62 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subartikel (1A) deur die volgende subartikel te vervang:
 “(1A) Waar ‘n maatskappy wat nie op enige **[effektebeurs]** aandelebeurs genoteer word nie onroerende goed besit waarop *bona fide*-boerdery in die Republiek voortgesit word, word die waarde van bedoelde onroerende goed, vir sover dit toepaslik is vir die doeleindes van die bepaling van die waarde van enige aandele in bedoelde maatskappy, volgens voorskrif van die omskrywing van ‘billike markwaarde’ in artikel 55 (1) bepaal.”; en
- (b) deur paragraaf (a) van die voorbehoudsbepaling by subartikel (2) deur die volgende paragraaf te vervang:
 “(a) waar **[dit tot bevrediging van]** die Kommissaris **[bewys word]** tevrede is dat nie redelikerwys verwag kan word dat die goed wat aan so ‘n reg onderhewig is, ‘n jaarlikse opbrengs gelyk aan 12 persent van bedoelde waarde van die goed sal oplewer nie, die Kommissaris so ‘n som kan vasstel as wat na sy oordeel redelickerwys die jaarlikse opbrengs voorstel, en die aldus vasgestelde som word by die toepassing van paragrawe (a) en (c) van subartikel (1) geag die jaarlikse waarde van die genot van bedoelde goed te wees;”.

40 Vervanging van artikel 63 van Wet 58 van 1962

34. Artikel 63 van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

“Beswaar en appèl

- 45 63. Die beslissing van die Kommissaris by die uitoefening van sy diskresie ingevolge **[subartikel (3) van artikel sewe-en-vyftig, subparagraaf (iii) van paragraaf (c) van subartikel (1) van artikel twee-en-sestig, of]** artikel 57(3), artikel 62(1)(c)(iii), die voorbehoudsbepaling by **[paragraaf (d) van bedoelde subartikel (1)]** artikel 62(1)(d) of **[subartikel (4) van artikel twee-en-sestig]** artikel 62(2)(a) of 62(4), en enige bepaling deur die Kommissaris ingevolge **[paragraaf (g) van subartikel (2) van artikel vyf-en-vyftig]** artikel 55(2)(g) van die waarde van die mineraalregte aan enige eiendom verbonde, is aan beswaar en appèl onderhewig.”.

Wysiging van artikel 64B van Wet 58 van 1962, soos ingevoeg deur artikel 34 van 55 Wet 113 van 1993 en gewysig deur artikel 12 van Wet 140 van 1993, artikel 24 van Wet 21 van 1994, artikel 29 van Wet 21 van 1995, artikel 21 van Wet 36 van 1996, artikel 13 van Wet 46 van 1996 en artikel 25 van Wet 28 van 1997

35. Artikel 64B van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) by the substitution in the Afrikaans text for paragraph (a) of subsection (10) of the following paragraph:
- “(a) in die geval van ’n maatskappy wat op ’n erkende [effektebeurs] aandelebeurs genoteer is of ’n filiaal (soos omskryf in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973)), van so ’n maatskappy, hy nie voor daardie datum die dividend aan die betrokke aandeelhouers betaal het of die verklaring daarvan in die openbaar aangekondig het nie; of”;
- (b) by the substitution for paragraph (a) of subsection (13) of the following paragraph:
- “(a) where the company has established or deemed to have established separate funds as contemplated in section 29 or 29A, to dividends accrued on shares constituting an asset in its corporate fund; or”; and
- (c) by the substitution for subsection (14) of the following subsection:
- “(14) For the purposes of subsection (13), the free reserves of an insurer shall—
- (a) subject to the provisions of paragraph (b), be the amount by which the market value of the total assets held by the insurer exceeds the prescribed value determinable in terms of section 29 in relation to business and policies contemplated in subsection (4)(a), (b) and (c) of that section; or
- (b) in respect of any dividend cycle commencing on or after the commencement of the first year of assessment of the company in respect of which section 29A applies, be the amount by which the market value of the total assets held by the insurer exceeds the value of liabilities determinable in terms of section 29A in relation to business and policies contemplated in subsection (4)(a), (b) and (c) of that section.”.

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

36. (1) Section 64C of the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding the proviso to paragraph (c) of subsection (4) of the following words:

“to so much of any such amount distributed (other than an amount contemplated in subsection (3)(e)) as exceeds the company’s profits and reserves which are available for distribution, including any amount deemed in terms of the definition of ‘dividend’ in section 1 to be a profit available for distribution.”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any amount deemed to have been distributed on or after that date.

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

37. Section 70 of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (3) and (3A) of the following subsections:

“(3) Every company which has after 31 December 1973 transferred from its reserves (excluding any share premium account) or unappropriated profits to its share capital or share premium account any amount which is in whole or part deemed by the [second] first proviso to the definition of ‘dividend’ in section 1 to be a profit available for distribution to shareholders of the company, shall, when rendering the annual return of the company’s income, furnish the Commissioner with a statement (which may be included in the accounts or statements accompanying such return) showing the profits of a capital nature and those not of a capital nature so deemed to be available for distribution on the last day of the year of assessment in question.

- (a) deur paragraaf (a) van subartikel (10) deur die volgende paragraaf te vervang:
 5 “(a) in die geval van ’n maatskappy wat op ’n erkende [effektebeurs] aandelebeurs genoteer is of ’n filiaal (soos omskryf in artikel 1 van die Maatskappwyet, 1973 (Wet No. 61 van 1973)), van so ’n maatskappy, hy nie voor daardie datum die dividend aan die betrokke aandeelhouers betaal het of die verklaring daarvan in die openbaar aangekondig het nie; of”;;
- 10 (b) deur paragraaf (a) van subartikel (13) deur die volgende paragraaf te vervang:
 “(a) waar die maatskappy afsonderlike fondse gestig het of geag word te gestig het soos beoog in artikel 29 of 29A, tot dividende toegeval op aandele wat ’n bate in sy korporatiewe fonds uitmaak; of”; en
- 15 (c) deur subartikel (14) deur die volgende subartikel te vervang:
 “(14) By die toepassing van subartikel (13) is die vrye reserwes van ’n versekeraar—
 20 (a) behoudens die bepalings van paragraaf (b), die bedrag waarmee die markwaarde van die totale bates deur die versekeraar gehou, die voorgeskrewe waarde vasstelbaar ingevolge artikel 29 met betrekking tot besigheid en polisse soos beoog in subartikel (4)(a), (b) en (c) van daardie artikel oorskry; of
 25 (b) ten opsigte van enige dividendsiklus beginnende op of na die begin van die eerste jaar van aanslag van die maatskappy ten opsigte waarvan artikel 29A van toepassing is, die bedrag waarmee die markwaarde van die totale bates deur die versekeraar gehou die waarde van verpligte vasstelbaar ingevolge artikel 29A met betrekking tot besigheid en polisse beoog in subartikel (4)(a), (b) en (c) van daardie artikel, oorskry.”.

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

36. (1) Artikel 64C van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat die voorbehoudsbepaling by paragraaf (c) van subartikel (4) voorafgaan deur die volgende woorde te vervang:

“op soveel van enige bedoelde bedrag uitgekeer (behalwe ’n bedrag in subartikel (3)(e) beoog) as wat die maatskappy se winste en reserwes wat vir uitkering beskikbaar is, oorskry, met inbegrip van enige bedrag wat ingevolge die omskrywing van ‘dividend’ in artikel 1 geag word ’n wins beskikbaar vir uitkering te wees.”.

40 (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige bedrag geag op of na daardie datum uitgekeer te wees.

Wysiging van artikel 70 van Wet 58 van 1962, soos gewysig deur artikel 11 van 45 Wet 6 van 1963, artikel 20 van Wet 90 van 1964, artikel 43 van Wet 85 van 1974, artikel 24 van Wet 69 van 1975 en artikel 26 van Wet 28 van 1997

37. Artikel 70 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (3) en (3A) deur die volgende subartikels te vervang:

50 “(3) Elke maatskappy wat na 31 Desember 1973 van sy reserwes (met uitsondering van enige aandelepremierekening) of onverdeelde winste na sy aandelekapitaal of aandelepremierekening ’n bedrag oorgeplaas het wat in sy geheel of gedeeltelik ingevolge die [tweede] eerste voorbehoudsbepaling by die omskrywing van ‘dividend’ in artikel 1 geag word ’n wins te wees wat beskikbaar is vir uitkering aan aandeelhouers van die maatskappy, moet, wanneer hy die jaarlikse opgawe van die maatskappy se inkomste indien, ’n staat aan die Kommissaris verstrek (wat ingesluit kan word by die rekenings of state wat bedoelde opgawe vergesel) waarin die winste van ’n kapitale aard en dié wat nie van ’n kapitale aard is nie, wat aldus geag word op die laaste dag van die betrokke jaar van aanslag vir uitkering beskikbaar te wees, aangetoon word.

(3A) Where any cash or any asset (including any asset, interest, benefit or advantage referred to in the [third] second proviso to the definition of 'dividend' in section 1) is given to any shareholder of a company in consequence of the winding-up, liquidation or reconstruction of the company, [or] the partial reduction or redemption of its share capital (including any share premium) or the acquisition of any share of such shareholder in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973), and the amount of such cash or the value of such asset or a portion of such amount or value constitutes a dividend in terms of the said definition the company shall, before payment to the shareholders is effected or within such period as the Commissioner may approve, calculate the amount of such dividend and furnish the Commissioner with a written statement setting forth the facts necessary for a determination by the Commissioner of the amount of such dividend and giving details of the company's calculation of that amount.”.

5

10

15

Amendment of section 74D of Act 58 of 1962, as inserted by section 14 of Act 46 of 1996 and amended by section 29 of Act 28 of 1997

38. Section 74D of the Income Tax Act, 1962, is hereby amended by the substitution for the words "Supreme Court" in paragraph (a) of subsection (9) of the words "High Court".

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

20

39. Section 75 of the Income Tax Act, 1962, is hereby amended—

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

"(f) not being a person whose gross income consists solely of salary, wages or similar compensation for personal service, without just cause shown by him fails to retain—

(i) all records, namely ledgers, cash books, journals, cheque books, bank statements, deposit slips, paid cheques, invoices, stock lists and all other books of account; and

(ii) any data created by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983), including data in the electronic form in which it was originally created or in which it is stored for the purposes of backing up such data,

relating to any trade carried on by him and recording the details from which his returns for the assessment of taxes under this Act were prepared, for a period of four years from the date upon which the return relevant to the last entry in any such record was received by the Commissioner; or";

(b) by the addition of the word "or" at the end of paragraph (g) of subsection (1); and

(c) by the insertion in subsection (1) of the following paragraph after paragraph (g):

"(h) holds himself out as an officer engaged in carrying out the provisions of this Act.".

30

35

40

45

Amendment of section 75A of Act 58 of 1962, as inserted by section 42 of Act 30 of 1998

40. Section 75A of the Income Tax Act, 1962, is hereby amended—

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

"Notwithstanding the provisions of section 4, the Commissioner may from time to time publish [by notice in the Gazette a list of persons who have] for general information such particulars as specified in subsection (2), relating to any offence committed by any person, where such person has been convicted of [any] such offence in terms of—"; and

50

55

(3A) Waar kontant of 'n bate (met inbegrip van 'n bate, belang of voordeel bedoel in die [derde] tweede voorbehoudsbepaling by die omskrywing van 'dividend' in artikel 1) aan 'n aandeelhouer van 'n maatskappy gegee word vanweë die likwidasie of rekonstruksie van die maatskappy, [of] die gedeeltelike vermindering of aflossing van sy aandelekapitaal (met inbegrip van enige aandelepremie) of die verkryging van enige aandeel van daardie aandeelhouer ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973), en die bedrag van daardie kontant of die waarde van daardie bate of 'n gedeelte van daardie bedrag of waarde 'n dividend ingevolge bedoelde omskrywing uitmaak, moet die maatskappy, voordat betaling aan die aandeelhouers geskied of binne die tydperk wat die Kommissaris goedkeur, die bedrag van daardie dividend bereken en 'n skriftelike staat aan die Kommissaris verstrek waarin die feite uiteengesit word wat nodig is vir 'n vasstelling deur die Kommissaris van die bedrag van bedoelde dividend en besonderhede van die maatskappy se berekening van daardie bedrag gegee word.”.

Wysiging van artikel 74D van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 46 van 1996 en gewysig deur artikel 29 van Wet 28 van 1997

38. Artikel 74D van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woord "Hooggereghof" in paragraaf (a) van subartikel (9) deur die woorde "Hoë Hof" te vervang.

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

25 39. Artikel 75 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
 "(f) behalwe in die geval van 'n persoon wie se bruto inkomste uitsluitlik uit salaris, loon of dergelike vergoeding vir persoonlike dienste bestaan, sonder om goeie redes aan te toon, nalaat om—
 (i) alle aantekeninge, naamlik grootboeke, kasboeke, joernale, tjeboeke, bankstate, inlegstrokies, betaalde tjeeks, fakture, inventaris en alle ander rekeningboeke; en
 (ii) enige data wat deur 'n 'rekenaar' soos omskryf in artikel 1 van die Wet op Rekenaargetuienis, 1983 (Wet No. 57 van 1983), geskep is, met inbegrip van data in die elektroniese formaat waarin dit oorspronklik geskep is of waarin dit bewaar word vir die doelendes van die rugsteun van daardie data,
 wat betrekking het op 'n bedryf deur hom beoefen en waarin die besonderhede vermeld word waarvolgens sy opgawes vir die aanslag van belastings ingevolge hierdie Wet uitgemaak is, te behou vir 'n tydperk van vier jaar vanaf die datum waarop die opgawe wat betrekking het op die laaste inskrywing in 'n bedoelde aanteking deur die Kommissaris ontvang is; of";
 (b) deur die woorde "of" aan die einde van paragraaf (g) van subartikel (1) by te voeg; en
 (c) deur in subartikel (1) die volgende paragraaf na paragraaf (g) in te voeg:
 "(h) homself voordoen as 'n beampte wat die bepalings van hierdie Wet uitvoer.".

Wysiging van artikel 75A van Wet 58 van 1962, soos ingevoeg deur artikel 42 van Wet 30 van 1998

40. Artikel 75A van die Inkomstebelastingwet, 1962, word hierby gewysig—
 (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
 "Onanks die bepalings van artikel 4 kan die Kommissaris [kan] van tyd tot tyd [by kennisgewing in die Staatskoerant 'n lys van persone] vir algemene inligting die besonderhede in subartikel (2) uiteengesit, wat betrekking het op enige misdryf deur 'n persoon gepleeg, publiseer [wat] waar daardie persoon aan 'n misdryf skuldig bevind is ingevolge"; en

- (b) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:
 “Every such [list] publication may specify—”.

Amendment of paragraph 11 of First Schedule to Act 58 of 1962, as substituted by section 44 of Act 113 of 1993 and amended by section 32 of Act 36 of 1996 5

- 41.** (1) Paragraph 11 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (iii) of subparagraph (c) of the following item:
 “(iii) where the farmer is a company, has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium), [or] a redemption of redeemable preference shares or an acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973)), to a shareholder of such company; or”.
- (2) Subsection (1) shall be deemed to have come into operation on 30 June 1999.

Insertion of paragraph 2B in Second Schedule to Act 58 of 1962 15

- 42.** (1) The following paragraph is hereby inserted after paragraph 2A of the Second Schedule to the Income Tax Act, 1962:

“2B. For the purposes of paragraph 2, where any endorsement has been made in the records of the fund of which such person is or was a member, which provides that any part of the pension interest shall be paid to the former spouse of such member, as provided for in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), the amount of such part shall be deemed to be an amount that accrues to such person on the date on which the pension interest, of which such amount forms part, accrues to such person: Provided that so much of any tax payable as is due to the inclusion in the income of such person of any amount in accordance with the provisions of this paragraph, may be recovered by such person from the former spouse to whom or in whose favour the part in question is paid or becomes payable.”.

- (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any lump sum benefit accrued on or after that date. 30

Insertion of paragraph 12 in Fourth Schedule to Act 58 of 1962

- 43.** The following paragraph is hereby inserted after paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962:

“Estimated assessments

12. (1) Where any employer who is required to deduct or withhold employees’ tax in terms of the provisions of paragraph 2, has failed to so deduct or withhold such tax, or has failed to pay over any amount of employees’ tax deducted or withheld, and such employer has not been absolved from his liabilities in terms of the provisions of this Schedule, the Commissioner may make a reasonable estimate of the amount of employees’ tax which is required to be deducted or withheld and issue to the employer a notice of assessment of the unpaid amount. 35

(2) An employer shall be liable to the Commissioner for the payment of the amount of employees’ tax so estimated as if such amount was deducted or withheld as contemplated in paragraph 2. 40

(3) Any estimate of the amount of employees’ tax payable by an employer in terms of the provisions of subparagraph (1), shall be subject to objection and appeal.”. 45

- (b) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:
 “Elke sodanige [lys] publikasie kan vermeld—”.

**Wysiging van paragraaf 11 van Eerste Bylae by Wet 58 van 1962, soos vervang
 5 deur artikel 44 van Wet 113 van 1993 en gewysig deur artikel 32 van Wet 36 van
 1996**

- 41.** (1) Paragraaf 11 van die Eerste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur item (iii) van subparagraaf (c) deur die volgende item te vervang:
 10 “(iii) waar die boer ’n maatskappy is, op of na 21 Junie 1993 aan ’n aandeelhouer van bedoelde maatskappy *in specie* uitgekeer is (het sy daardie uitkering plaasgevind het by wyse van ’n dividend, met inbegrip van ’n likwidasié-dividend, ’n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandelepremie), [of] ’n aflossing van aflosbare voorkeuraandele of ’n verkryging van aandele ingevolge artikel 85 van die Maatskappwyet, 1973 (Wet No. 61 van 1973)); of”.
 15 (2) Subartikel (1) word geag op 30 Junie 1999 in werking te getree het.

Invoeging van paragraaf 2B in Tweede Bylae by Wet 58 van 1962

- 42.** (1) Die volgende paragraaf word hierby na paragraaf 2A van die Tweede Bylae by die Inkomstebelastingwet, 1962, ingevoeg:
 20 “2B. By die toepassing van paragraaf 2, waar ’n aantekening in die rekords van die fonds waarvan daardie persoon ’n lid is of was, gemaak word, wat bepaal dat ’n gedeelte van die pensioenbelang aan die vorige eggenoot van daardie lid betaal moet word, soos in artikel 7(8) van die Wet op Egskeiding, 1979 (Wet No. 70 van 1979), bedoel, word die bedrag van daardie gedeelte ’n bedrag geag te wees wat aan daardie persoon toegeval het op die datum waarop die pensioenbelang, waarvan daardie bedrag ’n deel vorm, aan daardie persoon toeval: Met dien verstande dat soveel van enige belasting betaalbaar as wat toe te skryf is aan die insluiting by die inkomste van daardie persoon van enige bedrag ooreenkomsdig die bepalings van hierdie paragraaf, verhaal kan word deur daardie persoon van die vorige eggenoot aan of ten gunste van wie die betrokke gedeelte betaal word of betaalbaar word.”.
 25 (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige enkelbedragvoordeel wat op of na daardie datum toeval.

35 Invoeging van paragraaf 12 in die Vierde Bylae by Wet 58 van 1962

- 43.** Die volgende paragraaf word hierby na paragraaf 11B van die Vierde Bylae by die Inkomstebelastingwet, 1962, ingevoeg:

“Geraamde aanslae

- 40** **12.** (1) Waar ’n werkgewer wat ingevolge die bepalings van paragraaf 2 verplig is om werknemersbelasting af te trek of terug te hou, nagelaat het om daardie belasting aldus af te trek of terug te hou, of nagelaat het om enige bedrag van werknemersbelasting afgetrek of teruggehou, oor te betaal, en daardie werkgewer nie van sy verpligte ingevolge die bepalings van hierdie Bylae onthef is nie, kan die Kommissaris ’n redelike raming van die bedrag van werknemersbelasting wat afgetrek of teruggehou moet word, maak en ’n kennisgewing van aanslag van die onbetaalde bedrag aan die werkgewer uitreik.
 45 (2) ’n Werkgewer is aanspreeklik teenoor die Kommissaris vir die betaling van die bedrag van werknemersbelasting aldus geraam asof daardie bedrag afgetrek of teruggehou is soos in paragraaf 2 beoog.
 50 (3) ’n Raming van die bedrag van werknemersbelasting betaalbaar deur ’n werkgewer ingevolge die bepalings van subparagraaf (1), is aan beswaar en appèl onderhewig.”.

Amendment of paragraph 30 of Fourth Schedule to Act 58 of 1962, as amended by section 45 of Act 21 of 1995

44. Paragraph 30 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words following on item (m) of subparagraph (1) of the following words:

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

Amendment of paragraph 7 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, Government Notice No. 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice No. R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice No. R.764 of 29 March 1990, section 58 of Act 101 of 1990, section 50 of Act 129 of 1991, section 36 of Act 141 of 1992, section 32 of Act 21 of 1994, section 47 of Act 21 of 1995 and section 50 of Act 28 of 1997 10
15

45. Paragraph 7 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the Afrikaans text for paragraph (a) of the proviso to subparagraph (1) of the following paragraph:

“(a) waar die reg aan 'n werknemer verleen is om bedoelde motorvoertuig te gebruik soos in subparagraaf (2) beoog en bedoelde voertuig, of die reg van gebruik daarvan, nie minder nie as 12 maande voor die datum waarop bedoelde reg aan die werknemer verleen is, deur die werkgewer verkry is, daar van die bedrag wat ingevalle die voorafgaande bepalings van hierdie subparagraaf bepaal is, 'n waardeverminderingstoelae afgetrek word bereken volgens die verminderdesaldometode teen die koers van 15 persent vir elke volle tydperk van 12 maande vanaf die datum waarop die werkgewer vir die eerste maal bedoelde voertuig of die reg van gebruik daarvan verkry het tot die datum waarop die reg van gebruik daarvan vir die eerste maal aan genoemde werknemer verleen is; en”.

Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987, section 1 of Act 68 of 1989, section 1 of Act 59 of 1990, section 1 of Act 19 of 1994 and section 57 of Act 30 of 1998 30
35

46. Section 1 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution for the definition of “this Act” in subsection (1) of the following definition:

“‘this Act’ includes any proclamation, government notice, regulation or rule issued or made or agreement concluded or deemed to have been concluded thereunder or any taxation proposal contemplated in section 58 which is tabled in the [House of] National Assembly;”; and

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“In this section, except in the definition of ‘package’, and in sections 6, 7, 18, 38, [and] 64A and 87(2), ‘container’ means transport equipment—”.

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979, sections 3 and 15 of Act 98 of 1980, section 2 of Act 84 of 1987, section 4 of Act 59 of 1990, section 1 of Act 105 of 1992, section 1 of Act 98 of 1993, section 2 of Act 45 of 1995, section 34 of Act 34 of 1997 and section 58 of Act 30 of 1998 45
50

47. Section 4 of the Customs and Excise Act, 1964, is hereby amended by the insertion after subsection (12) of the following subsection:

Wysiging van paragraaf 30 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 45 van Wet 21 van 1995

44. Paragraaf 30 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat op item (m) van subparagraaf (1) volg deur die 5 volgende woorde te vervang:

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

- 10 Wysiging van paragraaf 7 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 30 van Wet 96 van 1985, artikel 10 van Wet 108 van 1986, Goewermentskennisgewing No. 956 van 11 Mei 1988, artikel 44 van Wet 90 van 1988, Goewermentskennisgewing No. R.715 van 14 April 1989, artikel 25 van Wet 70 van 1989, Goewermentskennisgewing No. 15 R.764 van 29 Maart 1990, artikel 58 van Wet 101 van 1990, artikel 50 van Wet 129 van 1991, artikel 36 van Wet 141 van 1992, artikel 32 van Wet 21 van 1994, artikel 47 van Wet 21 van 1995 en artikel 50 van Wet 28 van 1997

45. Paragraaf 7 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (a) van die voorbehoudsbepaling by subparagraaf (1) 20 deur die volgende paragraaf te vervang:

- “(a) waar die reg aan 'n werknemer verleen is om bedoelde motorvoertuig te gebruik soos in subparagraaf (2) beoog en bedoelde voertuig, of die reg van gebruik daarvan, nie minder nie as 12 maande voor die datum waarop bedoelde reg aan die werknemer verleen is, deur die werkewer verkry is, 25 daar van die bedrag wat ingevolge die voorafgaande bepalings van hierdie subparagraaf bepaal is, 'n waardeverminderingstoelae afgetrek word bereken volgens die verminderdesaldometode teen die koers van 15 persent vir elke volle tydperk van 12 maande vanaf die datum waarop die werkewer vir die eerste maal bedoelde voertuig of die reg van gebruik daarvan verkry het tot 30 die datum waarop die reg van gebruik daarvan vir die eerste maal aan genoemde werknemer verleen is; en”.

Wysiging van artikel 1 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 95 van 1965, artikel 1 van Wet 57 van 1966, artikel 1 van Wet 105 van 1969, artikel 1 van Wet 98 van 1970, artikel 1 van Wet 71 van 1975, artikel 1 van Wet 112 van 35 1977, artikel 1 van Wet 110 van 1979, artikels 1 en 15 van Wet 98 van 1980, artikel 1 van Wet 89 van 1984, artikel 1 van Wet 84 van 1987, artikel 1 van Wet 68 van 1989, artikel 1 van Wet 59 van 1990, artikel 1 van Wet 19 van 1994 en artikel 57 van Wet 30 van 1998

46. Artikel 1 van die Doeane- en Aksynswet, 1964, word hierby gewysig—
40 (a) deur die omskrywing van “hierdie Wet” in subartikel (1) deur die volgende omskrywing te vervang:

- “hierdie Wet” ook enige proklamasie, goewermentskennisgewing, regulasie of reël wat daarkragtens uitgevaardig of gemaak is of enige ooreenkoms wat daarkragtens aangegaan is of geag word daarkragtens 45 aangegaan te gewees het of enige in artikel 58 beoogde belastingvoorstel wat in die [Volksraad] Nasionale Vergadering ter tafel gelê word;”; en

- (b) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:
50 “In hierdie artikel, behalwe in die omskrywing ‘pak’, en in artikels 6, 7, 18 38, [en] 64A en 87(2) beteken ‘houer’ vervoertoerusting—”.

Wysiging van artikel 4 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 105 van 1969, artikel 2 van Wet 110 van 1979, artikels 3 en 15 van Wet 98 van 1980, artikel 2 van Wet 84 van 1987, artikel 4 van Wet 59 van 1990, artikel 1 van 55 Wet 105 van 1992, artikel 1 van Wet 98 van 1993, artikel 2 van Wet 45 van 1995, artikel 34 van Wet 34 van 1997 en artikel 58 van Wet 30 van 1998

47. Artikel 4 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die volgende subartikel na subartikel (12) in te voeg:

“(12A) (a) Where, on the exportation of any goods from the Republic, any certificate, declaration or other proof has been furnished regarding the origin of such goods to comply with the provisions of any agreement contemplated in section 46, 49 or 51 or any other requirement or any practice, an officer may, for the purposes of verifying or investigating such certificate, declaration or other proof, require—

(i) the exporter; or

(ii) any other person appearing to the officer to have been concerned in any way with—

(aa) the production or manufacture or exportation of such goods;

(bb) any goods from which directly or indirectly such goods have been produced or manufactured; or

(cc) the furnishing of such certificate, declaration or other proof, to furnish such information in such a manner and within such time as the officer may determine, and to produce on demand for inspection and to allow the making of copies or extracts from such invoices, bills of lading, bills of entry, books of account or other documents in whatever form, as the officer may specify.

(b) No person may, without good cause shown, refuse to comply with any such requirement of an officer.”.

Amendment of section 18 of Act 91 of 1964, as amended by section 2 of Act 95 of 1965, section 6 of Act 105 of 1969, section 4 of Act 71 of 1975, section 3 of Act 105 of 1976, section 3 of Act 112 of 1977, section 4 of Act 84 of 1987, section 13 of Act 59 of 1990, and section 11 of Act 45 of 1995 20

48. Section 18 of the Customs and Excise Act, 1964, is hereby amended by the insertion after subsection (1) of the following subsection: 25

“(1A) For the purposes of subsection (1)(a) imported goods landed in the Republic includes goods in transit through the Republic which are destined for removal to a consignee in any country outside the Republic.”.

Amendment of section 36 of Act 91 of 1964, as substituted by section 25 of Act 45 of 1995, and amended by section 2 of Act 44 of 1996 30

49. Section 36 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution for subsections (1), (2), (3) and (4) of the following subsections:

“(1) For the purposes of this section, ‘beer’ means beer made from malt classified under and specified in tariff item 104.10 of Part 2 of Schedule No. 1. 35

(2) (a) Every manufacturer shall, in respect of [such] beer manufactured by the manufacturer in the Republic, register with the Commissioner the brand names whereunder such beer will be sold or disposed of for home consumption, together with the alcoholic strength by volume [and the tariff item of Part 2 of Schedule No. 1 which will apply in respect] and the quantity which will be indicated on each container size of the beer so sold or disposed of under any such name, and no beer shall be so sold or disposed of unless so registered. 40

(b) (i) The provisions of paragraph (a) shall apply mutatis mutandis if any of such registered particulars should change. 45

(ii) Any such change shall be registered within the time prescribed by rule.

(c) Where beer is subject to further fermentation after being packaged, the alcoholic strength by volume to be registered and indicated on the container shall be the strength which the beer is reasonably expected to have when consumed. 50

(d) No brew of beer shall be packaged for home consumption if the alcoholic strength by volume thereof exceeds such registered strength after deduction of any tolerance prescribed by rule. 55

(e) If beer in bulk is removed in bond from a customs and excise manufacturing warehouse the alcoholic strength by volume shall be

- “(12A) (a)** Waar, by die uitvoer van enige goedere uit die Republiek, enige sertifikaat, verklaring of ander bewys betreffende die oorsprong van sodanige goedere verskaf is om aan die bepalings van enige ooreenkoms in artikel 46, 49 of 51 beoog, of enige ander vereiste of praktyk, te voldoen, kan ’n beampete, vir die doeleindes om sodanige sertifikaat, verklaring of ander bewys te verifieer of te ondersoek, vereis dat—
- (i) die uitvoerder; of
 - (ii) enige ander persoon wat vir die beampete blyk betrokke te gewees het in enige opsig by—
- (aa) die produksie of vervaardiging of uitvoer van sodanige goedere;
- (bb) enige goedere waarvan sodanige goedere direk of indirek geproduseer of vervaardig is; of
- (cc) die verskaffing van sodanige sertifikaat, verklaring of ander bewys, die inligting op die wyse en binne die tyd wat die beampete bepaal, te verskaf, en op versoek vir ondersoek voor te lê en die maak van kopieë of uittreksels toe te laat, van die fakture, ladingsbriewe, klaringsbriewe, rekeningboeke of ander dokumente in enige vorm hoegenaamd, wat die beampete vereis.
- (b) Niemand mag, sonder dat goeie gronde aangetoon word, weier om aan sodanige vereiste van ’n beampete te voldoen nie.”.
- 20 Wysiging van artikel 18 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 95 van 1965, artikel 6 van Wet 105 van 1969, artikel 4 van Wet 71 van 1975, artikel 3 van Wet 105 van 1976, artikel 3 van Wet 112 van 1977, artikel 4 van Wet 84 van 1987, artikel 13 van Wet 59 van 1990, en artikel 11 van Wet 45 van 1995**
- 48.** Artikel 18 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg:
- “(1A) By die toepassing van subartikel (1)(a), sluit ingevoerde goedere wat in die Republiek geland is goedere in transito deur die Republiek in wat bestem is vir verwydering na ’n geadresseerde in enige land buite die Republiek.”.**
- 30 Wysiging van artikel 36 van Wet 91 van 1964, soos vervang deur artikel 25 van Wet 45 van 1995, en gewysig deur artikel 2 van Wet 44 van 1996**
- 49.** Artikel 36 van die Doeane- en Aksynswet, 1964, word hierby gewysig—
- (a) deur subartikels (1), (2), (3) en (4) deur die volgende subartikels te vervang:
- “(1) By die toepassing van hierdie artikel, beteken ‘bier’, bier van mout gemaak ingedeel onder en vermeld in tariefitem 104.10 van Deel 2 van Bylae No. 1.**
- (2) (a) Elke vervaardiger moet ten opsigte van [sodanige] bier deur die vervaardiger in die Republiek vervaardig, by die Kommissaris die [name] handelsname registreer waaronder sodanige bier vir binnelandse verbruik verkoop of van die hand gesit sal word, tesame met die alkoholsterkte volgens volume [van, en die tariefitem van Deel 2 van Bylae No. 1 wat van toepassing sal wees ten opsigte] en die hoeveelheid wat aangedui sal word op elke houergrootte van die bier wat aldus verkoop of van die hand gesit word onder enige sodanige naam, en geen bier word aldus verkoop of van die hand gesit nie tensy aldus geregistreer.
- (b) (i) Die bepalings van paragraaf (a) is mutatis mutandis van toepassing indien enige van sodanige geregistreerde besonderhede sou verander.
- (ii) Enige sodanige verandering word geregistreer binne die tyd soos by reël voorgeskryf.
- (c) Waar bier onderhewig is aan verdere fermentasie na dit verpak is, is die alkoholsterkte volgens volume wat geregistreer en op die houer aangedui moet word, die sterkte wat die bier redelikerwys verwag kan word om te hê wanneer dit verbruik word.
- (d) Geen brou van bier word verpak vir binnelandse verbruik as die alkoholsterkte volgens volume daarvan die geregistreerde sterkte, na aftrekking van enige toleransie by reël voorgeskryf, oorskry nie.
- (e) Indien bier in grootmaat onder waarborg verwyder word van ’n doeane- en aksynsvervaardigingspakhuis, word die alkoholsterkte vol-

<p>tested before removal and recorded on all documents of removal and reflected in the records required to be kept in terms of the rules.</p> <p>(3) No [such] beer shall be sold or disposed of by any manufacturer for home consumption except in a container which indicates the brand name, [and] the alcoholic strength by volume <u>and quantity</u> of such beer, and any invoice or other document relating to such sale or disposal of such beer shall indicate the registered brand name thereof.</p> <p>(4) Any description on any container of beer bearing an indication of a brand name, [and] alcoholic strength by volume <u>and quantity</u> registered with the Commissioner shall be deemed to be a declaration for the purpose of assessment of duty.”;</p> <p>(b) by the substitution for paragraph (a) of subsection (6) of the following paragraph:</p> <p>“(a) If the actual alcoholic strength by volume of any beer in any container <u>not intended for export as contemplated in subsection (9)</u>, bearing an indication of a name and alcoholic strength by volume registered with the Commissioner under this section is ascertained, <u>after deduction of any tolerance prescribed by rule</u>, to be higher than the alcoholic strength by volume [specified in the tariff item] registered in relation to beer of such name, the manufacturer shall be liable for the duty on the full quantity of the brew or blend of brews of beer from which such container was filled [at the rate of duty applicable to beer of according to the actual strength as ascertained in respect of the contents of such container.]”; and</p> <p>(c) by the addition of the following subsections:</p> <p>“(7) (a) Every manufacturer shall—</p> <ul style="list-style-type: none"> (i) test the alcoholic strength by volume of each brew using a method approved by the Commissioner and record the results of each test as prescribed by rule; (ii) keep a record of the actual quantity of beer in each container size packaged for sale or disposal for home consumption. <p>(b) (i) Where the average of the test results for any registered brand name over any two successive periods of three months show that the average alcoholic strength by volume, although within any tolerance prescribed by rule, exceeds the registered strength after deduction of any average allowance as may be prescribed by rule, duty shall, if the Commissioner so determines, be payable in respect of such excess strength on all the beer accounted for during such periods.</p> <p>(ii) Payment of such duty shall be shown separately on, and included with, the first account presented to the Controller after the end of such period.</p> <p>(iii) Where the average alcoholic strength by volume so exceeds the registered strength, the manufacturer shall change the registration within the time prescribed by rule.</p> <p>(c) (i) Where the actual total quantity of beer of each container size sold or disposed of for home consumption during any period of three months exceeds the calculated total quantity, according to the registration for such container size, and after deduction of any average allowance as may be prescribed by rule, duty shall be payable on the excess quantity.</p> <p>(ii) Such excess quantity shall be shown separately on, and payment of duty thereon included with, the first account presented to the Controller after the end of such period.</p> <p>(d) A manufacturer shall not be entitled to any refund of duty if the alcoholic strength referred to in paragraph (b) or the quantity referred to in paragraph (c) is less than the registered strength or quantity, as the case may be.</p>	<p style="text-align: right;">5</p> <p style="text-align: right;">10</p> <p style="text-align: right;">15</p> <p style="text-align: right;">20</p> <p style="text-align: right;">25</p> <p style="text-align: right;">30</p> <p style="text-align: right;">35</p> <p style="text-align: right;">40</p> <p style="text-align: right;">45</p> <p style="text-align: right;">50</p> <p style="text-align: right;">55</p>
---	---

	gens volume voor verwydering getoets en op alle dokumente van verwydering aangeteken en in die rekords wat ingevolge die reëls gehou moet word, aangedui.
5	(3) Geen [sodanige] bier word vir binnelandse verbruik verkoop of van die hand gesit nie deur 'n vervaardiger behalwe in 'n houer wat die [naam en] handelsnaam, geregistreerde alkoholsterkte volgens volume en die hoeveelheid van sodanige bier aandui, en enige faktuur of ander dokument wat betrekking het op sodanige verkoop of vandiehandsitting van sodanige bier moet die geregistreerde [naam] handelsnaam daarvan aandui.
10	(4) Enige beskrywing op 'n houer bier wat 'n aanduiding bevat van 'n [naam] handelsnaam, geregistreerde alkoholsterkte volgens volume en hoeveelheid wat by die Kommissaris geregistreer is, word geag 'n verklaring vir die doel van berekening van reg te wees.";
15	(b) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te vervang: "(a) Indien vasgestel word dat die werklike alkoholsterkte volgens volume van enige bier in 'n houer nie bestem vir uitvoer soos beoog in subartikel (9) nie, wat 'n aanduiding van 'n naam en alkoholsterkte volgens volume bevat wat by die Kommissaris kragtens hierdie artikel geregistreer is, hoër is, na aftrekking van enige toleransie by reël voorgeskryf, as die alkoholsterkte volgens volume [wat vermeld is in die tariefitem] geregistreer met betrekking tot bier van daardie naam, is die vervaardiger aanspreeklik vir die reg op die volle hoeveelheid van die brou of mengsel van broue van bier waaruit sodanige houer gevul is [teen 'n skaal van reg wat van toepassing is op bier van] ooreenkomsdig die werklike sterkte soos vasgestel ten opsigte van die inhoud van sodanige houer."; en
20	(c) deur die volgende subartikels by te voeg: "(7) (a) Elke vervaardiger moet— (i) die alkoholsterkte volgens volume van elke brou toets deur gebruik te maak van 'n metode deur die Kommissaris goedgekeur en moet 'n rekord hou van die uitslae van elke toets soos by reël voorgeskryf;
25	(ii) 'n rekord hou van die werklike hoeveelheid bier in elke grootte houer verpak vir verkoop of vandiehandsitting vir binnelandse verbruik.
30	(b) (i) Waar die gemiddelde van die toetsuitslae vir enige geregistreerde handelsnaam oor enige twee opeenvolgende tydperke van drie maande aantoon dat die gemiddelde alkoholsterkte volgens volume, alhoewel binne enige toleransie by reël voorgeskryf, sodanige geregistreerde sterkte oorskry, na aftrekking van enige gemiddelde toelating by reël voorgeskryf, is reg, indien die Kommissaris aldus bepaal, betaalbaar ten opsigte van sodanige oormaat sterkte, op al die bier wat gedurende sodanige tydperke in berekening gebring is.
35	(ii) Betaling van sodanige reg word apart aangedui op, en ingesluit by, die eerste rekening aan die Kontroleur voorgelê na die einde van sodanige tydperk.
40	(iii) Waar die gemiddelde alkoholsterkte volgens volume die geregistreerde sterkte aldus oorskry, moet die vervaardiger die registrasie verander binne die tydperk by reël voorgeskryf.
45	(c) (i) Waar die werklike totale hoeveelheid bier van elke houergrootte vir plaaslike verbruik gedurende enige tydperk van drie maande verkoop of van die hand gesit die berekende totale hoeveelheid oorskry, ooreenkomsdig die registrasie vir sodanige houergrootte na aftrekking van enige gemiddelde toelating voorgeskryf by reël oorskryf, is reg betaalbaar op die oormaat hoeveelheid.
50	(ii) Sodaanige oormaat word apart aangedui op, en betaling van reg daarop ingesluit by, die eerste rekening aan die Kontroleur voorgelê na die einde van sodanige tydperk.
55	(d) 'n Vervaardiger is nie geregtig op enige terugbetaling van reg indien die alkoholsterkte in paragraaf (b) bedoel of die hoeveelheid in paragraaf (c) bedoel na gelang van die geval, minder is as die geregistreerde sterkte of hoeveelheid nie.
60	

- (8) (a) An officer may take samples of any beer at any time and send such samples for analysis to a person designated under paragraph (b).
 (b) The Commissioner may designate any person to analyse such samples.
 (9) Any beer intended for export shall only be exported in containers with a distinguishing mark approved by the Commissioner. 5
 (10) The Commissioner may by rule prescribe the following in relation to beer:
 (a) The manner in which alcoholic strength by volume and quantity are determined for the purposes of registration; 10
 (b) the tolerance allowable on registered alcoholic strength by volume;
 (c) the average allowances for the purposes of subsection (7)(b)(i) and (c)(i);
 (d) records to be kept and reports to be furnished of ingredients used, production, test results of the alcoholic strength by volume of brews, quantities manufactured and put in containers, losses and beer returned; 15
 (e) the procedure or method for the taking of samples by an officer; the method of analysis of such sample; the form for reporting on the analysis of such sample by a designated person; the results of such analysis; and any other particulars as may be required on such form; 20
 (f) the time and circumstances within which any change of the alcoholic strength by volume or quantity is required to be registered;
 (g) any other reasonable measure for controlling the manufacturing processes or the removal of beer for home consumption or export." 25

Substitution of section 37A of Act 91 of 1964

50. (1) Section 37A of the Customs and Excise Act, 1964, is hereby substituted by the following section:

"Special provisions in respect of marked goods and certain goods that are free of duty" 30

37A. (1) (a) Notwithstanding anything to the contrary in this Act contained, where—
 (i) any goods are classified under and specified in any heading or subheading of Chapter 27 of Part 1 of Schedule No. 1; 35
 (ii) such goods are also classified under and specified in any item of Part 2 and Part 5 of Schedule No. 1;
 (iii) such heading or subheading has been expressly quoted in any such item; and
 (iv) a free rate of duty is prescribed in respect of each such heading or subheading and such item,
 such goods shall, as may be prescribed by rule, on importation into or manufacture in the Republic or on being marked, be accounted for in any customs and excise warehouse licensed in terms of this Act.

(b) For the purposes of this section the Commissioner may, on such conditions as he may impose in each case in order to ensure the proper control over the storage, marking and removal of the goods contemplated in paragraph (a), approve any such warehouse and any licensee or class of licensee of such warehouse; 45

(c) Unless so approved by the Commissioner, no person shall deal with any such goods in any manner contemplated in paragraph (b). 50

(2) (a) If any goods are described in any heading or subheading or item referred to in subsection (1)(a) as marked, the unmarked goods concerned shall be marked by the approved licensee in the approved warehouse by the addition of such marker, in such proportion which is equal to or exceeds, and in accordance with such procedure and control measures, as may in each case be prescribed by rule. 55

- (8) (a) 'n Beampte kan te eniger tyd monsters neem van enige bier, en sodanige monsters vir ontleding stuur na 'n persoon kragtens paragraaf (b) aangewys.
- 5 (b) Die Kommissaris kan enige persoon aanwys om sodanige monsters te ontleed.
- (9) Enige bier bestem vir uitvoer word slegs uitgevoer in houers met 'n onderskeidende merk deur die Kommissaris goedgekeur.
- 10 (10) Die Kommissaris kan die volgende met betrekking tot bier by reël voorskryf:
- (a) Die wyse waarop alkoholsterkte volgens volume en hoeveelheid vir doeleindes van registrasie bepaal word;
- (b) die toleransie toegelaat op geregistreerde alkoholsterkte volgens volume;
- 15 (c) die gemiddelde toelatings vir die doeleindes van subartikel (7)(b)(i) en (c)(i);
- (d) die rekords wat gehou moet word en die verslae wat verskaf moet word van bestanddele gebruik, produksie, toetsuitslae van die alkoholsterkte volgens volume van broue, hoeveelhede vervaardig en in houers geplaas, verliese en bier teruggestuur;
- 20 (e) die prosedure of metode vir die neem van monsters deur 'n beampte; die metode van ontleiding van sodanige monster; die vorm vir rapportering oor die ontleiding van sodanige monster deur 'n aangewese persoon; die uitslae van sodanige ontleiding; en enige ander besonderhede wat op sodanige vorm vereis word;
- 25 (f) die tyd en omstandighede waarbinne enige verandering van die alkoholsterkte volgens volume of hoeveelheid geregistreer moet word;
- (g) enige ander redelike maatreël vir die beheer van die vervaardigingsprosesse of die verwydering van bier vir binnelandse verbruik of uitvoer.”.
- 30

Vervanging van Artikel 37A van Wet 91 van 1964

50. (1) Artikel 37A van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

- 35 **“Spesiale bepalings ten opsigte van gemerkte goedere en sekere goedere wat vry van reg is**
- 37A.** (1) (a) Ondanks andersluidende bepalings van hierdie Wet, waar—
- (i) enige goedere ingedeel word onder en vermeld word in enige pos of subpos van Hoofstuk 27 van Deel 1 van Bylae No 1;
- 40 (ii) sodanige goedere ook ingedeel word onder en vermeld word in enige item van Deel 2 en Deel 5 van Bylae No. 1;
- (iii) sodanige pos of subpos uitdruklik in so 'n item aangehaal word; en
- (iv) 'n skaal vry van reg ten opsigte van elke sodanige pos of subpos en so 'n item voorgeskryf is,
- 45 word sodanige goedere, soos by reël voorgeskryf, by invoer in of vervaardiging in die Republiek of wanneer dit gemerk word, verantwoord in 'n doeane- en aksynspakhuis wat ingevolge hierdie Wet gelisensieer is.
- (b) By die toepassing van hierdie artikel kan die Kommissaris op die voorwaardes wat hy in elke geval oplê ten einde behoorlike beheer oor die opslag, merk en verwydering van die goedere beoog in paragraaf (a) te verseker, so 'n pakhuis en lisensiehouer of klas lisensiehouer van so 'n pakhuis goedkeur.
- 50 (c) Tensy aldus deur die Kommissaris goedgekeur, mag niemand met sodanige goedere handel op enige wyse in paragraaf (b) beoog nie.
- (2) (a) Indien enige goedere in enige pos of subpos of item bedoel in subartikel (1)(a) beskryf word as gemerk, moet die betrokke ongemerkte goedere deur die goedgekeurde lisensiehouer in die goedgekeurde pakhuis gemerk word, deur die byvoeging van so 'n merker, in die verhouding wat gelyk aan of meer is, en ooreenkomsdig die prosedure en beheermaatreëls, wat in elke geval by reël voorgeskryf word.
- 55

<p>(b) Any goods contemplated in subsection (1) shall each be stored separately from all other goods and shall be subject <i>mutatis mutandis</i> to the provisions of this Act relating to dutiable goods stored in and removed from a customs and excise warehouse, as may be prescribed by rule.</p> <p>(c) (i) Subject to the provisions of subparagraph (iii), any reference to 'marked goods' or 'marker' in this or any other section or any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or Part 5 of Schedule No. 1 or in any note to such Chapter or Part or in any rule, shall be deemed to be a reference to unmarked goods referred to in subparagraph (ii) which have been marked and the marker which is required to be added as contemplated in paragraph (a);</p> <p>(ii) Any reference to 'unmarked goods' in this or any other section or in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or Part 5 of Schedule No. 1 or in any note to such Chapter or Part or in any rule, shall be deemed to be a reference to goods which, except for the reference to marked, are of the same description as marked goods and are specified as unmarked goods of such description in any such heading, subheading or item;</p> <p>(iii) Whenever it is necessary for the purpose of establishing any contravention of any provision of this section, any goods shall be deemed to contain marked goods when such goods contain a proportion of the marker equal to or exceeding that as may be prescribed by rule.</p> <p>(d) Such addition of a marker shall be deemed not to constitute mixing or blending for the purposes of—</p> <p>(i) section 37; or</p> <p>(ii) the classification of any goods under any heading, subheading or item of Schedule No. 1, except as provided in this section.</p> <p>(e) The application of the free rate of duty specified in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 and Part 5 of Schedule No. 1 in respect of any goods described as marked goods, shall be subject to the provisions of this section.</p> <p>(3) (a) Any person who sells or disposes of in any manner, whether or not for any consideration, any marked goods at any one time in excess of the quantity prescribed by rule, shall issue an invoice to the purchaser, or to any other person to whom the goods are so disposed of, containing such particulars as may be prescribed by rule.</p> <p>(b) Any person who so sells or disposes of marked goods shall keep a copy of such invoice and any person to whom such invoice is issued shall keep such invoice for such period as may be prescribed by rule.</p> <p>(c) Any person referred to in paragraph (a) and any other person who is at any time in possession of or has under his control any marked goods in excess of the quantity prescribed by rule, shall complete and keep such books, accounts and other documents in such form, reflecting such particulars and for such period and shall comply with any such other requirements, as may be prescribed by rule.</p> <p>(d) The provisions of paragraph (a) shall not apply to stock loan transactions between approved licensees of customs and excise warehouses.</p> <p>(4) (a) No person shall—</p> <p>(i) mix any marked goods in any proportion with distillate fuel or petrol;</p> <p>(ii) mix any marked goods in any proportion with any lubricity agent for use as fuel in any engine;</p> <p>(iii) mix any marked goods in any proportion with any lubricity agent, or be in possession of any marked goods mixed in any proportion with any lubricity agent, or be in possession of marked goods for mixing with any lubricity agent in any circumstances or for any purpose, otherwise than in accordance with this section and the rules;</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>
---	--

- (b) Enige goedere beoog in subartikel (1) moet elk apart opgeslaan word van alle ander goedere en is *mutatis mutandis* onderhewig aan die bepalings van hierdie Wet met betrekking tot belasbare goedere wat in 'n doeane- en aksynspakhuis opgeslaan en daaruit verwyder word, soos by reël voorgeskryf word.
- (c) (i) Behoudens die bepalings van subparagraph (iii), word enige verwysing na 'gemerkte goedere' of 'merker' in hierdie artikel of enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 of Deel 5 van Bylae No. 1 of in enige opmerking by sodanige Hoofstuk of Deel of in enige reël, geag 'n verwysing te wees na ongemerkte goedere bedoel in subparagraph (ii) wat gemerk is, en die merker wat bygevoeg moet word soos in paragraaf (a) beoog;
- (ii) Enige verwysing na 'ongemerkte goedere' in hierdie of enige ander artikel of in enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 of Deel 5 van Bylae No. 1 of in enige opmerking by sodanige Hoofstuk of Deel of in enige reël, word geag 'n verwysing te wees na goedere wat, behalwe vir die verwysing na gemerk, van dieselfde beskrywing as gemerkte goedere is en as ongemerkte goedere van daardie beskrywing in enige sodanige pos, subpos of item vermeld is;
- (iii) Wanneer dit nodig is vir die doeleindes van vasstelling van 'n oortreding van enige bepaling van hierdie artikel, word goedere geag gemerkte goedere te bevatten wanneer daardie goedere 'n verhouding van die merker bevatten wat gelyk is aan dat wat by reël voorgeskryf word of dit oorskry.
- (d) Die byvoeging van 'n merker word geag nie menging of vermenging uit te maak nie vir die doeleindes van—
- (i) artikel 37; of
- (ii) die indeling van enige goedere onder enige pos, subpos of item van Bylae No. 1, behalwe soos in hierdie artikel bepaal.
- (e) Die toepassing van die skaal vry van reg vermeld in enige pos of subpos van Hoofstuk 27 van Deel 1 of in enige item van Deel 2 en Deel 5 van Bylae No. 1, ten opsigte van enige goedere wat beskryf word as gemerkte goedere, is onderhewig aan die bepalings van hierdie artikel.
- (3) (a) Iemand wat enige gemerkte goedere by 'n enkele geleentheid verkoop of op enige wyse vervreem, het sy vir enige teenprestasie al dan nie, in 'n hoeveelheid wat meer is as wat by reël voorgeskryf is, moet aan die koper, of enige ander persoon aan wie die goedere aldus vervreem word, 'n faktuur uitrek wat die besonderhede bevat wat by reël voorgeskryf word.
- (b) Iemand wat gemerkte goedere aldus verkoop of vervreem, moet 'n afskrif van sodanige faktuur hou en iemand aan wie sodanige faktuur uitgereik word, moet sodanige faktuur hou vir die tydperk wat by reël voorgeskryf word.
- (c) Iemand in paragraaf (a) bedoel en enige ander persoon wat te eniger tyd enige gemerkte goedere in sy besit of onder sy beheer het wat meer is as die hoeveelheid wat by reël voorgeskryf word, moet die boeke, rekeninge en ander dokumente voltooi en hou in die vorm en met die besonderhede weergegee en vir die tydperk wat by reël voorgeskryf word, en moet voldoen aan enige ander vereistes wat by reël voorgeskryf word.
- (d) Die bepalings van paragraaf (a) is nie van toepassing op voorraadleningstransaksies tussen goedgekeurde lisensiehouers van doeane- en aksynspakhuisse nie.
- (4) (a) Niemand mag—
- (i) enige gemerkte goedere in enige verhouding met distillaatbrandstof, of petrol meng nie;
- (ii) enige gemerkte goedere in enige verhouding met 'n smeermiddel meng vir gebruik as brandstof in enige enjin nie;
- (iii) enige gemerkte goedere in enige verhouding met 'n smeermiddel meng, of in besit wees van enige gemerkte goedere in enige verhouding met 'n smeermiddel gemeng, of in besit wees van enige gemerkte goedere vir die meng met enige smeermiddel onder enige omstandighede of vir enige doel, behalwe ooreenkomstig die bepalings van hierdie artikel en die reëls nie;

(iv) use any marked goods, whether or not mixed with any other goods in any proportion, as fuel in any engine;	
(v) sell or dispose of in any manner whether or not for any consideration or acquire any marked goods or any marked goods mixed with any lubricity agent, for use as fuel in any engine;	5
(vi) be in possession of any marked goods mixed in any proportion with distillate fuel or petrol;	
(vii) be in possession of any marked goods or marked goods mixed in any proportion with any lubricity agent for use as fuel in any engine;	10
(viii) remove or neutralise or attempt to remove or neutralise any marker in any marked goods;	
(ix) add any substance to any marked goods which can prevent or impede the detection of the marker;	
(x) be in possession of any marked goods or sell or dispose of in any manner whether or not for any consideration or acquire any marked goods in which is present any substance which or the colour of which can prevent or impede the detection of the marker;	15
(xi) mix any unmarked goods with any marked goods; or	
(xii) unless approved by, and subject to such conditions as may be imposed by, the Commissioner, import any goods containing the marker.	20
<i>(b)</i> Any person who so mixes or uses or sells or disposes or acquires or possesses any marked goods or so adds any substance to any marked goods or so removes or neutralises or attempts to remove or to neutralise any marker or any person to whom any invoice referred to in subsection (3)(a) has been issued in respect of the marked goods concerned, shall, in addition to any other liability incurred in terms of this Act, be liable, as the Commissioner may determine, for the payment of an amount not exceeding the duty that may be leviable on any distillate fuel, petrol, lubricity agent or unmarked goods in accordance with the provisions of Schedule No. 1, whichever yields the greatest amount of duty, in respect of all marked goods which—	25
(i) are in the possession or under the control of such person or on any premises in the possession or under the control of such person; and	
(ii) were previously sold or disposed of or purchased or were in the possession or under the control of such person or on any premises in the possession or under the control of such person at any time, unless it is shown within 30 days from the date of any demand for payment of any amount in terms of this section that the goods concerned have not been dealt with contrary to the provisions of paragraph (a).	30
<i>(c)</i> (i) If different rates of duty on such distillate fuel, petrol, lubricity agents or unmarked goods were in force during any period in respect of which the duties are calculated for the purposes of the payment referred to in paragraph (b), the highest rate in force at the relevant time shall be applied for the purposes of calculating the duty payable as provided in paragraph (b).	35
(ii) For the purposes of calculating the duty payable on any marked goods mixed with distillate fuel, petrol, unmarked goods or lubricity agent in any tank, including the fuel tank of any engine, such duty shall be calculated, on the total quantity of such mixed goods, in accordance with the provisions of paragraph (b).	40
<i>(d)</i> Notwithstanding anything to the contrary in this Act contained, any person who, contrary to subsection (3) and the rules, fails to—	45
(i) keep any invoice issued or a copy thereof;	
(ii) issue any invoice;	
(iii) complete and keep the books, accounts and documents; or	
(iv) forthwith furnish any officer at such officer's request with such invoice or copy thereof and with the books, accounts and documents, required to be completed and kept,	50
	55

- (iv) enige gemerkte goedere as 'n brandstof in enige enjin gebruik, hetsy dit met ander goedere in enige verhouding gemeng is al dan nie;
- (v) enige gemerkte goedere, of enige gemerkte goedere met 'n smeermiddel gemeng, verkoop of op enige wyse vervreem, hetsy vir enige teenprestasie al dan nie, of dit verkry nie, vir gebruik as brandstof in enige enjin;
- 5 (vi) in besit wees van enige gemerkte goedere in enige verhouding gemeng met distillaatbrandstof of petrol nie;
- (vii) in besit wees van enige gemerkte goedere, of gemerkte goedere in enige verhouding gemeng met enige smeermiddel, vir gebruik as brandstof in enige enjin nie;
- 10 (viii) enige merker in enige gemerkte goedere verwijder of neutraliseer of poog om dit te verwijder of te neutraliseer nie;
- (ix) enige stof byvoeg by enige gemerkte goedere wat die bespeuring van die merker kan verhoed of bemoeilik nie;
- 15 (x) in besit wees van enige gemerkte goedere, of enige gemerkte goedere verkoop of op enige wyse vervreem, hetsy vir enige teenprestasie al dan nie, of dit verkry nie, waarin 'n stof teenwoordig is wat, of waarvan die kleur, die bespeuring van 'n merker kan verhoed of bemoeilik nie;
- 20 (xi) enige ongemerkte goedere met enige gemerkte goedere meng nie; of (xii) tensy goedgekeur, en behoudens die voorwaardes opgelê, deur die Kommissaris, enige goedere invoer wat die merker bevat nie.
- (b) Iemand wat enige gemerkte goedere aldus meng of gebruik of verkoop of vervreem of verkry of besit of aldus enige stof by enige gemerkte goedere byvoeg of aldus enige merker verwijder of neutraliseer of poog om dit te verwijder of te neutraliseer, of enige persoon aan wie 'n faktuur in subartikel (3)(a) bedoel, uitgereik is ten opsigte van die betrokke gemerkte goedere, is, benewens enige ander aanspreeklikheid opgeloop ingevolge hierdie Wet, aanspreeklik, soos die Kommissaris bepaal, vir betaling van 'n bedrag van hoogstens die reg wat hefbaar is op enige distillaatbrandstof, petrol, smeermiddel of ongemerkte goedere ooreenkomsdig die bepalings van Bylae No. 1, welke ook al die grootste bedrag aan reg oplewer, ten opsigte van alle gemerkte goedere wat—
- 25 (i) in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon is; en
- (ii) voorheen verkoop of vervreem of gekoop is of in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon te eniger tyd was, tensy daar binne 30 dae vanaf die datum van enige aanvraag vir betaling van enige bedrag ingevolge hierdie artikel bewys word dat daar niestrydig met die bepalings van paragraaf (a) met die betrokke goedere gehandel is nie.
- 30 (c) (i) Indien verskillende skale van reg op sodanige distillaatbrandstof, petrol, smeermiddels of ongemerkte goedere van krag was gedurende enige tydperk ten opsigte waarvan die regte bereken word vir die doeleindes van die betaling in paragraaf (b) bedoel, word die hoogste geldende skaal op die betrokke tydstip vir die doeleindes van die berekening van die reg betaalbaar soos in paragraaf (b) bedoel, toegepas.
- 35 (ii) Vir die doeleindes om die reg betaalbaar te bereken op enige gemerkte goedere gemeng met distillaatbrandstof, petrol, ongemerkte goedere of smeermiddel in enige tenk, met inbegrip van die brandstoftenk van enige enjin, word die reg op die totale hoeveelheid van sodanige gemengde goedere ooreenkomsdig die bepalings van paragraaf (b) bereken.
- 40 (d) Ondanks andersluidende bepalings van hierdie Wet, is iemand wat,strydig met subartikel (3) en die reëls, versuim om—
- (i) 'n uitgereikte faktuur of 'n afskrif daarvan te hou;
- (ii) 'n faktuur uit te reik;
- 45 (iii) boeke, rekeninge en dokumente te voltooi en te hou; of
- (iv) onverwyld aan enige beampete op sodanige beampete se versoek sodanige faktuur of afskrif daarvan en die boeke, rekeninge en dokumente wat voltooi en gehou moet word, te verstrek,

shall, in addition to any other liability incurred in terms of this Act, in respect of the goods to which such failure relates, be liable, as the Commissioner may determine, for the payment of an amount not exceeding the duty that may be leviable on any distillate fuel, petrol, lubricity agents or unmarked goods in accordance with the provisions of Schedule No. 1, whichever yields the greatest amount of duty, unless it is shown within 30 days of the date of any demand for payment of such amount in terms of this section that the goods concerned have not been dealt with contrary to the provisions of this section.

5

(e) Any amount for which any person is liable in terms of this section shall be payable upon demand by the Commissioner.

10

(f) Payment of any amount in respect of the marked goods referred to in paragraph (b)(i) shall not absolve the person concerned from compliance with the provisions of paragraph (a).

15

(5) (a) For the purposes of this section an officer may—

- (i) take samples of any goods in any tank or other container or in any fuel tank of any engine;
- (ii) analyse such samples or send them for analysis to any person designated under paragraph (c)(ii);
- (iii) stop and detain any vehicle or mobile apparatus with or without the assistance of any traffic officer or member of the South African Police Service or the South African National Defence Force;
- (iv) detain any ship with or without the assistance of any member of the South African Police Service or the South African National Defence Force.

20

(b) The provisions of section 106(2) shall *mutatis mutandis* apply to any sample taken under this subsection.

25

(c) The Commissioner may—

30

- (i) by rule prescribe the form for reporting on any vehicle or mobile apparatus stopped or premises visited, or any person concerned with such vehicle, mobile apparatus or premises; or on any procedure or method for the taking or analysis of any sample by an officer; or on the results of such analysis and any other particulars as may be required on such form;
- (ii) designate any person to analyse any such sample;
- (iii) by rule prescribe the form for reporting on the analysis of such sample by such designated person, the results of such analysis and any other particulars as may be required on such form;
- (iv) by rule prescribe the method for sealing any tank or container.

35

(d) Any person who is in any way concerned with any marked goods or any vehicle or mobile apparatus or any premises where any tank or other container is situated, shall furnish an officer on demand with any particulars which he is able to provide for the purposes of the completion of the report referred to in paragraph (c).

40

(6) (a) Whenever an officer has detained any ship, vehicle, mobile apparatus, engine, tank or other container or goods in terms of this Act for the purposes of investigating any matter to which this section relates, he shall not, if any goods are tested for the presence of a marker, take any action to enforce any other provision of this Act, unless he is in possession of a report by the person designated under subsection (5)(c)(ii) or by any person in the employ of and authorised by such designated person, on the prescribed form, which contains particulars indicating that the goods concerned have been dealt with contrary to the provisions of this section.

45

(b) Any person who is in any way concerned with such goods as contemplated in subsection (4)(b) shall be liable in respect thereof for payment of an amount calculated on the same basis as provided in that subsection.

50

(c) Any goods otherwise found by an officer to have been dealt with contrary to the provisions of this section and any goods which have been used in so dealing with those goods shall be liable to forfeiture in accordance with this Act.

55

60

is, benewens enige ander aanspreeklikheid opgeloop ingevolge hierdie Wet, aanspreeklik, soos die Kommissaris bepaal, ten opsigte van die goedere waarop sodanige versuim betrekking het, vir die betaling van 'n bedrag van hoogstens die reg wat hefbaar is op enige distillaatbrandstof, petrol, smeermiddels of ongemerkte goedere ooreenkomstig die bepalings van Bylae No. 1, welke ook al die grootste bedrag aan reg oplewer, tensy daar binne 30 dae vanaf die datum van enige aanvraag vir betaling van sodanige bedrag ingevolge hierdie artikel bewys word dat daar nie strydig met die bepalings van hierdie artikel met die betrokke goedere gehandel is nie.

(e) Enige bedrag waarvoor enigiemand ingevolge hierdie artikel aanspreeklik is, is betaalbaar op aanvraag deur die Kommissaris.

(f) Betaling van enige bedrag ten opsigte van die gemerkte goedere in paragraaf (b)(i) bedoel, skeld nie die betrokke persoon vry van die nakoming van die bepalings van paragraaf (a) nie.

(5) (a) By die toepassing van hierdie artikel kan 'n beampte—

- (i) monsters neem van enige goedere in enige tenk of ander houer of in enige brandstoffenk van enige enjin;
- (ii) sodanige monsters ontleed of vir ontleding stuur na enige persoon kragtens paragraaf (c)(ii) aangewys;
- (iii) enige voertuig of enige mobiele apparaat stop en aanhou met of sonder die hulp van enige verkeersbeampte of lid van die Suid-Afrikaanse Polisiediens of die Suid-Afrikaanse Nasionale Weermag;
- (iv) enige skip aanhou met of sonder die hulp van enige lid van die Suid-Afrikaanse Polisiediens of die Suid-Afrikaanse Nasionale Weermag.

(b) Die bepalings van artikel 106(2) is *mutatis mutandis* van toepassing op enige monster wat kragtens hierdie subartikel geneem is.

(c) Die Kommissaris kan—

- (i) by reël die vorm voorskryf waarin verslag gedoen moet word oor enige voertuig of mobiele apparaat gestop, of perseel besoek, of enige persoon betrokke by sodanige voertuig, mobiele apparaat of perseel; of oor enige prosedure of metode vir die neem of ontleiding van 'n monster deur 'n beampte; of oor die uitslae van sodanige ontleiding, en enige ander besonderhede wat op sodanige vorm vereis word;
- (ii) enige persoon aanwys om sodanige monster te ontleed;
- (iii) by reël die vorm voorskryf waarin verslag gedoen moet word deur sodanige aangewese persoon oor die ontleiding van sodanige monster, die uitslae van die ontleiding en enige ander besonderhede wat op sodanige vorm vereis word;
- (iv) by reël die metode voorskryf om 'n tenk of houer te seël.

(d) Iemand wat op enige wyse betrokke is by enige gemerkte goedere of enige voertuig of mobiele apparaat of enige perseel waar enige tenk of ander houer geleë is, moet 'n beampte op aanvraag voorsien van enige besonderhede wat hy, kan verskaf vir die doeleindes van die voltooiing van die verslag in paragraaf (c) bedoel.

(6) (a) Wanneer 'n beampte enige skip, voertuig, mobiele apparaat, enjin, tenk of ander houer of goedere ingevolge hierdie Wet aangehou het vir die doel om enige aangeleentheid waaroor hierdie artikel handel, te ondersoek, mag hy nie, indien enige goedere getoets word vir die teenwoordigheid van 'n merker, optree om enige ander bepaling van hierdie Wet af te dwing nie, tensy hy in besit is van 'n verslag deur die persoon kragtens subartikel (5)(c)(ii) aangewys of enige persoon in diens van en gemagtig deur sodanige aangewese persoon, op die voorgeskrewe vorm, wat besonderhede openbaar wat aandui dat daar strydig met die bepalings van hierdie artikel met die betrokke goedere gehandel is.

(b) Enige persoon wat op enige wyse betrokke is by goedere soos bedoel in subartikel (4)(b) is aanspreeklik ten opsigte daarvan vir die betaling van 'n bedrag bereken op dieselfde basis soos in daardie subartikel bepaal.

(c) Enige goedere wat andersins deur 'n beampte gevind word strydig met die bepalings van hierdie artikel mee gehandel te wees, en enige goedere wat gebruik is om met sodanige goedere aldus te handel, is ooreenkomstig hierdie Wet aan verbeuring onderhewig.

(d) The owner or whoever has possession or control of any goods, ship, vehicle, mobile apparatus, engine, tank or other container, shall be liable for any reasonable costs and expenses, including the costs of analysing any sample, incurred by, and charges due to, the Commissioner in the handling of and dealing with any such goods, ship, vehicle, mobile apparatus, engine, tank or other container for the purposes of this section.

(7) (a) Notwithstanding the provisions of subsection (4) and anything to the contrary in any other provision of this Act, whenever any marked goods have become mixed with or contaminated by unmarked goods or any other goods, by an act or omission which by the exercise of reasonable care could not have been avoided, such mixing or contamination shall, in the event that the proportion of the marker present in such mixed or contaminated goods is less than the proportion prescribed by rule in terms of subsection 2(a), but is equal to or exceeds the proportion prescribed by rule in terms of subsection (2)(c)(iii), be reported immediately to the Commissioner, unless such mixing or contamination occurs within a licensed customs and excise warehouse, and the licensee complies with the provisions of subparagraphs (i) and (ii) of paragraph (b), and a report of each such event is prepared and kept available for inspection by an officer.

(b) Such goods shall, subject to the approval of the Commissioner and to such conditions as the Commissioner may in each case impose—

- (i) be mixed or blended with other goods by the licensee of a customs and excise warehouse until the proportion of the marker is less than the proportion prescribed by rule in terms of subsection (2)(c)(iii), in which case the total quantity of such mixed or blended goods shall be liable to the duty applicable to such goods in terms of Schedule No. 1 on removal from such warehouse; or
- (ii) be delivered to any person who is registered as required by the rules, for mixing or blending with other goods where such mixed or blended goods are not capable of use as fuel in any engine.

(c) If the Commissioner for any reason finds that such mixed or contaminated marked goods cannot be dealt with as contemplated in paragraph (b) within any reasonable period determined by the Commissioner, such goods shall on expiry of such period be regarded as having been abandoned to the Commissioner and may thereafter be disposed of in such manner as the Commissioner considers reasonable in the circumstances.

(d) The licensee of the customs and excise warehouse, the purchaser or any other person to whom the marked goods were disposed of or whoever had control thereof when such mixing or contamination occurred shall be liable for any reasonable costs and expenses incurred by and charges due to the Commissioner in respect of any handling of and dealing with such goods in accordance with the provisions of paragraph (b) or (c).

(e) Any person who deals with such mixed or contaminated goods contrary to the provisions of paragraph (b), shall, in addition to any other liability incurred in terms of this Act, be liable in respect of the total quantity of such goods for payment of an amount calculated on the same basis as provided in subsection (4)(b).

(8) (a) Where any goods may be disposed of in terms of section 90, the Commissioner may, notwithstanding the provisions of that section, but subject to such conditions as the Commissioner may in each case impose, which may include conditions requiring payment of any amount determined by the Commissioner—

- (i) dispose of such goods for mixing or blending with other goods as contemplated in subsection (7)(b);

5

10

15

20

25

30

35

40

45

50

55

- 5 (d) Die eienaar of wie ook al besit of beheer het oor enige goedere, skip, voertuig, mobiele apparaat, enjin, tenk of ander houer, is aanspreeklik vir enige redelike koste en uitgawes, met inbegrip van die koste van die ontleding van enige monster aangegaan deur, en gelde verskuldig aan die Kommissaris in die hantering van en handeling met sodanige goedere, skip, voertuig, mobiele apparaat, enjin, tenk of ander houer vir die doeleindes van hierdie artikel.
- 10 (7) (a) Ondanks die bepalings van subartikel (4) en andersluidende bepalings van hierdie Wet, wanneer ook al enige gemerkte goedere gemeng geraak het met of gekontamineer is deur ongemerkte goedere of enige ander goedere, deur 'n handeling of versuim wat nie deur die uitoefening van redelike sorg vermy kon gewees het nie, moet sodanige vermenging of kontaminasie, in die geval waar die verhouding van die merker teenwoordig in die vermengde of gekontamineerde goedere minder is as die verhouding voorgeskryf by reël ingevolge subartikel (2)(a), maar gelyk is aan of meer is as die verhouding voorgeskryf by reël ingevolge subartikel (2)(c)(iii), onmiddellik aan die Kommissaris gerapporteer word, tensy sodanige vermenging of kontaminasie plaasvind binne 'n gelisensieerde doeane- en aksynspakhuis, en die lisensiehouer voldoen aan die bepalings van subparagrawe (i) en (ii) van paragraaf (b), en 'n verslag van elke sodanige voorval voorberei word en beskikbaar gehou word vir inspeksie deur 'n beampte.
- 15 (b) Sodanige goedere word, onderhewig aan die goedkeuring van die Kommissaris en behoudens die voorwaardes wat die Kommissaris in elke geval oplê—
- 20 (i) gemeng of vermeng met ander goedere deur die lisensiehouer van 'n doeane- en aksynspakhuis totdat die verhouding van die merker minder is as die verhouding voorgeskryf by reël ingevolge subartikel (2)(c)(iii), in welke geval die totale hoeveelheid van sodanige gemengde of vermengde goedere aan die reg op sodanige goedere ingevolge Bylae No. 1 van toepassing by verwydering uit sodanige pakhuis onderhewig is; of
- 25 (ii) aan enige persoon wat geregistreer is soos deur die reëls vereis, gelewer vir die menging of vermenging met ander goedere waar sodanige gemengde of vermengde goedere nie geskik is vir gebruik as brandstof in enige enjin nie.
- 30 (c) Indien die Kommissaris om enige rede vind dat sodanige gemengde of gekontamineerde gemerkte goedere nie mee gehandel kan word soos in paragraaf (b) beoog, binne 'n redelike tydperk deur die Kommissaris bepaal nie, word sodanige goedere by verstryking van sodanige tydperk geag geabandonneer te wees aan die Kommissaris en kan daarna oor beskik word op die wyse wat die Kommissaris in die omstandighede redelik ag.
- 35 (d) Die lisensiehouer van die doeane- en aksynspakhuis, die koper of enige ander persoon aan wie die gemerkte goedere vervreem is, of wie ook al beheer daaroor gehad het terwyl sodanige menging of kontaminasie plaasgevind het, is aanspreeklik vir enige redelike koste en uitgawes aangegaan deur en gelde verskuldig aan die Kommissaris ten opsigte van enige hantering van en handeling met sodanige goedere ooreenkomsdig die bepalings van paragraaf (b) of (c).
- 40 (e) Enige persoon wat teenstrydig met die bepalings van paragraaf (b) met sodanige gemengde of gekontamineerde goedere handel, is, benewens enige ander aanspreeklikheid opgeloop ingevolge hierdie Wet, aanspreeklik ten opsigte van die totale hoeveelheid van sodanige goedere vir betaling van 'n bedrag bereken op dieselfde grondslag soos bepaal in subartikel (4)(b).
- 45 (8) (a) Waar daar oor goedere ingevolge artikel 90 beskik kan word, kan die Kommissaris, ondanks die bepalings van daardie artikel, maar onderhewig aan die voorwaardes wat die Kommissaris in elke geval oplê, wat voorwaardes kan insluit wat die betaling vereis van enige bedrag deur die Kommissaris bepaal—
- 50 (i) beskik oor sodanige goedere vir menging of vermenging met ander goedere soos bedoel in subartikel (7)(b);
- 55
- 60

(ii) dispose of such goods in any other manner which the Commissioner considers reasonable in the circumstances; or	
(iii) order the destruction of such goods.	
(b) The person from whom the goods were seized shall be liable for any reasonable costs and expenses incurred by and charges due to the Commissioner in respect of the handling of and dealing with such goods as contemplated in paragraph (a).	5
(9) (a) No person may acquire or sell or dispose of in any manner, whether or not for any consideration, or be in possession of or have under his control or use—	10
(i) any goods, other than marked goods, for which provision is made free of duty in Schedule No. 1 as contemplated in subsection (1)(a); or	
(ii) any marked goods mixed with any lubricity agent, except in accordance with the provisions of this section and the rules.	
(b) In addition to the provisions of this subsection and any rule made thereunder, except as otherwise provided in any rule, any marked goods mixed or intended to be mixed with any lubricity agent shall be subject to the provisions of this section and the rules relating to marked goods.	15
(c) Where any person is required by any rule made under paragraph (d) to register with the Commissioner, the Commissioner may—	20
(i) require before registration that such person furnishes security in such form, nature or amount as the Commissioner may determine;	
(ii) at any time require that such security be altered or renewed in such manner as the Commissioner may determine;	
(iii) determine the particulars to be furnished on application for registration and the requirements to be complied with before such application is considered;	25
(iv) register such person subject to such conditions as the Commissioner may in each case impose;	
(v) refuse to register any person or class of persons and cancel the registration of any person who has dealt with any goods contrary to the provisions of this section or the rules or any other provision of this Act and refuse re-registration of such person.	30
(d) The Commissioner may for the purposes of this section, by rule, prescribe the following:	35
(i) The persons who are required to register and the goods and activities in respect of which they are required to register;	
(ii) the quantities which shall be subject to any such rule;	
(iii) the conditions on which and the purposes for which any marked goods may be mixed with any lubricity agent;	40
(iv) the conditions on which and the purposes for which any person may sell or dispose of in any manner, whether or not for any consideration, or be in possession of or use, any goods contemplated in this section;	
(v) any invoice to be issued, the particulars on such invoice, the person who shall keep such invoice or copy thereof, the persons who are required to complete and keep books, accounts and other documents, the form in which they shall be kept, the particulars to be reflected therein and the period for which they are required to be kept;	45
(vi) restrictions in respect of the removal and export of any goods to which this section applies;	
(vii) all matters which are required or permitted in terms of this section to be prescribed by rule;	50
(viii) any other matter which the Commissioner may consider necessary and useful to regulate the lawful and prevent the unlawful distribution and consumption of any goods to which this section applies.	
(e) (i) No goods referred to in paragraph (a)(i) shall be used for any other purpose than that for which they are removed from a customs and excise warehouse and in accordance with the conditions imposed by the	55

- (ii) beskik oor sodanige goedere op enige ander wyse wat die Kommissaris redelik ag onder die omstandighede; of
 (iii) die vernietiging van sodanige goedere beveel.
- 5 (b) Die persoon van wie die goedere in beslag geneem is, is aanspreeklik vir enige redelike koste en uitgawes aangegaan deur en gelde verskuldig aan die Kommissaris ten opsigte van die hantering van en handeling met sodanige goedere soos in paragraaf (a) beoog.
- (9) (a) Niemand mag—
 10 (i) enige goedere, behalwe gemerkte goedere, waarvoor voorsiening vry van reg in Bylae No. 1 gemaak is soos in subartikel (1)(a) beoog; of
 (ii) enige gemerkte goedere gemeng met enige smeermiddel, verkry of verkoop of op enige wyse vervoer hetsy vir enige teenprestasie al dan nie, of in besit wees daarvan, of dit onder sy beheer hê, of dit gebruik nie, behalwe ooreenkomsdig die bepalings van hierdie artikel en die reëls.
- 15 (b) Beweens die bepalings van hierdie subartikel en enige reël daarkragtens gemaak, behalwe as in enige reël anders bepaal word, is enige gemerkte goedere gemeng of bestem om gemeng te word met enige smeermiddel onderworpe aan die bepalings van hierdie artikel en die reëls rakende gemerkte goedere.
- (c) Waar van enige persoon by reël kragtens paragraaf (d) uitgevaardig, vereis word om te registreer by die Kommissaris, kan die Kommissaris—
 20 (i) voor registrasie vereis dat so persoon 'n sekuriteit verskaf in die vorm, aard of bedrag wat die Kommissaris bepaal;
 (ii) te eniger tyd vereis dat sodanige sekuriteit aangepas of hernu moet word op die wyse wat die Kommissaris bepaal;
 (iii) die besonderhede bepaal wat in die aansoek om registrasie vermeld moet word en die vereistes waaraan voldoen moet word voordat die aansoek oorweeg word;
- 25 (iv) sodanige persoon registreer onderhewig aan die voorwaardes wat die Kommissaris in elke geval oplê;
 (v) weier om enige persoon of klas persone te registreer, en die registrasie van enige persoon kanselleer wat met goederestrydig met die bepalings van hierdie artikel of die reëls of enige ander bepaling van hierdie Wet gehandel het, en herregistrasie van so 'n persoon weier.
- 30 (d) Die Kommissaris kan vir die doeleindes van hierdie artikel die volgende by reël voorskryf:
 (i) Die persone wat moet registreer en die goedere en aktiwiteite ten opsigte waarvan hulle moet registreer;
 (ii) die hoeveelhede wat aan enige sodanige reël onderhewig is;
 (iii) die voorwaardes waarop en die doeleindes waarvoor enige gemerkte goedere met 'n smeermiddel gemeng mag word;
 (iv) die voorwaardes waarop en die doel waarvoor enige persoon enige goedere in hierdie artikel beoog, mag verkoop, of op enige wyse oor beskik hetsy dit vir 'n teenprestasie al dan nie, of in besit daarvan mag wees, of dit mag gebruik;
- 35 (v) enige faktuur wat uitgereik moet word, die besonderhede op sodanige faktuur, die persoon wat die faktuur of 'n kopie daarvan moet hou, die persone wat boeke, rekeninge en ander dokumente moet voltooi en hou, die vorm waarin hulle gehou moet word, die besonderhede wat daarin weergegee moet word en die tydperk waarvoor dit gehou moet word;
- 40 (vi) beperkings ten opsigte van die verwydering en uitvoer van enige goedere waarop hierdie artikel betrekking het;
- 45 (vii) alle aangeleenthede wat kragtens hierdie artikel by reël voorgeskryf moet of kan word;
- 50 (viii) enige ander aangeleentheid wat die Kommissaris nodig en nuttig ag om die regmatige distribusie en verbruik van goedere waarop hierdie artikel betrekking het, te reguleer, en die onregmatige distribusie en verbruik daarvan te verhoed.
- 55 (e) (i) Geen goedere in paragraaf (a)(i) bedoel, word gebruik vir enige ander doel as dié waarvoor hulle uit 'n doeane- en aksynspakkhus verwyder word, en ooreenkomsdig die voorwaardes opgelê deur die Kommissaris en
- 60

<p>Commissioner and those prescribed in the rules, except with the prior permission of the Commissioner and on payment of the duties leviable in terms of Schedule No. 1 in respect of unmarked goods: Provided that if the Commissioner so permits, the goods may be mixed or blended with other goods in which case the provisions of subsection (7) shall <i>mutatis mutandis</i> apply to such goods.</p> <p>(ii) If any goods referred to in paragraph (a)(i) are dealt with contrary to the provisions of this section and the rules, any person who had possession or control of such goods at the time they were so dealt with, shall, in addition to any other liability incurred in terms of this Act, be liable in respect of such goods for payment of an amount calculated on the same basis as provided in subsection (4)(b).</p> <p>(10) No person shall be entitled to any compensation for any loss or damage arising out of any <i>bona fide</i> action of an officer or any person who assists him under the provisions of this section.</p> <p>(11) The provisions of section 44A shall <i>mutatis mutandis</i> apply in respect of the liability incurred by any person in terms of this section.</p> <p>(12) For the purposes of this section—</p> <p>‘engine’ referred to in subsections (4)(a) and (c)(ii), (5)(a)(i) and (6)(a) includes any engine of any machine, machinery, plant, equipment, apparatus, vehicle or ship, classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No.1;</p> <p>‘invoice’ means a document, whether in its original form or in a form approved by the Commissioner, and which contains such particulars as may be prescribed by rule;</p> <p>‘ship’ includes any ship classifiable under any heading or subheading of Chapter 89 of Part 1 of Schedule No. 1;</p> <p>‘vehicle’ includes any vehicle classifiable under any heading or subheading of Chapters 86 and 87 of Part 1 of Schedule No. 1.”.</p>		5
<p>(ii) If any goods referred to in paragraph (a)(i) are dealt with contrary to the provisions of this section and the rules, any person who had possession or control of such goods at the time they were so dealt with, shall, in addition to any other liability incurred in terms of this Act, be liable in respect of such goods for payment of an amount calculated on the same basis as provided in subsection (4)(b).</p> <p>(10) No person shall be entitled to any compensation for any loss or damage arising out of any <i>bona fide</i> action of an officer or any person who assists him under the provisions of this section.</p> <p>(11) The provisions of section 44A shall <i>mutatis mutandis</i> apply in respect of the liability incurred by any person in terms of this section.</p> <p>(12) For the purposes of this section—</p> <p>‘engine’ referred to in subsections (4)(a) and (c)(ii), (5)(a)(i) and (6)(a) includes any engine of any machine, machinery, plant, equipment, apparatus, vehicle or ship, classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No.1;</p> <p>‘invoice’ means a document, whether in its original form or in a form approved by the Commissioner, and which contains such particulars as may be prescribed by rule;</p> <p>‘ship’ includes any ship classifiable under any heading or subheading of Chapter 89 of Part 1 of Schedule No. 1;</p> <p>‘vehicle’ includes any vehicle classifiable under any heading or subheading of Chapters 86 and 87 of Part 1 of Schedule No. 1.”.</p>	10	10
<p>(10) No person shall be entitled to any compensation for any loss or damage arising out of any <i>bona fide</i> action of an officer or any person who assists him under the provisions of this section.</p> <p>(11) The provisions of section 44A shall <i>mutatis mutandis</i> apply in respect of the liability incurred by any person in terms of this section.</p> <p>(12) For the purposes of this section—</p> <p>‘engine’ referred to in subsections (4)(a) and (c)(ii), (5)(a)(i) and (6)(a) includes any engine of any machine, machinery, plant, equipment, apparatus, vehicle or ship, classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No.1;</p> <p>‘invoice’ means a document, whether in its original form or in a form approved by the Commissioner, and which contains such particulars as may be prescribed by rule;</p> <p>‘ship’ includes any ship classifiable under any heading or subheading of Chapter 89 of Part 1 of Schedule No. 1;</p> <p>‘vehicle’ includes any vehicle classifiable under any heading or subheading of Chapters 86 and 87 of Part 1 of Schedule No. 1.”.</p>	15	15
<p>(12) For the purposes of this section—</p> <p>‘engine’ referred to in subsections (4)(a) and (c)(ii), (5)(a)(i) and (6)(a) includes any engine of any machine, machinery, plant, equipment, apparatus, vehicle or ship, classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No.1;</p> <p>‘invoice’ means a document, whether in its original form or in a form approved by the Commissioner, and which contains such particulars as may be prescribed by rule;</p> <p>‘ship’ includes any ship classifiable under any heading or subheading of Chapter 89 of Part 1 of Schedule No. 1;</p> <p>‘vehicle’ includes any vehicle classifiable under any heading or subheading of Chapters 86 and 87 of Part 1 of Schedule No. 1.”.</p>	20	20
<p>(12) For the purposes of this section—</p> <p>‘engine’ referred to in subsections (4)(a) and (c)(ii), (5)(a)(i) and (6)(a) includes any engine of any machine, machinery, plant, equipment, apparatus, vehicle or ship, classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No.1;</p> <p>‘invoice’ means a document, whether in its original form or in a form approved by the Commissioner, and which contains such particulars as may be prescribed by rule;</p> <p>‘ship’ includes any ship classifiable under any heading or subheading of Chapter 89 of Part 1 of Schedule No. 1;</p> <p>‘vehicle’ includes any vehicle classifiable under any heading or subheading of Chapters 86 and 87 of Part 1 of Schedule No. 1.”.</p>	25	25
<p>Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, section 5 of Act 57 of 1966, section 16 of Act 105 of 1969, section 7 of Act 71 of 1975, section 8 of Act 112 of 1977, section 5 of Act 110 of 1979, section 3 of Act 89 of 1984, section 13 of Act 84 of 1987, section 21 of Act 59 of 1990, section 3 of Act 98 of 1993 and section 33 of Act 45 of 1995</p>	30	30
<p>51. Section 44 of the Customs and Excise Act 1964, is hereby amended by the addition of the following subsections:</p> <p>“(11) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of sections 47(10) and (11), 65(7) and (7A) and 69(6) and (7) and subsection (12) of this section, there shall be no liability for any underpayment of duty on any goods where such underpayment is due to the acceptance of a bill of entry bearing any incorrect information, after a period of two years from the date of entry of such goods: Provided that such liability shall not cease—</p> <p>(i) if a false declaration has been made for the purposes of this Act; or</p> <p>(ii) in respect of any such underpayment discovered during any inspection from a date two years prior to the date on which such inspection commenced.</p> <p>(b) Where any period is prescribed in this Act for books, accounts or other documents in whatever form to be kept available for production to or inspection by an officer, any such period shall, subject to the provisions of paragraph (c), be calculated from a date prior to the date on which production is demanded or the inspection commences.</p> <p>(c) Except where the Commissioner may otherwise determine in the circumstances of each case, where any false declaration has been made for the purposes of this Act, there shall be no limitation on the period of liability for any underpayment of duty or the period for which any books, accounts or any other documents, in whatever form available, are required to be produced to or may be inspected by an officer.</p>	35	35
<p>“(11) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of sections 47(10) and (11), 65(7) and (7A) and 69(6) and (7) and subsection (12) of this section, there shall be no liability for any underpayment of duty on any goods where such underpayment is due to the acceptance of a bill of entry bearing any incorrect information, after a period of two years from the date of entry of such goods: Provided that such liability shall not cease—</p> <p>(i) if a false declaration has been made for the purposes of this Act; or</p> <p>(ii) in respect of any such underpayment discovered during any inspection from a date two years prior to the date on which such inspection commenced.</p> <p>(b) Where any period is prescribed in this Act for books, accounts or other documents in whatever form to be kept available for production to or inspection by an officer, any such period shall, subject to the provisions of paragraph (c), be calculated from a date prior to the date on which production is demanded or the inspection commences.</p> <p>(c) Except where the Commissioner may otherwise determine in the circumstances of each case, where any false declaration has been made for the purposes of this Act, there shall be no limitation on the period of liability for any underpayment of duty or the period for which any books, accounts or any other documents, in whatever form available, are required to be produced to or may be inspected by an officer.</p>	40	40
<p>“(11) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of sections 47(10) and (11), 65(7) and (7A) and 69(6) and (7) and subsection (12) of this section, there shall be no liability for any underpayment of duty on any goods where such underpayment is due to the acceptance of a bill of entry bearing any incorrect information, after a period of two years from the date of entry of such goods: Provided that such liability shall not cease—</p> <p>(i) if a false declaration has been made for the purposes of this Act; or</p> <p>(ii) in respect of any such underpayment discovered during any inspection from a date two years prior to the date on which such inspection commenced.</p> <p>(b) Where any period is prescribed in this Act for books, accounts or other documents in whatever form to be kept available for production to or inspection by an officer, any such period shall, subject to the provisions of paragraph (c), be calculated from a date prior to the date on which production is demanded or the inspection commences.</p> <p>(c) Except where the Commissioner may otherwise determine in the circumstances of each case, where any false declaration has been made for the purposes of this Act, there shall be no limitation on the period of liability for any underpayment of duty or the period for which any books, accounts or any other documents, in whatever form available, are required to be produced to or may be inspected by an officer.</p>	45	45
<p>“(11) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of sections 47(10) and (11), 65(7) and (7A) and 69(6) and (7) and subsection (12) of this section, there shall be no liability for any underpayment of duty on any goods where such underpayment is due to the acceptance of a bill of entry bearing any incorrect information, after a period of two years from the date of entry of such goods: Provided that such liability shall not cease—</p> <p>(i) if a false declaration has been made for the purposes of this Act; or</p> <p>(ii) in respect of any such underpayment discovered during any inspection from a date two years prior to the date on which such inspection commenced.</p> <p>(b) Where any period is prescribed in this Act for books, accounts or other documents in whatever form to be kept available for production to or inspection by an officer, any such period shall, subject to the provisions of paragraph (c), be calculated from a date prior to the date on which production is demanded or the inspection commences.</p> <p>(c) Except where the Commissioner may otherwise determine in the circumstances of each case, where any false declaration has been made for the purposes of this Act, there shall be no limitation on the period of liability for any underpayment of duty or the period for which any books, accounts or any other documents, in whatever form available, are required to be produced to or may be inspected by an officer.</p>	50	50
<p>“(11) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of sections 47(10) and (11), 65(7) and (7A) and 69(6) and (7) and subsection (12) of this section, there shall be no liability for any underpayment of duty on any goods where such underpayment is due to the acceptance of a bill of entry bearing any incorrect information, after a period of two years from the date of entry of such goods: Provided that such liability shall not cease—</p> <p>(i) if a false declaration has been made for the purposes of this Act; or</p> <p>(ii) in respect of any such underpayment discovered during any inspection from a date two years prior to the date on which such inspection commenced.</p> <p>(b) Where any period is prescribed in this Act for books, accounts or other documents in whatever form to be kept available for production to or inspection by an officer, any such period shall, subject to the provisions of paragraph (c), be calculated from a date prior to the date on which production is demanded or the inspection commences.</p> <p>(c) Except where the Commissioner may otherwise determine in the circumstances of each case, where any false declaration has been made for the purposes of this Act, there shall be no limitation on the period of liability for any underpayment of duty or the period for which any books, accounts or any other documents, in whatever form available, are required to be produced to or may be inspected by an officer.</p>	55	55

daardie in die reëls voorgeskryf nie, behalwe met die vooraf goedkeuring van die Kommissaris en by betaling van die reg hefbaar ingevolge Bylae No. 1 ten opsigte van ongemerkte goedere: Met dien verstande dat indien die Kommissaris aldus toestem, die goedere gemeng of vermeng mag word met ander goedere, in welke geval die bepalings van subartikel (7) *mutatis mutandis* op sodanige goedere van toepassing is.

(ii) Indien enige goedere in paragraaf (a)(i) bedoel strydig met die bepalings van hierdie artikel en die reëls mee gehandel word, is enige persoon wat sodanige goedere in sy besit gehad het of in beheer was van sodanige goedere op die tydstip waarop aldus gehandel is, benewens enige ander aanspreeklikheid opgeloop ingevolge hierdie Wet, aanspreeklik ten opsigte van sodanige goedere vir betaling van 'n bedrag bereken op dieselfde grondslag soos in subartikel (4)(b) bepaal.

(10) Niemand is geregtig op enige vergoeding vir enige verlies of skade wat ontstaan uit enige *bona fide*-handeling van 'n beampte of enigiemand wat hom bystaan kragtens die bepalings van hierdie artikel nie.

(11) Die bepalings van artikel 44A is *mutatis mutandis* van toepassing ten opsigte van die aanspreeklikheid deur enige persoon ingevolge hierdie artikel opgeloop.

(12) By die toepassing van hierdie artikel beteken—
 'enjin' bedoel in subartikels (4)(a) en (c)(ii), (5)(a)(i) en (6)(a), ook enige enjin van enige masjien, masjinerie, installasie, toerusting, apparaat, voertuig of skip indeelbaar onder enige pos of subpos van Hoofstukke 84 tot 87 en 89 van Deel 1 van Bylae No. 1;
 'faktuur' 'n dokument, hetsy in sy oorspronklike vorm of in 'n vorm goedkeur deur die Kommissaris, en wat die besonderhede bevat wat by reël voorgeskryf is;
 'skip' ook enige skip indeelbaar onder enige pos of subpos van Hoofstuk 89 van Deel 1 van Bylae No. 1;
 'voertuig' ook enige voertuig indeelbaar onder enige pos of subpos van Hoofstukke 86 en 87 van Deel 1 van Bylae No. 1."

Wysiging van artikel 44 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 95 van 1965, artikel 5 van Wet 57 van 1966, artikel 16 van Wet 105 van 1969, artikel 7 van Wet 71 van 1975, artikel 8 van Wet 112 van 1977, artikel 5 van Wet 110 van 1979, artikel 3 van Wet 89 van 1984, artikel 13 van Wet 84 van 1987, artikel 21 van Wet 59 van 1990, artikel 3 van Wet 98 van 1993 en artikel 33 van Wet 45 van 1995

51. Artikel 44 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die volgende subartikels by te voeg:

40 “(11) (a) Ondanks andersluidende bepalings van hierdie Wet, maar behoudens die bepalings van artikels 47(10) en (11), 65(7) en (7A) en 69(6) en (7) en subartikel (12) van hierdie artikel, is daar geen aanspreeklikheid vir 'n onderbetaling van reg op goedere na 'n tydperk van twee jaar vanaf die datum van klaring van sodanige goedere nie, waar sodanige onderbetaling toe te skryf is aan die aanvaarding van 'n klaringsbrief wat enige verkeerde inligting bevat: Met dien verstande dat sodanige aanspreeklikheid nie eindig nie—
 (i) indien 'n valse verklaring gemaak is vir die doeleindes van hierdie Wet; of
 (ii) ten opsigte van sodanige onderbetaling ontdek gedurende enige inspeksie vanaf 'n datum twee jaar voor die datum waarop sodanige inspeksie 'n aanvang geneem het.
 (b) Waar enige tydperk in hierdie Wet voorgeskryf word om boeke, rekeninge of ander dokumente in watter vorm ook al vir voorlegging aan of inspeksie deur 'n beampte beskikbaar te hou, word so 'n tydperk, behoudens die bepalings van paragraaf (c), bereken vanaf 'n datum voor die datum waarop voorlegging aangevra word of die inspeksie 'n aanvang neem.
 (c) Behalwe waar die Kommissaris andersins in die omstandighede van elke geval bepaal, waar enige valse verklaring vir die doeleindes van hierdie Wet gemaak is, is daar geen beperking op die tydperk van aanspreeklikheid vir enige onderbetaling van reg of die tydperk waarvoor enige boeke, rekeninge of enige ander dokumente, in watter vorm ook al beskikbaar, voorgelê moet word aan of deur 'n beampte ondersoek kan word nie.

(12) Any person who makes a false statement concerning the origin of goods or who makes use of any declaration or document containing any such statement as a result of which such person obtains entry of imported goods at a preferential rate of duty as specified in Part 1 of Schedule No. 1 in accordance with the provisions of any agreement contemplated in section 49 or 51 shall, for a period of three years prior to the date on which such false statement was made or made use of, in addition to any other liability incurred in terms of this Act, be liable for the payment of duties at the general rate specified in Part 1 of Schedule No. 1 in respect of the goods at the time of entry: Provided that the Commissioner may on good cause shown reduce such period.”.

5

10

Amendment of section 46 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, section 5 of Act 57 of 1966, section 16 of Act 105 of 1969, section 7 of Act 71 of 1975, section 8 of Act 112 of 1977, section 5 of Act 110 of 1979, section 3 of Act 89 of 1984, section 13 of Act 84 of 1987, section 21 of Act 59 of 1990, section 3 of Act 98 of 1993 and section 33 of Act 45 of 1995

15

52. Section 46 of the Customs and Excise Act, 1964, is hereby amended—

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

“For the purposes of this Act, except where any agreement contemplated in section 49 or 51 otherwise provides, goods shall not be regarded as having been produced or manufactured in any particular territory unless—”;

20

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

“(d) for the purposes of any tariff preferences allowed by any country in respect of goods exported from the Republic other than tariff preferences provided in terms of agreements contemplated in section 49 or 51, prescribe by rule certificates of origin, the authority to print such certificates or other forms, the documents to be produced upon entry for exportation, particulars to be stated on such entry and any other requirements which may be necessary for the administration of such exports.”;

25

30

(c) by the addition of the following subsection:

“(5) (a) Any person entering any imported goods for which a general rate of duty is prescribed in any column of Part 1 of Schedule No. 1 and which are liable to any provisional payment as contemplated in section 57A or to anti-dumping duty imposed under section 56 or countervailing duty imposed under section 56A or safeguard duty imposed under section 57, shall produce to the Controller at the time of presenting the bill of entry a declaration of origin in respect of such goods in the form prescribed by the Commissioner by rule.

35

(b) Such declaration shall be issued by a person approved by the Commissioner.”.

40

Amendment of section 47 of Act 91 of 1964, as amended by section 11 of Act 95 of 1965, section 17 of Act 105 of 1969, section 2 of Act 7 of 1974, section 7 of Act 105 of 1976, section 10 of Act 112 of 1977, section 6 of Act 110 of 1979, sections 9 and 15 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1986, section 15 of Act 84 of 1987, section 4 of Act 69 of 1988, section 6 of Act 68 of 1989, section 22 of Act 59 of 1990, section 3 of Act 61 of 1992, section 37 of Act 45 of 1995, section 4 of Act 44 of 1996 and section 63 of Act 30 of 1998

45

53. Section 47 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

“(2) (a) Notwithstanding anything to the contrary in this Act contained, if any person is unable to calculate the correct amount of duty payable in terms of this Act due to the fact that the computer system used to provide any information required for the calculation of such duty is not Year 2000 compliant, the Commissioner may estimate the amount of duty payable on such basis as he considers reasonable in the circumstances.

50

55

(12) Iemand wat 'n valse verklaring maak betreffende die oorsprong van goedere of wat van enige verklaring of dokument wat so 'n verklaring bevat, gebruik maak as gevolg waarvan sodanige persoon klaring van ingevoerde goedere teen 'n voorkeurskaal van reg soos vermeld in Deel 1 van Bylae No. 1 in ooreenstemming met die bepalings van enige ooreenkoms beoog in artikel 49 of 51 verkry, is vir 'n tydperk van drie jaar voor die datum waarop sodanige valse verklaring gemaak is of van gebruik gemaak is, benewens enige ander aanspreeklikheid ingevolge hierdie Wet opgeeloop, aanspreeklik vir die betaling van regte teen die algemene skaal in Deel 1 van Bylae No. 1 vermeld ten opsigte van die goedere ten tyde van klaring: Met dien verstande dat die Kommissaris op goeie gronde aangetoon sodanige tydperk kan verminder.”.

Wysiging van artikel 46 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 95 van 1965, artikel 5 van Wet 57 van 1966, artikel 16 van Wet 105 van 1969, artikel 7 van Wet 71 van 1975, artikel 8 van Wet 112 van 1977, artikel 5 van Wet 110 van 1979, artikel 3 van Wet 89 van 1984, artikel 13 van Wet 84 van 1987, artikel 21 van Wet 59 van 1990, artikel 3 van Wet 98 van 1993 en artikel 33 van Wet 45 van 1995.

52. Artikel 46 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

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

“By die toepassing van hierdie Wet, behalwe waar enige ooreenkoms beoog in artikel 49 of 51 anders bepaal, word goedere nie geag in 'n besondere gebied geproduceer of vervaardig te gewees het nie tensy—”;
- (b) deur die volgende paragraaf by subartikel (4) te voeg:

“(d) by die toepassing van enige tariefvoordele toegestaan deur enige land ten opsigte van goedere uitgevoer uit die Republiek anders as die tariefvoordele bepaal ingevolge ooreenkomste in artikel 49 of 51 beoog, by reël sertifikate van oorsprong, die bevoegdheid om sodanige sertifikate of ander vorms te druk, die dokumente wat voorgelê moet word by klaring vir uitvoer, besonderhede wat op sodanige verklaring gemeld moet word en enige ander vereistes wat vir die administrasie van sodanige uitvoere nodig is, voorskryf.”;
- (c) deur die volgende subartikel by te voeg:

“(5) (a) Iemand wat enige ingevoerde goedere waarvoor 'n algemene skaal van reg in enige kolom van Deel 1 van Bylae No. 1 voorgeskryf is en wat onderhewig is aan enige voorlopige betaling soos in artikel 57A beoog of aan anti-dumpingsreg kragtens artikel 56 opgelê of 'n kontrareg kragtens artikels 56A opgelê of 'n beveiligingsreg kragtens artikel 57 opgelê, moet aan die Kontroleur tydens aanbieding van die klaringsbrief 'n verklaring van oorsprong ten opsigte van sodanige goedere voorlê in die vorm wat die Kommissaris by reël voorskryf.
 (b) Sodanige verklaring moet deur 'n persoon wat die Kommissaris goedkeur, uitgereik word.”.

Wysiging van artikel 47 van Wet 91 van 1964, soos gewysig deur artikel 11 van Wet 95 van 1965, artikel 17 van Wet 105 van 1969, artikel 2 van Wet 7 van 1974, artikel 7 van Wet 105 van 1976, artikel 10 van Wet 112 van 1977, artikel 6 van Wet 110 van 1979, artikels 9 en 15 van Wet 98 van 1980, artikel 8 van Wet 86 van 1982, artikel 6 van Wet 52 van 1986, artikel 15 van Wet 84 van 1987, artikel 4 van Wet 69 van 1988, artikel 6 van Wet 68 van 1989, artikel 22 van Wet 59 van 1990, artikel 3 van Wet 61 van 1992, artikel 37 van Wet 45 van 1995, artikel 4 van Wet 44 van 1996 en artikel 63 van Wet 30 van 1998

53. Artikel 47 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur die volgende subartikel na subartikel (1) in te voeg:

“(2) (a) Ondanks andersluidende bepalings van hierdie Wet, indien iemand nie in staat is om die korrekte bedrag aan reg betaalbaar ingevolge hierdie Wet te bereken nie vanweë die feit dat die rekenaarstelsel wat gebruik word om enige inligting benodig vir die berekening van sodanige reg nie Jaar 2000 aanpasbaar is nie, kan die Kommissaris die bedrag aan reg betaalbaar raam op die grondslag wat hy in die omstandighede redelik ag.

<p>(b) The provisions of this subsection shall not be construed as absolving any person from otherwise complying with the provisions of this Act.”;</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p>“(3) (a) Any rate of duty other than the general rate specified in respect of any heading or subheading in any column of Part 1 of Schedule No. 1 shall apply to imported goods to which such heading or subheading relates if such goods qualify for the benefit of such rate in accordance with—</p> <p>(i) any provision of origin contained in any part of the schedule to the General Notes of Schedule No. 1 and any other provision referred to in section 48(1A) applicable to such column, any provision relating to tariff quotas, any applicable provision in the said Part 1 and any Note to such Part or schedule; and</p> <p>(ii) any rule made in terms of section 49 to give effect to any provision of origin of any agreement contemplated in the said section or in connection with any tariff quotas or any other condition or procedure that may be applicable to any goods specified in the said column;</p> <p>(b) The expression ‘any provision of origin’ includes provisions relating to ‘originating products’, ‘originating status’, ‘rules of origin’ or like expressions, and ‘goods obtained, produced or manufactured’ in any part of the said schedule to the General Notes of Schedule No. 1 and, unless the context otherwise indicates, any provision in this Act in respect of the origin of goods.</p> <p>(c) Any reference in any agreement contemplated in section 49 or 51 to the ‘most-favoured-nation-rate of duty’ or the ‘MFN tariff’ or the ‘MFN rate of duty’ or like expressions shall, unless otherwise specified in Part 1 of Schedule No. 1, for the purposes of this Act, be deemed to be a reference to the rates of duty specified in respect of any heading or subheading in the column for general rates of duty in the said Part 1 of Schedule No. 1.”; and</p> <p>(c) by the substitution for the words “Supreme Court” in paragraph (e) of subsection (9) of the words “High Court”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>
<p>Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, sections 10 and 15 of Act 98 of 1980, section 9 of Act 86 of 1982, section 18 of Act 84 of 1987, section 7 of Act 68 of 1989, section 23 of Act 59 of 1990, section 4 of Act 61 of 1992, section 3 of Act 19 of 1994, section 39 of Act 45 of 1995 and section 64 of Act 30 of 1998</p>	<p>35</p> <p>40</p>
<p>54. Section 48 of the Customs and Excise Act, 1964, is hereby amended—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) and paragraph (a) of the following words and paragraph:</p> <p>“The Minister may from time to time by notice in the <i>Gazette</i> amend the General Notes to Schedule No. 1 and Part 1 of the said Schedule [and] or substitute the said Part 1 and amend Part 2 of the said Schedule in so far as it relates to imported goods—</p> <p>(a) in order to give effect to any agreement amending any agreement approved by section 2 of the Geneva General Agreement on Tariffs and Trade Act, 1948 (Act No. 29 of 1948), or to any agreement [concluded under] or amendment of any agreement contemplated in section 49 and for the purposes of subsection (1)(a) or (b) of the said section 49;”; and</p> <p>(b) by the insertion after subsection (1) of the following subsection:</p> <p>“(1A) (a) The Minister may, for the purposes of subsection (1)(a) and section 49(1)(a) or (b), by like notice amend the General Notes to Schedule No. 1 to incorporate as part of such Notes a schedule thereto entitled ‘Origin provisions of trade agreements’, containing the following in respect of any agreement contemplated in section 49:</p>	<p>50</p> <p>55</p>

- (b) Die bepalings van hierdie subartikel word nie so uitgelê dat enige persoon vrygestel word om andersins aan die bepalings van hierdie Wet te voldoen nie.”;
- 5 (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) (a) Enige skaal van reg behalwe die algemene skaal ten opsigte van enige pos of subpos in enige kolom van Deel 1 van Bylae No.1 vermeld, is van toepassing op ingevoerde goedere waarop sodanige pos of subpos betrekking het indien sodanige goedere kwalifiseer vir die voordeel van sodanige skaal ooreenkomsdig—
- 10 (i) enige bepaling van oorsprong vervat in enige deel van die bylae by die Algemene Opmerkings van Bylae No. 1 en enige ander bepaling in artikel 48(1A) bedoel van toepassing op sodanige kolom, enige bepaling met betrekking tot tariefkwotas, enige toepaslike bepaling in genoemde Deel 1 en enige Opmerking by sodanige Deel of bylae; en
- 15 (ii) enige reël uitgevaardig ingevolge artikel 49 om gevolg te gee aan enige bepaling van oorsprong van enige ooreenkoms beoog in genoemde artikel of in verband met enige tariefkwotas of enige ander voorwaarde of prosedure wat van toepassing mag wees op enige goedere in genoemde kolom vermeld;
- 20 (b) Die uitdrukking ‘enige bepaling van oorsprong’ sluit in bepalings wat betrekking het op ‘oorsprongverkreë produkte’ ‘oorsprongverkreë status’, ‘reëls van oorsprong’ of soortgelyke uitdrukings, en ‘goedere verkry, geproduseer of vervaardig’ in enige deel van genoemde bylae by die Algemene Opmerkings van Bylae No. 1 en, tensy uit die samehang anders blyk, enige bepaling in hierdie Wet ten opsigte van die oorsprong van goedere.
- 25 (c) ’n Verwysing in enige ooreenkoms in artikel 49 of 51 beoog na die ‘mees-begunstigde-nasie-skaal van reg’ of die ‘MFN-tarief’ of die ‘MFN-skaal van reg’ of soortgelyke uitdrukings word, tensy anders in Deel 1 van Bylae No. 1 vermeld, by die toepassing van hierdie Wet, geag ’n verwysing te wees na die skale van reg ten opsigte van enige pos of subpos in die kolom vir algemene skale van reg in genoemde Deel 1 van Bylae No. 1 vermeld.”; en
- 30 (c) deur die woord “Hooggeregshof” in paragraaf (e) van subartikel (9) deur die woorde “Hoë Hof” te vervang.
- 35

Wysiging van artikel 48 van Wet 91 van 1964, soos gewysig deur artikel 6 van Wet 57 van 1966, artikel 18 van Wet 105 van 1969, artikel 3 van Wet 98 van 1970, artikel 1 van Wet 68 van 1973, artikel 8 van Wet 105 van 1976, artikel 11 van Wet 40 112 van 1977, artikels 10 en 15 van Wet 98 van 1980, artikel 9 van Wet 86 van 1982, artikel 18 van Wet 84 van 1987, artikel 7 van Wet 68 van 1989, artikel 23 van Wet 59 van 1990, artikel 4 van Wet 61 van 1992, artikel 3 van Wet 19 van 1994, artikel 39 van Wet 45 van 1995 en artikel 64 van Wet 30 van 1998

- 45 **54. Artikel 48 van die Doeane- en Aksynswet, 1964, word hierby gewysig—**
- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan en paragraaf (a) deur die volgende woorde en paragraaf te vervang:
“Die Minister kan van tyd tot tyd by kennisgewing in die Staatskoerant die Algemene Opmerkings by Bylae No. 1 en Deel 1 van bedoelde Bylae wysig, of bedoelde Deel 1 vervang en Deel 2 van bedoelde Bylae vir sover dit op ingevoerde goedere betrekking het, wysig—
- 50 (a) ten einde gevolg te gee aan ’n ooreenkoms wat ’n ooreenkoms wysis wat deur artikel 2 van die Wet op die Geneefse Algemene Ooreenkoms oor Tariewe en Handel, 1948 (Wet No. 29 van 1948), goedgekeur is of aan ’n ooreenkoms [kragtens artikel 49 aangegaan] of enige wysisig van ’n ooreenkoms in artikel 49 beoog en vir die doeindes van subartikel (1)(a) of (b) van bedoelde artikel 49;” en
- 55 (b) deur die volgende subartikel na subartikel (1) in te voeg:
“(1A) (a) Die Minister kan, by die toepassing van subartikel (1)(a) en artikel 49(1)(a) of (b), by dergelike kennisgewing die Algemene Opmerkings by Bylae No. 1 wysis om as deel van sodanige Opmerkings ’n bylae getiteld ‘Oorsprongbepalings van handelsooreenkomsste’, te inkorporeer, wat ten opsigte van enige ooreenkoms beoog in artikel 49, die volgende bevat:
- 60

- (i) In separate parts of such schedule, any such agreement or any protocol or other part or provision of such agreement, including any annex or appendix thereto, concerning the origin of goods;
 - (ii) any instrument contemplated in section 49(1)(b);
 - (iii) notes to any such agreement, protocol or other part or provision which may specify—
 - (aa) the agreement, protocol or other part or provision or instrument which governs goods entered according to the provisions of a particular column of Part 1 of Schedule No. 1;
 - (bb) definitions;
 - (cc) interpretation of words or phrases or substitutes for words or phrases;
 - (dd) any condition or procedure or provision of this Act to be complied with to give effect to such provisions of origin;
 - (ee) powers, duties or functions of the Commissioner or an officer;
 - (iv) any amendment, with or without retrospective effect, to such schedule or notes for any reason as may be specified in such amendment.
- (b) No goods imported or exported shall qualify for the benefit of preferential tariff treatment in terms of such agreement unless they comply with such provisions of origin or any other provision of such agreement or of this Act governing the acquisition of origin, tariff quotas or any other condition which is to be fulfilled for the purposes of giving effect to such agreement.”.

Substitution of section 49 of Act 91 of 1964, as substituted by section 65 of Act 30 of 1998

5

10

15

20

25

55. Section 49 of the Customs and Excise Act, 1964, is hereby substituted by the following section:

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

49. (1) (a) Whenever Parliament has approved as contemplated in section 30
231 of the Constitution of the Republic of South Africa, 1996 (Act No. 108
of 1996), any agreement with the government of any country or countries or
group of countries—

- (i) which includes the granting of preferential tariff treatment of goods and provisions of origin governing such treatment;
- (ii) concerning customs co-operation, including for the exchange of information and the rendering of mutual and technical assistance in respect of customs co-operation between the Republic and such other country or countries or group of countries;
- (iii) regulating transit trade and transit facilities; or
- (iv) which provides for any other matter which either expressly or by implication requires to be administered by customs legislation,
such agreement or any protocol or other part or provision thereof is enacted
into law as part of this Act when published by notice in the *Gazette* in
accordance with the provisions of subsections (1) and (1A) of section 48 or
subsection (5) of this section.

(b) (i) Any amendment of such agreement or any protocol or other part or provision thereof, any regulations for facilitating implementation, any agreed list of processing relating to originating status of goods, any other matter agreed upon between governments or by any committee of, or a body established by, the parties to such agreement or any decision or condition imposed by such committee or body, is likewise enacted into law as part of this Act when published in accordance with the provisions of subsections (1) and (1A) of section 48 or subsection (5) of this section by notice in the *Gazette* as an amendment of such agreement or protocol or part

35

40

45

50

55

- (i) In afsonderlike dele van sodanige bylae, enige sodanige ooreenkoms of enige protokol of ander deel of bepaling van sodanige ooreenkoms, met inbegrip van enige anneks of appendiks daarby, betreffende die oorsprong van goedere;
- 5 (ii) enige instrument in artikel 49(1)(b) beoog;
- (iii) opmerkings by sodanige ooreenkoms, protokol of ander deel of bepaling wat—
- (aa) die ooreenkoms, protokol of ander deel of bepaling of instrument wat goedere geklaar ooreenkomstig die bepalings van 'n besondere kolom van Deel 1 van Bylae No. 1 beheers;
- 10 (bb) omskrywings;
- (cc) uitleg van woorde of sinsnedes of vervangings van woorde of sinsnedes;
- (dd) enige voorwaarde of prosedure of bepaling van hierdie Wet waaraan voldoen moet word om gevolg te gee aan sodanige bepalings van oorsprong;
- 15 (ee) bevoegdhede, pligte of werksaamhede van die Kommissaris of 'n beampete,
vermeld;
- 20 (iv) enige wysiging, met of sonder terugwerkende krag, aan sodanige bylae of opmerkings om enige rede in sodanige wysiging vermeld.
- (b) Geen goedere ingevoer of uitgevoer kwalifiseer vir die voordeel van voorkeurtariefbehandeling ingevolge sodanige ooreenkoms tensy hulle voldoen aan sodanige bepalings van oorsprong of enige ander bepaling van sodanige ooreenkoms of van hierdie Wet wat die verkryging van oorsprong, tariekkwotas of enige ander voorwaarde wat nagekom moet word ten einde gevolg aan sodanige ooreenkoms te gee, beheers.”.

Vervanging van artikel 49 van Wet 91 of 1964, soos vervang deur artikel 65 van Wet 30 van 1998

30 **55.** Artikel 49 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

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

- 35 **49. (1) (a)** Wanneer die Parlement enige ooreenkoms soos beoog in artikel 231 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), met enige regering van enige land of lande of groep lande goedgekeur het—
- (i) wat die verlening van enige voorkeurtariefbehandeling van goedere en bepalings van oorsprong wat sodanige behandeling beheers, insluit;
- 40 (ii) betreffende doeane-samewerking, met inbegrip van vir die uitruil van inligting en die lewering van onderlinge en tegniese bystand ten opsigte van doeane-samewerking tussen die Republiek en sodanige ander land of lande of groep lande;
- (iii) wat transito-handel en transito-fasiliteite reguleer; of
- 45 (iv) wat voorsiening maak vir enige ander aangeleentheid wat óf uitdruklik óf by implikasie administrasie deur doeane-wetgewing vereis, word sodanige ooreenkoms of enige protokol of ander deel of bepaling daarvan regtens as deel van hierdie Wet verorden wanneer by kennisswing in die *Staatskoerant* ooreenkomstig die bepalings van subartikels (1) en (1A) van artikel 48 of subartikel (5) van hierdie artikel afgekondig.
- 50 (b) (i) Enige wysiging van sodanige ooreenkoms of enige protokol of ander deel of bepaling daarvan, enige regulasies om implementering te vergemaklik, enige ooreengekome lys van prosessering met betrekking tot die oorsprongverkreeë status van goedere, enige ander aangeleentheid waarop ooreengekom is tussen regerings of deur enige komitee van of liggaam gestig deur die partye by sodanige ooreenkoms of enige besluit of voorwaarde deur sodanige komitee of liggaam opgelê, word insgelyks regtens as deel van hierdie Wet verorden wanneer ingevolge die bepalings

or provision, as the case may be, with effect from any date that may be specified in such notice.

(ii) In this section and in section 48 ‘instrument’ includes, according to the context, any agreement or any amendment of such agreement or any protocol or other part or provision thereof or any document containing any regulation, list, decision or any matter agreed upon as contemplated in subparagraph (i).

(c) In this section and in sections 47 and 48 ‘agreement’ includes, unless the context otherwise indicates, any treaty or convention.

(2) (a) The Commissioner shall obtain and keep two copies of such agreement, effect any amendments referred to in section 1(b) thereto, record the date the agreement or any such amendment entered into force and the date of any publication referred to in subsection (1).

(b) Whenever in any legal proceedings any question arises as to the contents of such agreement or as to the date on which such agreement or amendment entered into force or the date of such publication, a copy of such agreement as so amended and the record of such dates, shall be accepted as sufficient proof of the contents thereof and the date of publication or the date on which such agreement or amendment entered into force.

(c) If the context so requires, the interpretation and application of any provision of any protocol or other part of such agreement referred to in this section or section 48(1A) shall be subject to other applicable provisions of such agreement.

(3) Notwithstanding anything to the contrary in this Act contained—

(a) the application of any provision of this Act relating to any importer, exporter, remover in bond, manufacturer, licensee or other principal or any agent or the importation or exportation of goods, the preferential tariff treatment of goods, goods obtained, produced or manufactured, goods in transit or removed in bond, due entry or security in respect or goods imported, exported, removed in bond or in transit, or any other provision or customs procedure or any power, duty or function in connection therewith, shall, for the purposes of giving effect to any agreement contemplated in section 49 or any protocol or other part or provision thereof, be subject to compliance with the provisions of such agreement or such protocol or other part or provision thereof, as the case may be;

(b) any reference in this Act to any protocol or other part or provision of such agreement shall be deemed to include a reference to any instrument referred to in section 49(1)(b) applicable thereto and any provision of such agreement governing such protocol or other part or provision or instrument, as the case may be.

(4) (a) If any reference is made in such agreement to any convention, treaty or other agreement which is to be observed in ascertaining the originating status of goods obtained, produced or manufactured and imported or exported in specified instances, the Commissioner shall obtain and keep two copies of such convention, treaty or agreement, effect any amendment thereto and record the date the convention, treaty or agreement entered into force as advised by the Director-General: Trade and Industry.

(b) The provisions of subsection (2)(b) shall apply *mutatis mutandis* to the copies of such convention, treaty or other agreement.

(c) To the extent that any provision of such convention, treaty or other agreement requires to be so observed, it shall be deemed to be incorporated in the agreement concerned.

(5) Where any such agreement or protocol or other part or provision

5

10

15

20

25

30

35

40

45

50

55

- van subartikels (1) en (1A) van artikel 48 of subartikel (5) van hierdie artikel afgekondig by kennisgewing in die *Staatskoerant* as 'n wysiging aan sodanige ooreenkoms of protokol of deel of bepaling, na gelang van die geval, met ingang van enige datum wat in sodanige kennisgewing bepaal word.
- (ii) In hierdie artikel en in artikel 48 sluit 'instrument', ooreenkomstig die samehang, in enige ooreenkoms of enige wysiging van sodanige ooreenkoms of enige protokol of ander deel of bepaling daarvan of enige dokument wat enige regulasie, lys, beslissing of enige aangeleentheid waarop ooreengekom is soos in subparagraph (i) beoog word, bevat.
- (c) In hierdie artikel en in artikels 47 en 48 sluit 'ooreenkoms', tensy uit die samehang anders blyk, enige verdrag of konvensie in.
- (2) (a) Die Kommissaris moet twee afskrifte van sodanige ooreenkoms verkry en hou, enige wysigings in artikel (1)(b) bedoel daarop aanbring, die datum aanteken waarop die ooreenkoms of enige sodanige wysiging in werking getree het en die datum van afkondiging in subartikel (1) bedoel.
- (b) Wanneer by 'n regsgeding 'n vraag ontstaan aangaande die inhoud van of aangaande die datum waarop sodanige ooreenkoms of wysiging in werking getree het of die datum van sodanige afkondiging, word 'n kopie van sodanige ooreenkoms soos aldus gewysig en die aantekening van sodanige datums aanvaar as afdoende bewys van die inhoud daarvan en die datum van afkondiging of die datum waarop sodanige ooreenkoms of wysiging in werking getree het.
- (c) Indien die samehang aldus vereis, is die uitleg en toepassing van enige bepaling van enige protokol of ander deel van sodanige ooreenkoms in hierdie artikel of artikel 48(1A) bedoel, onderhewig aan ander toepaslike bepalings van sodanige ooreenkoms.
- (3) Ondanks andersluidende bepalings van hierdie Wet—
- (a) is die toepassing van enige bepaling van hierdie Wet betreffende enige invoerder, uitvoerder, vervoerder onder waarborg, vervaardiger, gelisensieerde of ander prinsipaal of enige agent of die invoer of uitvoer van goedere, die voorkeurtarieftbehandeling van goedere, goedere verkry, geproduseer of vervaardig, goedere in transito of vervoer onder waarborg, behoorlike klaring of sekerheid ten opsigte van goedere ingevoer, uitgevoer of verwyder onder waarborg of in transito, of enige ander bepaling of doeaneprocedure of enige bevoegdheid, plig of werksaamheid in verband daarmee, vir die doeleindes om gevolg te gee aan enige ooreenkoms beoog in artikel 49 of enige protokol of ander deel of bepaling daarvan, onderhewig aan voldoening aan die bepalings van sodanige ooreenkoms of sodanige protokol of ander deel of bepaling daarvan, na gelang van die geval;
- (b) word 'n verwysing in hierdie Wet na enige protokol of ander deel of bepaling van sodanige ooreenkoms, geag 'n verwysing in te sluit na enige instrument van toepassing daarop in artikel 49(1)(b) bedoel en enige bepaling van sodanige ooreenkoms wat sodanige protokol of ander deel of bepaling of instrument beheers, na gelang van die geval.
- (4) (a) Indien enige verwysing gemaak word in sodanige ooreenkoms na enige konvensie, verdrag of ander ooreenkoms wat nagekom moet word om die oorsprongverkree status van goedere verkry, geproduseer of vervaardig en ingevoer of uitgevoer in spesifieke gevalle vas te stel, moet die Kommissaris twee kopieë van sodanige konvensie, verdrag of ooreenkoms verkry en hou, enige wysiging daaraan aanbring en die datum aanteken waarop die konvensie, verdrag of ooreenkoms soos deur die Direkteur-generaal: Handel en Nywerheid meegedeel, in werking getree het.
- (b) Die bepalings van subartikel (2)(b) is *mutatis mutandis* van toepassing op enige kopieë van sodanige konvensie, verdrag of ander ooreenkoms.
- (c) In die mate wat enige bepaling van sodanige konvensie, verdrag of ander ooreenkoms aldus nagekom moet word, word dit geag in die betrokke ooreenkoms geïnkorporeer te wees.
- (5) Waar sodanige ooreenkoms of protokol of ander deel of bepaling

thereof does not relate to the origin of goods as envisaged in section 48(1A), but otherwise by reference to customs or competent authorities or customs or domestic or national legislation or like expressions or in any other way expressly or by implication requires that it should be administered in terms of this Act, the Minister may by notice in the <i>Gazette</i> in Schedule No. 10 to this Act under the title 'Agreements or protocols or other parts or provisions thereof contemplated in section 49(5)' publish—	5
(a) in separate parts of such Schedule, any such agreement or any protocol or other part or provision of such agreement, including any annex or appendix thereto for the purposes of subsection (1)(a), in so far as it determines or affects or concerns or is required to be observed in connection with—	10
(i) mutual administrative and technical assistance in respect of co-operation in customs matters;	10
(ii) simplification and harmonization of trade documentation and procedures;	15
(iii) transit trade and transit facilities; and	15
(iv) any other matter whatever which so requires to be administered in terms of this Act in order to give effect to such agreement;	15
(b) any instrument contemplated in, and for the purposes of, subsection (1)(b);	20
(c) notes to such Schedule No. 10 wherein may be specified—	20
(i) definitions;	25
(ii) interpretations of words and phrases or substitutes for words and phrases;	25
(iii) any condition or procedure or provision of this Act to be complied with in order to give effect to such agreement or protocol or part or provision of such agreement;	25
(iv) powers, duties or functions of the Commissioner or an officer;	30
(d) any amendment of Schedule No. 10 and any note thereto with or without retrospective effect for any reason as may be specified in such amendment.	30
(5A) The provisions of section 48(6) shall apply <i>mutatis mutandis</i> in respect of any amendment made under the provisions of subsection (5)(d).	35
(6) In administering the provisions of any agreement, including any protocol or other part or provision thereof or any other instrument contemplated in this section, and the application of any procedure to give effect thereto, the Commissioner may, notwithstanding anything to the contrary in this Act contained,—	35
(a) decide on or determine any matter or perform any duty or function or impose any condition in connection with the provisions so administered, including any decision on or determination or the performance of any duty or function or the imposing of any condition in respect of—	40
(i) any heading in Part 1 or any item of any other Part of Schedule No. 1 applicable to any goods imported or exported, obtained, produced or manufactured or used in the production or manufacture of any goods, or the customs value of any such imported goods;	45
(ii) the first ascertainable price of goods where the customs value is not known or cannot be ascertained;	50
(iii) any provision which governs or specifies any procedure concerning—	50
(aa) the origin or proof of origin of goods imported or exported;	55

- daarvan nie betrekking het op die oorsprong van goedere soos beoog in artikel 48(1A) nie, maar andersins deur verwysing na doeane of bevoegde owerhede of doeane- of binnelandse of nasionale reg of soortgelyke uitdrukings of op enige ander wyse uitdruklik of by implikasie vereis dat dit ingevolge hierdie Wet geadministreer moet word, kan die Minister by kennisgewing in die *Staatskoerant* in Bylae No. 10 by hierdie Wet onder die titel ‘Ooreenkomste of protokolle of ander dele of bepalings daarvan soos in artikel 49(5) beoog,—
- (a) in afsonderlike dele van sodanige Bylae, enige sodanige ooreenkoms of enige protokol of ander deel of bepaling van sodanige ooreenkoms, met inbegrip van enige anneks of appendiks daarby vir die doeleindes van subartikel (1)(a), vir sover dit bepalend is of ’n uitwerking het op of betrekking het op of vereis word om nagekom te word in verband met—
- (i) onderlinge administratiewe en tegniese bystand ten opsigte van samewerking in doeane-aangeleenthede;
- (ii) vereenvoudiging en harmoniëring van handelsdokumentasie en -prosedures;
- (iii) transito handel en transito fasiliteite; en
- (iv) enige ander aangeleenthed wat aldus ingevolge hierdie Wet geadministreer moet word ten einde aan sodanige ooreenkoms gevolg te gee;
- (b) enige instrument bedoel in, en vir die doeleindes van, subartikel (1)(b);
- (c) opmerkings by Bylae No. 10 waarin—
- (i) omskrywings;
- (ii) uitleg van woorde en sinsnedes of vervangings van woorde en sinsnedes;
- (iii) enige voorwaarde of prosedure of bepaling van hierdie Wet om aan te voldoen ten einde gevolg te gee aan sodanige ooreenkoms of protokol of deel of bepaling van sodanige ooreenkoms;
- (iv) bevoegdhede, pligte of werksaamhede van die Kommissaris of ’n beampete,
vermeld word;
- (d) enige wysiging aan Bylae No. 10 en enige opmerking daarby met of sonder terugwerkende krag om enige rede wat in sodanige wysiging gespesifiseer word, afkondig.
- (5A) Die bepalings van artikel 48(6) is *mutatis mutandis* van toepassing ten opsigte van enige wysiging ingevolge die bepalings van subartikel (5)(d).
- (6) By die administrasie van die bepalings van enige ooreenkoms, met inbegrip van enige protokol of ander deel of bepaling daarvan of enige instrument in hierdie artikel beoog, en die toepassing van enige prosedure om daaraan gevolg te gee, kan die Kommissaris, ondanks andersluidende bepalings in hierdie Wet vervat—
- (a) oor enige aangeleenthed besluit of dit bepaal of enige plig of werksaamheid verrig of enige voorwaarde oplê in verband met die bepalings aldus geadministreer met inbegrip van enige beslissing of bepaling of die verrigting van enige plig of werksaamheid of die oplegging van enige voorwaarde ten opsigte van—
- (i) enige pos in Deel 1 of enige item van enige ander Deel van Bylae No. 1 van toepassing op enige goedere ingevoer of uitgevoer, verkry, geproduseer of vervaardig of gebruik in die produksie of vervaardiging van enige goedere of die doeanevaarde van enige sodanige ingevoerde goedere;
- (ii) die eerste vasstelbare prys van goedere waar die doeanevaarde nie bekend is of nie vasgestel kan word nie;
- (iii) enige bepaling wat enige prosedure beheers of vermeld met betrekking tot—
- (aa) die oorsprong of bewys van oorsprong van goedere ingevoer of uitgevoer;

<ul style="list-style-type: none"> (bb) the importation or exportation or production or manufacture of goods and the ex-factory price of goods; (cc) tariff quotas; (dd) rendering mutual and technical assistance in respect of customs co-operation; (ee) transit carriage of goods, transit trade and transit facilities; (ff) requirements in connection with agency where any person is represented in the importation or exportation of any goods involving proof of origin or in any matter relating to the transit carriage of goods, transit trade or transit facilities; (gg) the approval of exporters to issue invoice declarations or withdrawal or refusal of such approval; 	5
<ul style="list-style-type: none"> (iv) any other power, duty or function or procedure provided in any such agreement or protocol or other part or provision thereof which requires either expressly or by implication customs administrative action to give effect thereto; (v) the convention, treaty or agreement referred to in subsection (4); (vi) a binding origin determination and any procedure in connection therewith; 	10
<ul style="list-style-type: none"> (b) make rules— <ul style="list-style-type: none"> (i) concerning any matter referred to in paragraph (a), including such convention, treaty or agreement; (ii) where reference is made to customs or competent authorities, to domestic, national or customs law or any like reference or any other matter which requires either expressly or by implication application of customs legislation; (iii) in connection with the entry of goods imported or exported and documents to be produced in support thereof; (iv) to regulate the application, determination, entry of goods and other procedures in connection with binding origin determinations; (v) prescribing forms or procedures or specifying any condition or provision of this Act to be complied with to give effect to such agreement, protocol or other part or provision thereof; (vi) to delegate, subject to section 3(2), any power, duty or function to any officer or other person; (vii) regarding any other matter which may be necessary or useful for the purposes of administering such provisions; 	15
<ul style="list-style-type: none"> (c) subject to such conditions as the Commissioner may in each case impose, enter into any agreement with any person, with the concurrence of any exporter, producer or manufacturer, as the case may be, to perform any function or provide any service for the purposes of establishing and reporting on the origin of goods or issuance of any proof of origin to give effect to such agreement. 	20
<p>(7) (a) Notwithstanding the provisions of section 47(9), 65(4) or 66(9), any determination of any heading or item or the customs value of goods imported shall, if such determination concerns goods used in the production or manufacture of any goods, or goods produced or manufactured therefrom, or any other goods, of which the origin is being determined, be made in terms of this section.</p>	25
<p>(b) For the purposes of any appeal against a decision or determination of the Commissioner in administering any of the provisions referred to in this section—</p> <ul style="list-style-type: none"> (i) any decision or determination shall, subject to appeal to court, be deemed to be correct for the purposes of this Act, and where any amount is payable in consequence thereof, such amount shall remain payable as long as such decision or determination remains in force: Provided that if it involves disputes with foreign customs authorities, the processes for dispute settlement provided in the agreement shall be followed; 	30
	35
	40
	45
	50
	55
	60

- (bb) die invoer of uitvoer of produksie of vervaardiging van goedere en die ex-fabrieksprys van goedere;
- (cc) tariefkwotas;
- (dd) lewering van onderlinge en tegniese bystand ten opsigte van doeanesamewerking;
- (ee) transito-vervoer van goedere, transito-handel en transito-fasilitete;
- (ff) vereistes in verband met agentskap waar enige persoon verteenwoordig word by die invoer of uitvoer van enige goedere waarby bewys van oorsprong betrokke is, of in enige aangeleentheid wat betrekking het op die transito-vervoer van goedere, transito-handel of transito-fasilitete;
- (gg) die goedkeuring van uitvoerders om faktuurverklarings uit te reik of intrekking of weiering van sodanige goedkeuring;
- (iv) enige ander bevoegdheid, plig of werksaamheid of prosedure bepaal in enige sodanige ooreenkoms of protokol of ander deel of bepaling daarvan wat óf uitdruklik óf by implikasie doeane-administratiewe handeling vereis om daaraan gevolg te gee;
- (v) die konvensie, verdrag of ooreenkoms in subartikel (4) bedoel;
- (vi) 'n bindende oorsprongbepaling en enige prosedure in verband daarmee.
- (b) reëls uitvaardig—
- (i) betreffende enige aangeleentheid in paragraaf (a) bedoel, met inbegrip van sodanige konvensie, verdrag of ooreenkoms;
- (ii) waar verwys word na doeane of bevoegde owerhede, na binne-landse, nasionale of doeanereg of enige soortgelyke verwysing of enige ander aangeleentheid wat óf uitdruklik óf by implikasie toepassing van doeane-wetgewing vereis;
- (iii) in verband met die klaring van goedere ingevoer of uitgevoer en dokumente wat ter ondersteuning daarvan voorgelê moet word;
- (iv) om die aansoek, bepaling, klaring van goedere en ander prosedures in verband met bindende oorsprongbepalings te reël;
- (v) wat vorms of prosedures voorskryf of enige voorwaarde of bepaling van hierdie Wet vermeld waaraan voldoen moet word om aan sodanige ooreenkoms, protokol of ander deel of bepaling daarvan gevolg te gee;
- (vi) om, behoudens artikel 3(2), enige bevoegdheid, plig of werksaamheid aan enige beampies of ander persone te deleger;
- (vii) betreffende enige ander aangeleentheid wat nodig of nuttig mag wees vir die doeleindes om sodanige bepalings te administreer;
- (c) behoudens die voorwaardes wat die Kommissaris in elke geval oplê, enige ooreenkoms aangaan met enige persoon, met die instemming van enige uitvoerder, produsent of vervaardiger, na gelang van die geval, om enige werksaamheid te verrig of enige diens te lever vir die doeleindes om die oorsprong van goedere vas te stel en daaroor verslag te doen of die uitreiking van enige bewys van oorsprong om aan sodanige ooreenkoms gevolg te gee.
- (7) (a) Ondanks die bepalings van artikel 47(9), 65(4) of 66(9), word enige bepaling van enige pos of item of die doeane-waarde van ingevoerde goedere, indien sodanige bepaling betrekking het op goedere gebruik in die produksie of vervaardiging van goedere, of goedere wat daarvan geproduseer of vervaardig is, of enige ander goedere, waarvan die oorsprong bepaal word, ingevolge hierdie artikel gedoen.
- (b) Vir die doeleindes van enige appèl teen 'n besluit of bepaling van die Kommissaris by die administrasie van enige van die bepalings in hierdie artikel bedoel—
- (i) word enige besluit of bepaling, behoudens 'n appèl na die hof, by die toepassing van hierdie Wet geag korrek te wees, en waar enige bedrag betaalbaar is as gevolg daarvan, bly so 'n bedrag betaalbaar solank die besluit of bepaling van krag bly: Met dien verstande dat indien dit dispute met buitelandse doeane-owerhede behels, die prosesse vir dispuutbeslegting in die ooreenkoms bepaal, gevolg moet word;

<p>(ii) subject to the provisions of subsection (8), any decision or determination may be amended or withdrawn and a new decision or determination made from the date the decision or determination was given, but such a decision or determination shall <i>mutatis mutandis</i> be subject to the provisions of section 76B if any refund of duty is involved;</p> <p>(iii) an appeal against any such decision or determination shall be to the division of the High Court having jurisdiction to hear appeals in the area wherein the decision or determination was made or the goods in question were entered for home consumption or exported.</p> <p>(c) Such appeal shall, subject to section 96(1), be prosecuted within a period of one year from the date of the decision or determination.</p> <p>(8) (a) For the purposes of any binding origin determination, unless the context otherwise indicates—</p> <p>‘applicant’ means a person who has applied to the Commissioner for a binding origin determination and has valid reasons to do so;</p> <p>‘binding origin determination’ means an origin determination binding on the Commissioner when it is issued to the applicant after compliance with the provisions of this subsection and the rules;</p> <p>‘holder’ means the person in whose name the binding origin determination is issued.</p> <p>(b) A binding origin determination may be issued by the Commissioner on the written request of an applicant in respect of goods—</p> <p>(i) imported from a country or countries or group of countries with which agreements have been concluded as contemplated in this section providing for preferential rates of duty on such goods; and</p> <p>(ii) for which certificates of origin have been issued by, or invoice declarations made by an exporter approved by, the customs authorities of the country or countries or group of countries concerned.</p> <p>(c) A binding origin determination favourable to the holder shall be annulled by the Commissioner if after due enquiry he finds that it was issued on the basis of incorrect or incomplete information.</p> <p>(d) Such annulment shall take effect from the date the determination was made and the holder shall be notified of the annulment.</p> <p>(e) A binding origin determination shall be binding on the Commissioner as against the holder only in respect of—</p> <p>(i) the determination of the origin of goods for the purposes of the agreement concerned; and</p> <p>(ii) goods which are entered as required in terms of section 38(1) after the date on which such determination was supplied by the Commissioner.</p> <p>(f) A binding origin determination shall be valid for a period of three years from the date of issue, but shall cease to be valid where—</p> <p>(i) the binding determination no longer conforms to the provisions of the agreement or this Act on which it is based as a result of any amendment of such provisions;</p> <p>(ii) subject to the right of appeal in terms of subsection (7), the Commissioner withdraws it as provided in paragraph (b)(ii) of the said subsection;</p> <p>(iii) it is no longer compatible with—</p> <p>(aa) any interpretation of the provisions of such agreement in respect of the goods in question in the originating country;</p> <p>(bb) any final judgment of the High Court or a judgment of the Supreme Court of Appeal;</p> <p>(iv) provided the holder is informed in advance, it is revoked or amended in the following circumstances:</p> <p>(aa) Except in the case referred to in paragraph (c), the Commissioner shall revoke or amend any determination favourable to the holder if any one or more of the conditions imposed for its issue were not or are no longer fulfilled;</p> <p>(bb) the Commissioner may revoke any determination favourable to</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>
--	--

		indien sodanige houer versuim om aan enige verpligting opgelê kragtens so 'n bepaling, te voldoen;
5		(cc) die Kommissaris kan enige bepaling intrek of wysig—
	(i)	indien dit foutiewelik uitgereik is; of
	(ii)	indien dit vir die houer ongunstig is en dit daarna bewys word dat die goedere om enige rede vir 'n gunstige bepaling kwalifiseer.
10		(g) Die datum waarop 'n bindende bepaling ophou om geldig te wees, is—
	(i)	in die geval van paragraaf (f)(i), die datum waarop enige wysiging aan sodanige ooreenkoms in hierdie Wet verorden word of in die geval van enige ander bepaling van hierdie Wet, sodanige bepaling aldus gewysig word; of
15		(ii) in die geval van paragraaf (f)(iii)(bb), die datum van die beslissing en in die geval van paragraaf (f)(iii)(aa) die datum van publikasie van sodanige uitleg.
20		(h) (i) Ondanks die bepalings van paragraaf (f) en (g), indien die Kommissaris aldus toelaat, kan die houer van 'n bindende oorsprongbepaling steeds sodanige bepaling vir 'n tydperk van ses maande gebruik vanaf die datum daarin vermeld, of totdat die tydperk van drie jaar verstryk, watter datum ook al die vroegste is, mits—
	(aa)	sodanige houer bindende kontrakte vir die koop of verkoop van die betrokke goedere op grond van sodanige bepaling voor sodanige datum gesluit het; en
25		(bb) sodanige bepaling slegs vir die bepaling van invoerregte gebruik word.
30		(ii) Enige houer wat verlang om gebruik te maak van die moontlikheid om hom op sodanige bepaling te beroep soos in subparagraaf (i) bepaal, moet die Kommissaris in kennis stel en die nodige ondersteunende dokumente voorsien ten einde 'n toets te kan doen of aan die voorwaardes vermeld in genoemde subparagraaf (i) voldoen is.
	(9)	Ondanks andersluidende bepalings van hierdie Wet—
35	(a)	waar 'n invoerder wat enige goedere invoer wat beweer word die oorsprongverkreë status te hê om te kwalifiseer vir enige voorkeurskaal van reg in Deel 1 van Bylae No. 1 vermeld om enige rede nie in staat is om ten tyde van klaring soos in artikel 39 beoog enige sertifikaat van oorsprong of enige faktuurverklaring of ander dokument ter bevestiging van die oorsprongverkreë status van sodanige goedere soos bepaal in enige ooreenkoms in hierdie artikel beoog, voor te lê nie, word sodanige goedere, ongeag of 'n bindende oorsprongbepaling is ten opsigte daarvan uitgereik, al dan nie—
40		(i) geklaar vir opslag en opgeslaan in 'n gelisensieerde doeane- en aksynsopslagpakhuis; of
45		(ii) met die vooraf goedkeuring van die Kontroleur en op die voorwaardes wat die Kontroleur ople, vir doeanebelastingdoel-eindes geklaar asof sodanige voorkeurskaal van reg van toepassing is, onderhewig aan die verskaffing van 'n voorlopige betaling of ander deur die Kontroleur goedgekeurde sekuriteit vir die bedrag van die algemene skaal van reg in bedoelde Deel 1 vermeld daarop betaalbaar,
50		hangende voorlegging van sodanige sertifikaat van oorsprong of faktuurverklaring of ander dokument ter bevestiging van die oorsprongverkreë status van sodanige goedere;
55	(b)	indien sodanige sertifikaat van oorsprong of faktuurverklaring of ander dokument wat oorsprongverkreë status bevestig nie voorgelê word binne die tyd wat die Kontroleur bepaal nie, is reg teen die algemene skaal van reg in Deel 1 van Bylae No. 1 vermeld ten opsigte van die betrokke goedere betaalbaar.”.

Invoeging van artikel 54A in Wet 91 van 1964

60 56. (1) Die volgende artikel word hierby na artikel 54 in die Doeane- en Aksynswet, 1964, ingevoeg:

“Special provisions regarding the importation of beer

54A. (1) (a) No imported beer made from malt shall be sold or disposed of for home consumption except in a container which indicates the brand name, the alcoholic strength by volume and the quantity of such beer.

(b) Every invoice of such beer shall reflect the brand name, the alcoholic strength by volume, the type of container, the quantity of beer in each container and the total quantity of beer to which such invoice relates.

(2) If the alcoholic strength by volume or the quantity of any imported beer in any container bearing an indication of a brand name, alcoholic strength by volume and quantity is found, when tested and reported on as provided in the rules prescribed under section 36(10), to exceed the alcoholic strength by volume, after deduction of the tolerance so prescribed, or the quantity indicated on such container or invoice, the importer or owner shall be liable for the duty on the full quantity of beer imported in the consignment, from which the container was taken for testing, according to the alcoholic strength by volume or quantity ascertained in respect of such container.

(3) Notwithstanding anything to the contrary in this Act contained, the provisions of this section shall *mutatis mutandis* apply to any beer manufactured in any other territory of the common customs area brought into the Republic.”.

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

Amendment of section 60 of Act 91 of 1964, as substituted by section 20 of Act 105 of 1969, and amended by section 11 of Act 86 of 1982, section 25 of Act 59 of 1990, section 9 of Act 19 of 1994 and section 44 of Act 45 of 1995

57. Section 60 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Commissioner may, subject to review by the High Court—

- (a) refuse any application for a new licence or refuse any application for a renewal of a licence if the applicant has made a false or misleading statement with respect to any material fact or omits to state any material fact which was required to be stated in the application for a licence; or
- (b) refuse any application for a new licence or refuse any application for a renewal of any licence or cancel or suspend for a specified period any licence if the applicant or the holder of such licence or any employee of such applicant or holder, as the case may be—
 - (i) has contravened or failed to comply with the provisions of this Act; or
 - (ii) has been convicted of an offence under this Act; or
 - (iii) has been convicted of an offence involving dishonesty; or
 - (iv) has failed to comply with any condition or obligation imposed by the Commissioner in respect of such licence:

Provided that subparagraphs (i) to (iii) shall not apply in respect of an employee if the applicant or holder, as the case may be, proves that he was not a party to or could not prevent any such act or omission by such employee.”.

Amendment of section 64B of Act 91 of 1964, as inserted by section 19 of Act 112 of 1977 and amended by section 46 of Act 45 of 1995

58. Section 64B of the Customs and Excise Act, 1964, is hereby amended—

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

“(1) No person shall, for the purposes of [section 38] this Act, for reward make entry or deliver a bill of entry relating to, any goods on behalf of any [importer or exporter of goods as the case may be]

- (ii) kan, behoudens die bepalings van subartikel (8), enige besluit of bepaling gewysig of ingetrek word en 'n nuwe besluit of bepaling gemaak word vanaf die datum waarop die besluit of bepaling gemaak is, maar so 'n besluit of bepaling is *mutatis mutandis* onderhewig aan die bepalings van artikel 76B indien 'n terugbetaling van reg betrokke is;
- (iii) is 'n appèl teen so 'n besluit of bepaling, na die afdeling van die Hoë Hof wat regsbevoeg is om appelle te verhoor in die gebied waarin die besluit of bepaling gemaak is of die betrokke goedere vir binnelandse gebruik of vir uitvoer geklaar is.
- (c) Sodanige appèl moet, behoudens artikel 96(1), voortgesit word binne 'n tydperk van een jaar van die datum van die besluit of bepaling.
- (8) (a) By die toepassing van enige bindende oorsprongbepaling, tensy uit die samehang anders blyk, beteken—
 'aansoeker' 'n persoon wat aansoek gedoen het by die Kommissaris om 'n bindende oorsprongbepaling en gegronde redes het om dit te doen;
 'bindende oorsprongbepaling' 'n oorsprongbepaling wat bindend is op die Kommissaris wanneer dit uitgereik word aan die aansoeker nadat voldoen is aan die bepalings van hierdie subartikel en die reëls;
 'houer' die persoon in wie se naam die bindende oorsprongbepaling uitgereik is.
- (b) 'n Bindende oorsprongbepaling kan deur die Kommissaris uitgereik word op skriftelike versoek van 'n aansoeker ten opsigte van goedere—
- (i) ingevoer van 'n land of lande of groep lande waarmee ooreenkoms aangegaan is soos beoog in hierdie artikel wat vir voorkeurskale van reg op sodanige goedere voorsiening maak; en
 (ii) waarvoor oorsprongsertifikate uitgereik is deur, of faktuurverklarings deur 'n uitvoerder gemaak is wat goedgekeur is deur, die doeaneowerhede van die betrokke land of lande of groep lande.
- (c) 'n Bindende oorsprongbepaling wat gunstig is vir die houer word deur die Kommissaris ongeldig verklaar indien na behoorlike navraag dit bevind word dat dit uitgereik is op grond van foutiewe of onvolledige inligting.
- (d) Sodanige ongeldigverklaring tree in werking vanaf die datum waarop die bepaling gemaak is en die houer moet van die ongeldigverklaring in kennis gestel word.
- (e) 'n Bindende oorsprongbepaling is slegs bindend op die Kommissaris teenoor die houer ten opsigte van—
- (i) die bepaling van die oorsprong van goedere vir die doeleindes van die betrokke ooreenkoms; en
 (ii) goedere wat soos vereis ingevolge artikel 38(1) geklaar is na die datum waarop sodanige bepaling deur die Kommissaris verskaf is.
- (f) 'n Bindende oorsprongbepaling is geldig vir 'n tydperk van drie jaar vanaf die datum van uitreiking, maar hou op om geldig te wees waar—
- (i) die bindende bepaling nie langer voldoen aan die bepalings van die ooreenkoms of hierdie Wet waarop dit gegrond is nie as gevolg van enige wysiging van sodanige bepalings;
 (ii) behoudens die reg van appèl ingevolge subartikel (7), die Kommissaris dit intrek soos in paragraaf (b)(ii) van genoemde subartikel bepaal;
 (iii) dit nie langer versoenbaar is met—
 (aa) enige uitleg van die bepalings van sodanige ooreenkoms ten opsigte van die betrokke goedere in die land van oorsprong nie;
 (bb) 'n finale beslissing van die Hoë Hof of die Hoogste Hof van Appèl nie;
- (iv) mits die houer vooruit in kennis gestel word, dit ingetrek of gewysig word in die volgende omstandighede:
 (aa) Behalwe in die geval in paragraaf (c) bedoel, moet die Kommissaris enige bepaling in die guns van die houer intrek of wysig indien een of meer van die voorwaardes vir die uitreiking daarvan opgelê nie aan voldoen is nie of nie langer aan voldoen word nie;
 (bb) die Kommissaris kan 'n bepaling in die guns van die houer intrek

<p>the holder if such holder fails to fulfil any obligation imposed under such determination;</p> <p>(cc) the Commissioner may revoke or amend any determination—</p> <ul style="list-style-type: none"> (i) if it was issued in error; or (ii) if it is unfavourable to the holder and for any reason the goods are subsequently proved to qualify for a favourable determination. <p>(g) The date on which a binding determination ceases to be valid shall be—</p> <ul style="list-style-type: none"> (i) in the case of paragraph (f)(i), the date any amendment to such agreement is enacted in this Act or in the case of any other provision of this Act, such provision is so amended; or (ii) in the case of paragraph (f)(iii)(bb), the date of the judgment and in the case of paragraph (f)(iii)(aa) the date of publication of such interpretation. <p>(h) (i) Notwithstanding the provisions of paragraphs (f) and (g), if the Commissioner so permits, the holder of a binding origin determination may still use such determination for a period of six months from the date specified therein, or until the period of three years expires, whichever is the earlier date, provided—</p> <ul style="list-style-type: none"> (aa) such holder concluded binding contracts for the purchase or sale of the goods in question on the basis of such determination before any such date; and (bb) such determination is used solely for determining import duties. <p>(ii) Any holder who wishes to make use of the possibility of invoking such determination as provided in subparagraph (i), shall notify the Commissioner and provide the necessary supporting documents to enable a check to be made whether the conditions specified in the said subparagraph (i) have been satisfied.</p> <p>(9) Notwithstanding anything to the contrary in this Act contained—</p> <p>(a) where any importer who imports any goods which are claimed to have the originating status to qualify for any preferential rate of duty specified in Part 1 of Schedule No. 1 is for any reason unable to produce at the time of entry as contemplated in section 39 any certificate of origin or invoice declaration or other document confirming the originating status of such goods as provided in any agreement contemplated in this section, such goods shall, irrespective of whether a binding origin determination has been issued in respect thereof—</p> <ul style="list-style-type: none"> (i) be entered for storage in a licensed customs and excise storage warehouse; or (ii) with the prior approval of the Controller and on such conditions as the Controller may impose, be entered for customs duty purposes as if such preferential rate applies, subject to the furnishing of a provisional payment or other security approved by the Controller for the amount of the general rate of duty specified in the said Part 1 payable thereon, <p>pending production of such certificate of origin or invoice declaration or other document confirming the originating status of such goods;</p> <p>(b) if such certificate of origin or invoice declaration or other document confirming originating status is not furnished within the time specified by the Controller, duty shall be payable at the general rates of duty specified in Part 1 of Schedule No. 1 in respect of the goods concerned.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>
---	--

Insertion of section 54A in Act 91 of 1964

55

56. (1) The following section is hereby inserted after section 54 of the Customs and Excise Act, 1964:

goedere 'n klaringsbrief voorlê nie, **[na gelang van die geval]** tensy hy as 'n klaringsagent ingevolge subartikel (2) gelisensieer is.

5 (2) (a) 'n Aansoek om so 'n lisensie word gedoen op die vorm deur die Kommissaris by reël voorgeskryf en die aansoeker moet aan al die vereistes daarin vermeld, voldoen en aan enige bykomende vereistes wat in enige ander reël voorgeskryf word en wat deur die Kommissaris in elke geval bepaal word.

10 (b) Die Kommissaris kan, behoudens die voorwaardes en verpligtinge wat hy by reël voorskryf en die verpligtinge wat hy in elke geval ople, iemand wat daarom aansoek doen [en deur hom goedgekeur is] as klaringsagent lisensieer **[om namens 'n invoerder of 'n uitvoerder van goedere, goedere te klaar of met betrekking tot goedere 'n klaringsbrief voor te lê, na gelang van die geval.]**"; en

15 (b) deur die volgende subartikels by te voeg:
"5) 'n Gelisensieerde klaringsagent is aanspreeklik ten opsigte van enige klaring gemaak of klaringsbrief voorgelê soos bedoel in artikel 99(2).

20 (6) 'n Gelisensieerde klaringsagent moet die naam en kategorie van die prinsipaal in artikel 99(2) bedoel, openbaar op die klaringsbrief en indien die agent dit nie aldus openbaar nie of klaring maak of 'n klaringsbrief voorlê waar die naam van 'n ander sodanige agent of sy eie naam as invoerder, uitvoerder, vervoerder onder waarborg of ander prinsipaal aangetoon word, na gelang van die geval, is hy aanspreeklik vir die nakoming van die verpligtinge wat sodanige prinsipaal ingevolge hierdie Wet opgelê word.

25 (7) Geen sekerheid deur 'n gelisensieerde klaringsagent verskaf, word as sekerheid vir die nakoming van enige verpligtinge ingevolge hierdie Wet van enige ander sodanige agent gebruik of aanvaar nie."

Wysiging van artikel 65 van Wet 91 van 1964, soos vervang deur artikel 13 van Wet 86 van 1982 en gewysig deur artikel 8 van Wet 101 van 1985, artikel 8 van Wet 52 van 1986, artikel 48 van Wet 45 van 1995 en artikel 5 van Wet 44 van 1996

59. Artikel 65 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

(a) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:
"(a) **[Indien die transaksiewaarde van enige ingevoerde goedere nie ingevolge artikel 66 vasgestel kan word nie of deur die invoerder verkeerdelik vasgestel is, kan]** Die Kommissaris **[n waarde]** kan die transaksiewaarde van enige ingevoerde goedere bepaal wat vasgestel moet word of bepaal kan word soos in artikel 66 bepaal, en sodanige bepaalde waarde word, behoudens 'n reg van appèl na die hof, geag [word] die waarde vir doeanebelastingdoeleindes van die goedere te wees."; en

40 (b) deur die woord "Hooggeregshof" in paragraaf (a) van subartikel (6) deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 66 van Wet 91 van 1964, soos vervang deur artikel 26 van Wet 59 van 1990, en gewysig deur artikel 49 van Wet 45 van 1995

60. Artikel 66 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (9) voorafgaan deur die volgende woorde te vervang:

50 "Waar die transaksiewaarde van enige ingevoerde goedere nie ingevolge die bepalings van subartikel (8) vasgestel kan word nie, kan die Kommissaris daardie waarde **kragtens artikel 65(4)(a)** bepaal op die grondslag van 'n vorige bepaling of, waar daar geen vorige bepaling is nie, deur 'n toepassing wat hy redelik ag van 'n wyse van vasstelling van die transaksiewaarde ingevolge subartikel (1), (4), (5), (7) of (8), maar geen sodanige bepaling mag gebaseer wees nie op—".

55 Wysiging van artikel 69 van Wet 91 van 1964, soos vervang deur artikel 12 van Wet 68 van 1989 en gewysig deur artikel 1 van Wet 111 van 1991, artikel 3 van Wet 105 van 1992, artikel 6 van Wet 98 van 1993 en artikel 6 van Wet 44 van 1996

61. Artikel 69 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

Act No. 53, 1999

REVENUE LAWS AMENDMENT ACT, 1999

- (a) by the substitution for the words "Supreme Court" in paragraph (a) of subsection (5) of the words "High Court"; and
 (b) by addition of the following subsections:

"(6) Save where—

- (a) a determination has been made under subsection (3) or (4); or
 (b) any false declaration is made for the purposes of subsection (3) or (4),

there shall be no liability for any underpayment in duty on any goods, where such underpayment is due to the acceptance of a bill of entry bearing an incorrect value for excise duty purposes, after a period of two years from the date of entry of such goods.

(7) Notwithstanding the provisions of subsection (6), any determination made under subsection (3) following upon an inspection of the books or documents of any manufacturer, wholesaler or purchaser or any seller or buyer contemplated in subsection (1) or (2), as the case may be, shall be deemed to have come into operation, in respect of the goods in question entered for excise purposes, two years prior to the date on which the inspection commenced.”.

Amendment of section 73 of Act 91 of 1964, as substituted by section 51 of Act 45 of 1995

5

10

15

20

62. Section 73 of the Customs and Excise Act, 1964, is hereby amended by the addition of the following subsection:

"(3) The Commissioner may, for the purposes of any agreement contemplated in section 49 or 51, by rule—

- (a) publish arrangements in connection with amounts to be used in currencies in respect of goods imported or exported between the Republic and the country or countries or group of countries concerned;
 (b) prescribe any measures applicable to the implementation of such arrangements.”.

25

Amendment of section 80 of Act 91 of 1964, as amended by section 10 of Act 85 of 1968, section 27 of Act 105 of 1969, section 28 of Act 112 of 1977, section 22 of Act 86 of 1982, section 7 of Act 89 of 1984, section 12 of Act 52 of 1986, section 27 of Act 84 of 1987, section 32 of Act 59 of 1990, section 8 of Act 105 of 1992, section 8 of Act 98 of 1993 and section 68 of Act 30 of 1998

30

63. Section 80 of the Customs and Excise Act, 1964, is hereby amended—

35

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

"(o) contravenes the provisions of section 4(12A)(b), 18(13), 18A(9), 20(4)bis, 35A(4), 37(9), 37A(1)(c), 37A(4)(a), 48(1A)(b), 60(1), 63(1), 75(7A), 75(19), 88(1)(bA), 99A, 113(2), 113(8)(c) [or] 114(2A) or 114(2B); [or]; and

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

"(q) contravenes or fails to comply with any agreement contemplated in section 49 or 51;”.

40

Substitution of section 85 of Act 91 of 1964, as substituted by section 7 of Act 44 of 1996

45

64. The following section is hereby substituted for section 85 of the Customs and Excise Act, 1964:

"Beer of higher alcoholic strength than registered

85. Any manufacturer of beer [in whose customs and excise warehouse or on whose delivery vehicle beer packed for sale in the common customs area] of whom or which any container of beer not marked for export as contemplated in section 36(9) is found to contain beer of an alcoholic strength by volume higher than [such] the strength [specified in the tariff item of Part 2 of Schedule No. 1 and] registered in terms of

50

55

“Spesiale bepalings aangaande die invoer van bier

- 54A.** (1) (a) Geen ingevoerde bier van mout gemaak word, verkoop of van die hand gesit vir binnelandse verbruik nie, behalwe in 'n houer wat die handelsnaam, die alkoholsterkte volgens volume en die hoeveelheid van daardie bier aandui.
- (b) Elke faktuur van sodanige bier moet die handelsnaam, die alkoholsterkte volgens volume, die tipe houer, die hoeveelheid bier in elke houer en die totale hoeveelheid bier waarop die faktuur betrekking het, vermeld.
- (2) Indien die alkoholsterkte volgens volume of die hoeveelheid van enige ingevoerde bier in enige houer met 'n aanduiding van 'n handelsnaam, alkoholsterkte volgens volume en hoeveelheid gevind word, wanneer dit getoets word en oor verslag gedoen word ooreenkomsdig die reëls kragtens artikel 36(10) voorgeskryf, die alkoholsterkte volgens volume, na aftrekking van die toleransie aldus voorgeskryf, of die hoeveelheid aangedui op sodanige houer of faktuur, te oorskry, is die invoerder of eienaar aanspreeklik vir die reg op die volle hoeveelheid bier ingevoer in die besending, waaruit die houer geneem was vir toetsing, volgens die alkoholsterkte volgens volume of hoeveelheid bepaal ten opsigte van sodanige houer.
- (3) Ondanks andersluidende bepalings van hierdie Wet, is die bepalings van hierdie artikel *mutatis mutandis* van toepassing op enige bier vervaardig in enige ander gebied van die gemeenskaplike doeanegebied, en wat die Republiek binne gebring word.”.
- (2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

Wysiging van artikel 60 van Wet 91 van 1964, soos vervang deur artikel 20 van Wet 105 van 1969 en gewysig deur artikel 11 van Wet 86 van 1982, artikel 25 van Wet 59 van 1990, artikel 9 van Wet 19 van 1994 en artikel 44 van Wet 45 van 1995

57. Artikel 60 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- “(2) Die Kommissaris kan, behoudens hersiening deur die Hoë Hof—
- (a) enige aansoek om 'n nuwe lisensie weier of enige aansoek om 'n hernuwing van 'n lisensie weier indien die aansoeker 'n vals of misleidende verklaring gedoen het met betrekking tot enige wesenlike feit of versuim om enige wesenlike feit wat vermeld moes gewees het in die aansoek om 'n lisensie te vermeld; of
- (b) enige aansoek om 'n nuwe lisensie weier of enige aansoek om 'n hernuwing van 'n lisensie weier of enige lisensie intrek of vir 'n bepaalde tydperk opskort indien die aansoeker of die houer van die lisensie of enige werknemer van die aansoeker of houer, na gelang van die geval—
- (i) die bepalings van hierdie Wet oortree het of versuim het om daaraan te voldoen; of
- (ii) aan 'n misdryf kragtens hierdie Wet skuldig bevind is; of
- (iii) aan 'n misdryf waarvan oneerlikheid 'n element is, skuldig bevind is; of
- (iv) versuim het om te voldoen aan enige voorwaarde of verpligting deur die Kommissaris ten opsigte van sodanige lisensie opgelê:
Met dien verstande dat subparagrawe (i) tot (iii) nie van toepassing is ten opsigte van enige werknemer indien die aansoeker of houer, na gelang van die geval, bewys dat hy nie aan enige sodanige handeling of versuim deur die werknemer deelgeneem het of dit kon verhoed nie.”.

Wysiging van artikel 64B van Wet 91 van 1964, soos ingevoeg deur artikel 19 van Wet 112 van 1977 en gewysig deur artikel 46 van Wet 45 van 1995

58. Artikel 64B van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:
- “(1) Niemand mag, by die toepassing van [artikel 38] hierdie Wet, teen vergoeding namens 'n [invoerder of uitvoerder van goedere] principaal in artikel 99(2) beoog, goedere klaar of met betrekking tot

Act No. 53, 1999

REVENUE LAWS AMENDMENT ACT, 1999

principal contemplated in section 99(2), unless licensed as a clearing agent in terms of subsection (2).

(2) (a) Application for such licence shall be made on the form prescribed by the Commissioner by rule and the applicant shall comply with all the requirements specified therein and with any additional requirements that may be prescribed in any other rule and as may be determined by the Commissioner in each case.

(b) The Commissioner may, subject to such conditions as he may prescribe by rule and such obligations as he may in each case impose, license any person applying therefor [and approved by him] as a clearing agent [for making entry of or delivery a bill of entry relating to, goods on behalf of an importer or exporter of goods, as the case may be]; and

(b) by the addition of the following subsections:

“(5) A licensed clearing agent shall be liable in respect of any entry made or bill of entry delivered as contemplated in section 99(2).”

(6) A licensed clearing agent shall disclose the name and category of the principal referred to in section 99(2) on such bill of entry and if such agent does not so disclose or makes or delivers a bill of entry where the name of another such agent or his own name is stated as the importer, exporter, remover in bond or other principal, as the case may be, he shall be liable for the fulfilment of the obligations imposed on such principal in terms of this Act.

(7) No security provided by a licensed clearing agent shall be utilised or accepted as security for the fulfilment of any obligations in terms of this Act of any other such agent.”.

Amendment of section 65 of Act 91 of 1964, as substituted by section 13 of Act 86 of 1982 and amended by section 8 of Act 101 of 1985, section 8 of Act 52 of 1986, section 48 of Act 45 of 1995 and section 5 of Act 44 of 1996

59. Section 65 of the Customs and Excise Act, 1964, is hereby amended—

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

“(a) [If the transaction value of any imported goods cannot be ascertained in terms of section 66 or has been incorrectly ascertained by the importer] The Commissioner may determine [a value which] the transaction value of any imported goods, which is required to be ascertained or may be determined as provided in section 66, and such determined value shall, subject to a right of appeal to the court, be deemed to be the value for customs duty purposes of the goods.”; and

(b) by the substitution for the words “Supreme Court” in paragraph (a) of subsection (6) of the words “High Court”.

Amendment of section 66 of Act 91 of 1964, as substituted by section 26 of Act 59 of 1990 and amended by section 49 of Act 45 of 1995

60. Section 66 of the Customs and Excise Act, 1964, is hereby amended by the substitution for the words preceding paragraph (a) of subsection (9) of the following words:

“Where the transaction value of any imported goods cannot be ascertained in terms of the provisions of subsection (8), the Commissioner may determine such value under section 65(4)(a) on the basis of a previous determination or, where there is no previous determination, by such application as he may deem reasonable of any manner of ascertaining the transaction value in terms of subsection (1), (4), (5), (7) or (8), but no such determination shall be based on—”.

Amendment of section 69 of Act 91 of 1964, as substituted by section 12 of Act 68 of 1989 and amended by section 1 of Act 111 of 1991, section 3 of Act 105 of 1992, section 6 of Act 98 of 1993 and section 6 of Act 44 of 1996

61. Section 69 of the Customs and Excise Act, 1964, is hereby amended—

- (a) deur in paragraaf (a) van subartikel (5) die woord "Hooggereghof" deur die woorde "Hoë Hof" te vervang; en
 (b) deur die volgende subartikels by te voeg:

"(6) Behalwe waar—

- 5 (a) 'n bepaling kragtens subartikel (3) of (4) gemaak is; of
 (b) 'n valse verklaring vir die doeleindes van subartikel (3) of (4) gemaak word,
 is daar geen aanspreeklikheid vir enige 'n onderbetaling van reg op goedere nie, waar sodanige onderbetaling toe te skryf is aan die aanvaarding van 'n klaringsbrief wat 'n verkeerde waarde vir aksynsregdoeleindes bevat, na 'n tydperk van twee jaar van die datum van klaring van sodanige goedere nie.

10 15 (7) Ondanks die bepальings van subartikel (6), word enige bepaling kragtens subartikel (3) gemaak wat volg op 'n inspeksie van die boeke of dokumente van enige vervaardiger, groothandelaar of aankoper of enige verkoper of koper in subartikel (1) of (2) beoog, na gelang van die geval, geag ten opsigte van die betrokke goedere wat vir aksynsdoeleindes geklaar is, twee jaar voor die datum waarop die inspeksie 'n aanvang geneem het, in werking te getree het.”.

20 **Wysiging van artikel 73 van Wet 91 van 1964, soos vervang deur artikel 51 van Wet 45 van 1995**

62. Artikel 73 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die volgende subartikel by te voeg:

- 25 "3) Die Kommissaris kan, vir die doeleindes van 'n ooreenkoms in artikel 49 of 51 beoog, by reël—
 (a) reëlings in verband met bedrae wat in betaalmiddels gebruik gaan word ten opsigte van goedere in- of uitgevoer tussen die Republiek en die betrokke land of lande of groep lande, publiseer;
 30 (b) enige maatreëls van toepassing op die implementering van sodanige reëlings voorskryf.”.

Wysiging van Artikel 80 van Wet 91 van 1964 soos gewysig deur artikel 10 van Wet 85 van 1968, artikel 27 van Wet 105 van 1969, artikel 28 van Wet 112 van 1977, artikel 22 van Wet 86 van 1982, artikel 12 van Wet 52 van 1986, artikel 27 van Wet 84 van 1987, artikel 32 van Wet 59 van 1990, artikel 8 van Wet 105 van 35 1992, artikel 8 van Wet 98 van 1993, en artikel 68 van Wet 30 van 1998

63. Artikel 80 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur paragraaf (o) van subartikel (1) deur die volgende paragraaf te vervang:
 “(o) die bepaling van artikel 4(12A)(b), 18(13), 18A(9), 20(4)*bis*, 35A(4), 37(9), 37A(1)(c), 37A(4)(a), 48(1A)(b), 60(1), 63(1), 75(7A), 75(19), 40 88(1)(bA), 99A, 113(2), 113(8)(c), [of] 114(2A) of 114(2B) oortree; [of]”; en
 (b) deur die volgende paragraaf by subartikel (1) te voeg:
 “(q) 'n bepaling van 'n ooreenkoms in artikel 49 of 51 beoog, oortree of versuim om daaraan te voldoen;”.

45 **Vervanging van artikel 85 van Wet 91 van 1964, soos vervang deur artikel 7 van Wet 44 van 1996**

64. Artikel 85 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

"Bier met hoër alkoholsterkte as geregistreer"

- 50 55 85. 'n Vervaardiger van bier [in wie se doeane- en aksynspakhuis of op wie se afleweringsvoertuig bier verpak vir verkoop in die gemeenskaplike doeanegebied] van wie of waarvan enige houer bier wat nie gemerk is vir uitvoer soos in artikel 36(9) beoog nie, gevind word bier te bevatt met 'n alkoholsterkte volgens volume hoër as [sodanige] die sterkte [vermeld in die tariefitem van Deel 2 van Bylae No. 1 en] wat ingevolge

section 36(2), after deduction of any tolerance provided in the rules relating to that section, shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture.”.

5

Amendment of section 86A of Act 91 of 1964, as inserted by section 69 of Act 30 of 1998

65. Section 86A of the Customs and Excise Act, 1964, is hereby amended—

10

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

“Notwithstanding the provisions of section 4, the Commissioner may from time to time publish [by notice in the Gazette a list of persons who have] for general information such particulars as specified in subsection (2), relating to any offence committed by any person, where such person has been convicted of [any] such offence in terms of—”; and

15

- (b) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

“Every such [list] publication may specify—”.

20

Amendment of section 87 of Act 91 of 1964

66. Section 87 of the Customs and Excise Act, 1964, is hereby amended—

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

25

“Provided that forfeiture shall not affect liability to any other penalty or punishment which has been incurred under this Act or any other law, or [entitle any person to a refund of] liability for any unpaid duty or charge [paid] in respect of such goods.”; and

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

“(2) Any—

30

(a) ship, vehicle, container or other transport equipment used in the removal or carriage of any goods liable to forfeiture under this Act or constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;

35

(b) goods conveyed, mixed, packed or found with any goods liable to forfeiture under this Act on or in any such ship, vehicle, container or other transport equipment; and

(c) ship, vehicle, machine, machinery, plant, equipment or apparatus classifiable under any heading or subheading of Chapters 84 to 87 and 89 of Part 1 of Schedule No. 1 in which goods liable to forfeiture under this Act are used as fuel or in any other manner, shall be liable to forfeiture wheresoever and in possession of whomsoever found.”.

40

Substitution of section 93 of Act 91 of 1964, as substituted by section 15 of Act 85 of 1968 and amended by section 31 of Act 112 of 1977

67. The following section is hereby substituted for section 93 of the Customs and Excise Act, 1964:

45

“Remission or mitigation of penalties and forfeiture

93. The Commissioner may, on good cause shown, direct that any ship,

5 artikel 36(2) geregistreer is, na aftrekking van enige toleransie in die reëls bepaal wat op daardie artikel betrekking het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R8 000 of drie maal die waarde van die goedere ten opsigte waarvan die misdryf gepleeg is, na gelang van watter die hoogste is, of met gevangenisstraf van hoogstens twee jaar, of met sowel sodanige boete as sodanige gevangenisstraf, en die goedere ten opsigte waarvan sodanige misdryf gepleeg is, is aan verbeuring onderhewig.”.

Wysiging van artikel 86A van Wet 91 van 1964, soos ingevoeg deur artikel 69 van 10 Wet 30 van 1998

65. Artikel 86A van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
- 15 “Ondanks die bepalings van artikel 4, kan die Kommissaris [kan] van tyd tot tyd [by kennisgewing in die Staatskoerant 'n lys van persone] vir algemene inligting die besonderhede in subartikel (2) uiteengesit, wat betrekking het op enige misdryf deur 'n persoon gepleeg, publiseer [wat] waar daardie persoon aan 'n misdryf skuldig bevind is ingevolge—”; en
- 20 (b) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:
- “Elke sodanige [lys] publikasie kan vermeld—”.

Wysiging van Artikel 87 van Wet 91 van 1964

66. Artikel 87 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- 25 (a) deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbehoudsbepaling te vervang:
- “Met dien verstande dat verbeuring nie strafbaarheid met enige ander pene of straf wat ingevolge hierdie of enige ander Wet opgeloop is, [raak nie, of enigiemand op terugbetaling van enige reg of vordering wat op] of aanspreeklikheid vir enige onbetaalde reg of vordering ten opsigte van sodanige goedere, [betaal is, geregtig maak] raak nie.”;
- 30 en
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Enige—
- 35 (a) skip, voertuig, houer of ander vervoertoerusting wat gebruik word by die verwydering of vervoer van enige goedere wat ingevolge hierdie Wet aan verbeuring onderhewig is, of wat gebou, aangepas, gewysig of toegerus is op enige manier vir die doel om dit te gebruik om goedere te versteek;
- 40 (b) goedere op of in enige sodanige skip, voertuig, houer of ander vervoertoerusting wat vervoer, gemeng, gepak of gevind word saam met enige goedere wat ingevolge hierdie Wet aan verbeuring onderhewig is; en
- 45 (c) skip, voertuig, masjien, masjinerie, installasie, toerusting of apparaat indeelbaar onder enige pos of subpos Hoofstukke 84 tot 87 en 89 van Deel 1 van Bylae No. 1 waarin goedere wat ingevolge hierdie Wet aan verbeuring onderhewig is, as brandstof of op enige ander wyse gebruik word,
- 50 is aan verbeuring onderhewig ongeag waar en in wie se besit dit ook al gevind word.”.

Vervanging van artikel 93 van Wet 91 van 1964, soos vervang deur artikel 15 van Wet 85 van 1968 en gewysig deur artikel 31 van Wet 112 van 1977

67. Artikel 93 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

- 55 “**Kwytsekelding of vermindering van penes en verbeuring**

93. Die Kommissaris kan, op goeie gronde aangetoon, gelas dat enige

vehicle, container or other transport equipment, plant, material or goods detained or seized or forfeited under this Act be delivered to the owner thereof, subject to payment of any duty which may be payable in respect thereof and any charges which may have been incurred in connection with the detention or seizure or forfeiture, and to such conditions (including conditions providing for the payment of an amount [equal to] not exceeding the value for duty purposes of such ship, vehicle, container or other transport equipment, plant, material or goods plus any unpaid duty thereon) as he deems, fit, or may mitigate or remit any penalty incurred under this Act, on such conditions as he deems fit [: Provided that if the owner accepts such conditions, he shall not thereafter be entitled to institute or maintain any action for damages on account of the detention, seizure or forfeiture].".

Amendment of section 99 of Act 91 of 1964, as amended by section 15 of Act 95 of 1965, section 17 of Act 85 of 1968, section 7 of Act 98 of 1970, section 34 of Act 112 of 1977, section 12 of Act 110 of 1979, section 24 of Act 86 of 1982, section 62 of Act 45 f 1995 and section 71 of Act 30 of 1998

68. Section 99 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (i) of the proviso to paragraph (a) of the following words:
- “Provided that, except if such principal has not been disclosed or the name of another agent or his own name is stated on the bill of entry as contemplated in section 64B(6) or the principal is a person outside the Republic, such agent or person shall cease to be so liable if he proves that—”; and
- (b) by addition of the following paragraph to subsection (2):
- “(c) For the purposes of the proviso to paragraph (a) a principal outside the Republic shall be deemed to include the consignee in a country outside the Republic shown on a bill of entry for removal in bond of imported goods.”.

Insertion of section 99A in Act 91 of 1964

69. The following section is hereby inserted in the Customs and Excise Act, 1964, after section 99:

“Consultant and agent not being clearing agent required to register

99A. (1) No person, except—

- (a) a licensed clearing agent referred to in section 64B; or
 - (b) a person specified by rule,
- shall, from a date specified by the Commissioner by notice in the *Gazette*, represent any principal referred to in section 99(2) as a consultant or agent for the purpose of transacting any business on behalf of such principal in relation to customs and excise matters unless such a person is registered with the Commissioner.

(2) An application for such registration shall be made on the form prescribed by the Commissioner by rule and the applicant shall comply with all the requirements specified therein and any additional requirements that may be prescribed in any other rule and as may be determined by the Commissioner in each case.”.

Amendment of section 101 of Act 91 of 1964, as substituted by section 18 of Act 85 of 1968 and amended by section 12 of Act 98 of 1980 and section 63 of Act 45 of 1995

70. Section 101 of the Customs and Excise Act, 1964, is hereby amended by the insertion after subsection (2A) of the following subsection:

“(2B) Any person referred to in subsection (1) shall keep and produce on

skip, voertuig, houer of ander vervoertoerusting, installasie, stof of goedere kragtens hierdie Wet aangehou of beslag op gelē of verbeur aan die eienaar daarvan aangelewer word, onderworpe aan betaling van enige reg wat ten opsigte daarvan betaalbaar is en enige koste wat in verband met die aanhouding of beslaglegging of verbeuring aangegaan is, en aan die voorwaardes (met inbegrip van voorwaardes wat voorsiening maak vir die betaling van 'n bedrag [gelyk aan] van hoogstens die waarde vir belastingdoeleindes van sodanige skip, voertuig, houer of ander vervoertoerusting, installasie, stof of goedere plus enige onbetaalde reg daarop) wat hy goedvind, of kan op die voorwaardes wat hy goedvind enige pene wat ingevolge hierdie Wet opgeloop is, verminder of kwytskeld [: **Met dien verstande dat indien die eienaar sodanige voorwaardes aanvaar, hy daarna nie geregtyg is om enige aksie vir skadevergoeding weens die aanhouding, beslaglegging of verbeuring in te stel of daarmee voort te gaan nie].”.**

Wysiging van Artikel 99 van Wet 91 van 1964, soos gewysig deur artikel 15 van Wet 95 van 1965, artikel 17 van Wet 85 van 1968, artikel 7 van Wet 98 van 1970, artikel 34 van Wet 112 van 1977, artikel 12 van Wet 110 van 1979, artikel 24 van Wet 86 van 1982, artikel 62 van Wet 45 van 1995 en artikel 71 van Wet 30 van 1998

- 20 **68. Artikel 99 van die Doeane- en Aksynswet, 1964, word hierby gewysig—**
- (a) **deur in subartikel (2) die woorde wat paragraaf (i) van die voorbehoudsbepaling by paragraaf (a) voorafgaan deur die volgende woorde te vervang:**
“Met dien verstande dat, behalwe indien sodanige prinsipaal nie geopenbaar is nie of 'n ander agent se naam of sy eie naam aangedui word op die klaringsbrief soos in artikel 64B(6) beoog of die prinsipaal 'n persoon buite die Republiek is, so 'n agent of persoon ophou om aldus aanspreeklik te wees indien hy bewys dat—; en
 - (b) **deur die volgende paragraaf by subartikel (2) te voeg:**
“(c) Vir die doeleindes van die voorbehoudsbepaling by paragraaf (a) word 'n prinsipaal buite die Republiek geag die geadresseerde in 'n land buite die Republiek in te sluit wat op 'n klaringsbrief vir verwydering onder waarborg van ingevoerde goedere aangetoon word.'”.

Invoeging van Artikel 99A in Wet 91 van 1964

- 35 **69. Die volgende artikel word hierby in die Doeane- en Aksynswet, 1964, na artikel 99 ingevoeg:**

“Konsultant en agent wat nie klaringsagent is nie, moet registreer

- 99A. (1) Niemand behalwe—**
- | | |
|----|--|
| 40 | (a) 'n gelisensieerde klaringsagent in artikel 64B bedoel; of
(b) 'n persoon by reël vermeld,
mag, vanaf 'n datum wat deur die Kommissaris by kennisgewing in die <i>Staatskoerant</i> bepaal word, enige prinsipaal in artikel 99(2) bedoel, verteenwoordig as konsultant of agent vir die doel van die aangaan van enige besigheid namens sodanige prinsipaal in doeane- en aksynsaangeleenthede nie, tensy sodanige persoon by die Kommissaris geregistreer is. |
| 45 | (2) 'n Aansoek om sodanige registrasie word gedoen op die vorm deur die Kommissaris by reël voorgeskryf en die aansoeker moet aan al die vereistes daarin vermeld, voldoen, en enige bykomende vereistes wat in enige ander reël voorgeskryf word en wat deur die Kommissaris in elke gevval bepaal word.”. |

Wysiging van artikel 101 van Wet 91 van 1964, soos vervang deur artikel 18 van Wet 85 van 1968 en gewysig deur artikel 12 van Wet 98 van 1980 en artikel 63 van Wet 45 van 1995

- 55 **70. Artikel 101 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur die volgende subartikel na subartikel (2A) in te voeg:**

“(2B) 'n In subartikel (1) bedoelde persoon moet enige data wat op 'n

Act No. 53, 1999

REVENUE LAWS AMENDMENT ACT, 1999

demand any data created by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983), including data in the electronic form in which it was originally created or in which it is stored for the purposes of backing up such data."

Amendment of section 114 of Act 91 of 1964, as amended by section 33 of Act 105 of 1969, section 12 of Act 71 of 1975, section 36 of Act 112 of 1977, section 13 of Act 101 of 1985, section 32 of Act 84 of 1987, section 37 of Act 59 of 1990 and section 34 of Act 34 of 1997 5

71. Section 114 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the addition to paragraph (b) of subsection (1) of the following proviso: 10

“Provided that, notwithstanding anything to the contrary in any other law contained, the Commissioner may, on good cause shown, direct at any time on such conditions as the Commissioner may in each case impose, that such thing, of which the person by whom the debt is due is not the owner, be delivered with the concurrence of such person, to the owner thereof on payment of the debt due to the State secured by the value of such thing at the time of such delivery and any reasonable costs and expenses incurred by and charges due to the Commissioner in respect of any detention in terms of subsection (2)”;

(b) by the substitution for subsection (2) of the following subsection— 20

“(2) (a) The Commissioner or an officer may detain anything referred to in subsection (1)(a) by sealing, marking, locking, fastening or otherwise securing or impounding it on the premises where it is found or by removing it to a place of security determined by the Commissioner: Provided that the Commissioner may allow any such thing to be used under such conditions as he may impose in each case which conditions shall include that the person who is allowed to use such thing shall not enter into any agreement whereby—

- (i) ownership or possession of such thing is transferred or relinquished in any manner whatsoever to any other person;
- (ii) such thing is pledged or otherwise hypothecated in favour of any other person.

(b) (i) Any agreement entered into contrary to those conditions shall be null and void.

(ii) If such person so enters into any such agreement or otherwise deals with such thing contrary to any conditions imposed by the Commissioner, an officer may detain such thing wheresoever and in possession of whomsoever found and remove it to a place of security, whereafter the Commissioner may dispose thereof at any time as contemplated in subsection (1)(b) if the debt has not been paid.

(iii) The person by whom the debt is due shall be liable for all reasonable costs and expenses incurred by and charges due to the Commissioner in respect of such detention or removal of the thing concerned.”; and

(c) by the substitution in subsection (2A) for the words preceding paragraph (a) of the following words: 45

“Except with the permission of the Commissioner, no person shall remove—”.

Substitution of section 118 of Act 91 of 1964

72. The following section is hereby substituted for section 118 of the Customs and Excise Act, 1964: 50

“Delegation of powers and assignment of duties

118. The Minister may, subject to such conditions as he may in each case impose—

'rekenaar' soos in artikel 1 van die Wet op Rekenaargetuienis, 1983 (Wet No. 57 van 1983), omskryf, geskep is, met inbegrip van data in die elektroniese vorm waarin dit oorspronklik geskep is of waarin dit gestoor word vir die doeleindes om sodanige data te rugsteun, hou en op versoek voorlê."

5 Wysiging van artikel 114 van Wet 91 van 1964, soos gewysig deur artikel 33 van Wet 105 van 1969, artikel 12 van Wet 71 van 1975, artikel 36 van Wet 112 van 1977, artikel 13 van Wet 101 van 1985, artikel 32 van Wet 84 van 1987, artikel 37 van Wet 59 van 1990, en artikel 34 van Wet 34 van 1997

71. Artikel 114 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- 10 (a) deur die volgende voorbehoudsbepaling by paragraaf (b) van subartikel (1) te voeg:

“Met dien verstande dat, ondanks andersluidende bepalings van enige ander wet, die Kommissaris, op goeie gronde aangetoon, te eniger tyd kan gelas op die voorwaardes wat die Kommissaris in elke geval oplê, dat so iets, waarvan die persoon deur wie die skuld verskuldig word nie die eienaar is nie, met die instemming van sodanige persoon aan die eienaar daarvan afgelewer word, by betaling van die skuld aan die Staat wat deur die waarde van die saak ten tyde van sodanige aflewering verseker is en enige redelike koste en uitgawes aangegaan deur en gelde verskuldig aan die Kommissaris ten opsigte van enige aanhouding ingevolge subartikel (2);”;

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

“(2) (a) Die Kommissaris of 'n beamppte kan enigets waarop subartikel (1)(a) betrekking het, aanhou deur dit op die plek waar dit gevind word, te verseël, te merk, te sluit, vas te maak of andersins te bewaar of in beslag te neem of deur dit na 'n deur die Kommissaris bepaalde plek van veiligheid te verwyder: Met dien verstande dat die Kommissaris kan toelaat dat so iets op die voorwaardes wat hy in elke geval oplê, gebruik word, welke voorwaardes moet insluit dat die persoon wat toegelaat word om so iets te gebruik, nie enige ooreenkoms mag aangaan ingevolge waarvan—

- (i) eiendomsreg oor of besit van so iets oorgedra of van afstand gedoen word op enige wyse hoegenaamd aan 'n ander persoon nie;
(ii) so iets verpand of andersins beswaar word ten gunste van 'n ander persoon nie.

(b) (i) Enige ooreenkoms aangegaanstrydig met daardie voorwaardes is nietig.

(ii) Indien sodanige persoon enige sodanige ooreenkoms aangaan of andersins met so iets handelstrydig met die voorwaardes deur die Kommissaris opgelê, kan 'n beamppte so iets aanhou waar en in wie se besit so iets ook al gevind word, en dit verwyder na 'n plek van veiligheid, waarna die Kommissaris daaroor te eniger tyd kan beskik soos in subartikel (1)(b) beoog indien die skuld nie betaal is nie.

(iii) Die persoon deur wie die skuld verskuldig is, is aanspreeklik vir alle redelike koste en uitgawes aangegaan deur en gelde verskuldig aan die Kommissaris ten opsigte van sodanige aanhouding of verwydering van die betrokke saak;”;

- (c) deur in subartikel (2A) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“[Niemand mag] Behalwe met die toestemming van die Kommissaris, mag niemand—”.

Vervanging van artikel 118 van Wet 91 van 1964

72. Artikel 118 van die Doeane- en Aksynswet, 1964, word hierby deur die volgende artikel vervang:

55 “Delegasie van bevoegdhede en opdra van pligte

118. Die Minister kan, onderworpe aan die voorwaardes wat hy in elke geval oplê—

Act No. 53, 1999

REVENUE LAWS AMENDMENT ACT, 1999

- (a) delegate any of the powers which may be exercised or assign any of the duties which shall be performed by him in accordance with the provisions of sections 48, 49, 51, 52, 53, 56, 56A, 57, 60(3), 75(15), 99(4), 105 and 113(4) to the Deputy Minister of Finance;
- (b) and for such period as he may specify in each case, delegate any of his powers under this Act (except any power relating to the amendment of any Schedule or the making of any regulation) to the Commissioner.”.

5

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

73. Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, to the Customs and Excise Act, 1964, made under section 48, 56 or 75(15) of that Act during the calendar year ending on 31 December 1998 shall not lapse by virtue of the provisions of section 48(6), 56(3) or 75(16) of that Act.

10

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, section 19 of Act 106 of 1980, section 3 of Act 118 of 1984, section 17 of Act 87 of 1988, section 36 of Act 9 of 1989, section 3 of Act 69 of 1989, section 5 of Act 136 of 1991, section 4 of Act 20 of 1994 and section 77 of Act 30 of 1998

15

74. Section 1 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the definition of “banker” of the following definition:

20

“‘banker’ means a banking institution which is registered under the Banks Act, [1965 (Act No. 23 of 1975)] 1990 (Act No. 94 of 1990), and includes the South African Reserve Bank;”.

Amendment of section 19 of Act 77 of 1968, as substituted by section 6 of Act 69 of 1989

25

75. Section 19 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words preceding the proviso of the following words:

“The duty payable in terms of Item 6 of Schedule 1 in respect of any debit entry in an account shall not be denoted by means of stamps but shall be paid by the banker or person carrying on the credit card scheme concerned or by the [mutual building society or building society concerned or the Post Office Savings Bank] 30 institution or Postbank, as the case may be, within a period of 21 days after the end of the month in which that entry is made or, where he satisfies the Commissioner that by reason of the accounting procedures adopted by him the duty cannot conveniently be paid within that period, within such further period as the Commissioner may allow, and if he fails to do so he shall, in addition to the amount of that duty, pay a penalty equal to 10 per cent of that amount for every month or part thereof reckoned from the end of the period within which that amount was payable as provided in this section to the date of payment of that amount.”.

35

Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 66 of 1973, section 10 of Act 88 of 1974, section 20 of Act 106 of 1980, section 6 of Act 87 of 1982, section 5 of Act 92 of 1983, section 25 of Act 87 of 1988, section 8 of Act 69 of 1989, section 7 of Act 136 of 1991 and section 80 of Act 30 of 1998

40

76. (1) Section 23 of the Stamp Duties Act, 1968, is hereby amended—

45

(a) by the substitution for paragraph (a) of subsection (10) of the following paragraph:

“(a) any alteration of share capital or shares in terms of section 75, or [a reduction of share capital] any acquisition of shares in terms of section [83 or 84] 85, of the Companies Act, 1973 (Act No. 61 of 1973);”;

- (a) enige van die bevoegdhede of pligte wat deur hom uitgevoer of verrig kan of moet word ooreenkomsdig die bepalings van artikels 48, 49, 51, 52, 53, 56, 56A, 57, 60(3), 75(15), 99(4), 105 en 113(4) aan die Adjunkminister van Finansies deleger of opdra;
- 5 (b) en vir die tydperk wat hy in elke geval aandui, enige van sy bevoegdhede kragtens hierdie Wet (behalwe 'n bevoegdheid wat op die wysiging van enige Bylae of die uitvaardiging van 'n regulasie betrekking het) aan die Kommissaris deleger.”.

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

- 10 73. Elke wysiging of intrekking van of invoeging in Bylaes Nos. 1 tot en met 6, by die Doeane- en Aksynswet, 1964, kragtens artikel 48, 56 of 75(15) van daardie Wet aangebring gedurende die kalenderjaar wat op 31 Desember 1998 geëindig het, verval nie uit hoofde van die bepalings van artikel 48(6), 56(3) of 75(16) van daardie Wet nie.

Wysiging van artikel 1 van Wet 77 van 1968, soos gewysig deur artikel 16 van Wet 15 103 van 1969, artikel 5 van Wet 66 van 1973, artikel 7 van Wet 88 van 1974, artikel 19 van Wet 106 van 1980, artikel 3 van Wet 118 van 1984, artikel 17 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989, artikel 3 van Wet 69 van 1989, artikel 5 van Wet 136 van 1991, artikel 4 van Wet 20 van 1994 en artikel 77 van Wet 30 van 1998

- 20 74. Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig deur die omskrywing van "bankier" deur die volgende omskrywing te vervang:
 “‘bankier’ 'n bankinstelling wat ingevolge die Bankwet, [1965 (Wet No. 23 van 1965)] 1990 (Wet No. 94 van 1990), geregistreer is en ook die Suid-Afrikaanse Rerserwebank;”.

- 25 Wysiging van artikel 19 van Wet 77 van 1968, soos vervang deur artikel 6 van Wet 69 van 1989

75. Artikel 19 van die Wet op Seëlregte, 1968, word hierby gewysig deur die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

- 30 “Die seëlreg wat ingevolge Item 6 van Bylae 1 betaalbaar is ten opsigte van 'n debetpos in 'n rekening word nie deur middel van seëls aangedui nie maar word betaal deur die bankier of persoon wat die betrokke kredietkaartskema bedryf of deur die [betrokke onderlinge bouvereniging of bouvereniging of die Pos-spaarbank] instelling of Posbank, na gelang van die geval, binne 'n tydperk van 21 dae na die einde van die maand waarin daardie pos gemaak word of, waar hy die Kommissaris oortuig dat as gevolg van die rekeningkundige procedures wat deur hom toegepas word dit nie geleë is om die seëlreg binne daardie tydperk te betaal nie, binne die verdere tydperk wat die Kommissaris toelaat, en indien hy versuum om dit te doen, moet hy benewens die bedrag aan seëlreg, 'n boete betaal gelyk aan 10 persent van dié bedrag vir elke maand of gedeel daarvan, gereken van die einde van die tydperk waarin die bedrag volgens voorskrif van hierdie artikel betaalbaar was tot die datum van die betaling van die bedrag;”.

Wysiging van artikel 23 van Wet 77 van 1968, soos gewysig deur artikel 20 van Wet 103 van 1969, artikel 13 van Wet 92 van 1971, artikel 11 van Wet 89 van 1972, artikel 10 van Wet 66 van 1973, artikel 10 van Wet 88 van 1974, artikel 20 van Wet 45 106 van 1980, artikel 6 van Wet 87 van 1982, artikel 5 van Wet 92 van 1983, artikel 25 van Wet 87 van 1988, artikel 8 van Wet 69 van 1989, artikel 7 van Wet 136 van 1991 en artikel 80 van Wet 30 van 1998

76. (1) Artikel 23 van die Wet op Seëlregte, 1968, word hierby gewysig—
 50 (a) deur paragraaf (a) van subartikel (10) deur die volgende paragraaf te vervang:
 “(a) 'n wysiging van aandelekapitaal of aandele ingevolge artikel 75, of [‘n vermindering van aandelekapitaal] enige verkryging van aandele ingevolge artikel [83 of 84] 85, van die Maatskappywet, 1973 (Wet No. 61 van 1973);”;

(b) by the substitution for paragraph (b) of subsection (12A) of the following paragraph:

“(b) ‘cancelled’ means cancelled in whole or in part and includes the cancellation of shares acquired in terms of section 85 of the Companies Act, 1973, and ‘cancellation’ shall be construed accordingly.”.

(2) Subsection (1) shall be deemed to have come into operation on 30 June 1999.

5

Amendment of section 30 of Act 77 of 1968, as amended by section 15 of Act 97 of 1993 and section 20 of Act 27 of 1997

77. Section 30 of the Stamp Duties Act, 1968, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

10

“(1) Any duty or penalty payable under this Act shall be a debt due to the State.

(2) The provisions of the Income Tax Act, 1962 (Act No. 58 of 1962), relating to—

(a) the recovery of tax as contained in section 91; and

(b) the power to appoint an agent as contained in section 99, of that Act, shall apply *mutatis mutandis* to the duty and penalties imposed by this Act.”.

15

Amendment of Item 6 of Schedule 1 to Act 77 of 1968, as inserted by section 10 of Act 118 of 1984 and amended by section 4 of Act 71 of 1986, section 32 of Act 87 of 1988, section 7 of Act 136 of 1992 and section 15 of Act 37 of 1996

20

78. Item 6 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for paragraph (c) of the definition of “debit entry” of the following paragraph:

“(c) any other account at—

(i) an institution which carries on ‘the business of a bank’ as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990); or

(ii) the Postbank operated in terms of the provisions of Chapter VI of the Postal Services Act, 1998 (Act No. 124 of 1998),

into which the depositor may deposit money and from which the institution or the Postbank where the account is held, may make a payment to any other person or electronically transfer an amount to the account of any other person.”.

25

30

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993, section 17 of Act 140 of 1993, section 8 of Act 20 of 1994 and section 86 of Act 30 of 1998

35

40

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

(a) by the deletion of paragraph (xvi); and

(b) by the substitution in the Afrikaans text for items (aa) and (bb) of subparagraph (ii) of paragraph (e) under the heading “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” of the following items:

“(aa) dat daardie takregister gehou word in ’n land waarin daar ’n erkende [effektebeurs] aandelebeurs is;

(bb) dat handelseffekte wat deur dié maatskappy of regspersoon uitgereik is en wat van dieselfde aard is as die handelseffekte waarvan die registrasie van oordrag geskied, gereeld op daardie [effektebeurs] aandelebeurs gekoop en verkoop word; en”.

50

- (b) deur paragraaf (b) van subartikel (12A) deur die volgende paragraaf te vervang:
 “(b) beteken ‘ingetrek’ in die geheel of gedeeltelik ingetrek en ook die kansellasie van aandele ingevolge artikel 85 van die Maatskappywet, 1973, verkry, en word ‘intrekking’ en ‘ingetrekte’ dienooreenkomsdig uitgelê;”.
- 5 (2) Subartikel (1) word geag op 30 Junie 1999 in werking te getree het.

Wysiging van artikel 30 van Wet 77 van 1968, soos gewysig deur artikel 15 van Wet 97 van 1993 en artikel 20 van Wet 27 van 1997

- 10 77. Artikel 30 van die Wet op Seëlregte, 1968, word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:
 “(1) ‘n Seëlreg of boete wat ingevolge hierdie Wet betaalbaar is, maak ’n skuld verskuldig aan die Staat uit.
 (2) Die bepalings van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), met betrekking tot—
 15 (a) die invordering van belasting soos vervat in artikel 91; en
 (b) die bevoegdheid om ’n agent aan te stel soos vervat in artikel 99, van daardie Wet, is *mutatis mutandis* van toepassing met betrekking tot die seëlreg en boetes deur hierdie Wet opgele.”.
- 20 Wysiging van Item 6 van Bylae 1 by Wet 77 van 1968, soos ingevoeg deur artikel 10 van Wet 118 van 1984 en gewysig deur artikel 4 van Wet 71 van 1986, artikel 32 van Wet 87 van 1988, artikel 7 van Wet 136 van 1992 en artikel 15 van Wet 37 van 1996

- 25 78. Item 6 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig deur paragraaf (c) van die omskrywing van “debitpos” deur die volgende paragraaf te vervang:

- “(c) enige ander rekening by—
 30 (i) ’n instelling wat ‘die bedryf van ’n bank’, soos omskryf in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990), bedryf; of
 (ii) die Posbank bedryf ingevolge die bepalings van Hoofstuk VI van die Posdienstewet, 1998 (Wet No. 124 van 1998), waarin die depositant geld kan deponeer en waaruit die instelling of die Posbank waar die rekening gehou is, ’n betaling aan enige ander persoon kan maak of elektronies ’n bedrag kan oordra na die rekening van enige ander persoon.”.

- 35 Wysiging van Item 15 van Bylae 1 by Wet 77 van 1968, soos vervang deur artikel 13 van Wet 89 van 1972 en gewysig deur artikel 16 van Wet 66 van 1973, artikel 21 van Wet 88 van 1974, artikel 3 van Wet van 104 van 1976, artikel 20 van Wet 114 van 1977, artikel 8 van Wet 95 van 1978, artikel 8 van wet 102 van 1979, artikel 21 van Wet 106 van 1980, artikel 9 van Wet 99 van 1981, artikel 7 van Wet 87 van 1982, artikel 14 van Wet 92 van 1983, artikel 11 van Wet 118 van 1984, artikel 11 van Wet 81 van 1985, artikel 5 van Wet 71 van 1986, artikel 13 van Wet 108 van 1986, artikel 11 van Wet 86 van 1987, artikel 33 van Wet 87 van 1988, artikel 14 van Wet 69 van 1989, artikel 9 van Wet 136 van 1991, artikel 8 van Wet 136 van 1992, artikel 17 van Wet 97 van 1993, artikel 17 van Wet 140 van 1993, artikel 8 van Wet 20 van 1994 en artikel 86 van Wet 30 van 1998

- 40 79. (1) Item 15 van Bylae 1 by die Wet op Seëlregte, 1968, word hierby gewysig—
 (a) deur paragraaf (xvi) te skrap; en
 45 (b) deur items (aa) en (bb) van subparagraaf (ii) van paragraaf (e) onder die opschrift “*Vrystellings van die seëlreg ingevolge paragraaf (3)*” deur die volgende items te vervang:
 “(aa) dat daardie takregister gehou word in ’n land waarin daar ’n erkende [effektebeurs] aandelebeurs is;
 50 (bb) dat handelseffekte wat deur dié maatskappy of regspersoon uitgereik is en wat van dieselfde aard is as die handelseffekte waarvan die registrasie van oordrag geskied, gereeld op daardie [effektebeurs] aandelebeurs gekoop en verkoop word; en”.

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

Amendment of section 98 of Act 61 of 1973, as amended by section 4 of Act 64 of 1977, section 15 of Act 69 of 1989, section 6 of Act 35 of 1998 and section 15 of Act 37 of 1999

5

80. (1) Section 98 of the Companies Act, 1973, is hereby amended by the deletion of the proviso to subsection (2).

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of the issue of any share on or after that date.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996 and section 23 of Act 27 of 1997

81. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in paragraph (b) of the definition of “commercial rental establishment” for the amount “R24 000” of the amount “R48 000”; 15

(b) by the substitution in subparagraph (ii) of paragraph (bA) of the definition of “commercial rental establishment” for the amount “R24 000” of the amount “R48 000”; 20

(c) by the insertion of the word “or” at the end of paragraph (c) of the definition of “commercial rental establishment”; 25

(d) by the addition of the following paragraph to the definition of “commercial rental establishment”:

“(d) any place of detention managed, in terms of an agreement with a public authority, by any other person;”; 25

(e) by the substitution for paragraph (vi) of the proviso to the definition of “enterprise” of the following paragraph:

“(vi) the activity of underwriting insurance business by Underwriting Members of Lloyd’s of London, to the extent that contracts of insurance are concluded in the Republic, shall be deemed [not] to be the carrying on of an enterprise;”; 30

(f) by the substitution for the definition of “supply” of the following definition: “ ‘supply’ includes performance in terms of a sale, rental agreement, instalment credit agreement and all other forms of supply, whether voluntary, compulsory or by operation of law, irrespective of where the supply is effected, and any derivative of ‘supply’ shall be construed accordingly.”; 35

(g) by the substitution for the definition of “welfare organization” of the following definition:

“ ‘welfare organization’ means any association not for gain which is registered under the [Fund-raising Act, 1978 (Act No. 107 of 1978)] Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), if it carries on or intends to carry on activities consisting of the provision of food, meals, board, lodging, clothing or other necessities, comforts or amenities to aged or indigent persons, children or physically or mentally handicapped persons.”. 40 45

(2) Subsection (1)(e) shall come into operation on 1 January 2001.

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

Wysiging van artikel 98 van Wet 61 van 1973, soos gewysig deur artikel 4 van Wet 64 van 1977, artikel 15 van Wet 69 van 1989, artikel 6 van Wet 35 van 1998 en artikel 15 van Wet 37 van 1999

80. (1) Artikel 98 van die Maatskappywet, 1973, word hierby gewysig deur die voorbehoudsbepaling by subartikel (2) te skrap.

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van enige aandeel op of na daardie datum uitgereik.

10 Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, paragraaf 1 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1996 en artikel 23 van Wet 27 van 1997

15 81. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur in paragraaf (b) van die omskrywing van "kommersiële huurinrigting" die bedrag "R24 000" deur die bedrag "R48 000" te vervang;
 - (b) deur in subparagraph (ii) van paragraaf (bA) van die omskrywing van "kommersiële huurinrigting" die bedrag "R24 000" deur die bedrag "R48 000" te vervang;
 - (c) deur die woord "of" aan die einde van paragraaf (c) van die omskrywing van "kommersiële huurinrigting" in te voeg;
 - (d) deur die volgende paragraaf by die omskrywing van "kommersiële huurinrigting" te voeg:
"(d) enige plek van aanhouding bestuur ingevolge 'n ooreenkoms met 'n openbare bestuur deur enige ander persoon;";
 - (e) deur die omskrywing van "lewering" deur die volgende omskrywing te vervang:
"'lewering' prestasie ingevolge 'n verkoop, huurooreenkoms, paaimementkredietooreenkoms en alle ander vorms van lewering, hetso vrywillig, verplig of deur regswerking, ongeag waar die lewering bewerkstellig word, en word 'lever' en enige afleiding daarvan dien-ooreenkombig uitgelê;";
 - (f) deur paragraaf (vi) van die voorbehoudsbepaling by die omskrywing van "onderneming" deur die volgende paragraaf te vervang:
"(vi) die bedrywigheid van onderskrywingsbesigheid deur versekeraaars van 'Lloyd's of London', vir sover versekeringskontrakte in die Republiek aangegaan word, geag word [nie] die bedryf van 'n onderneming te wees [nie];";
 - (g) deur die omskrywing van "welsynsorganisasie" deur die volgende omskrywing te vervang:
"'welsynsorganisasie' 'n vereniging sonder winsoogmerk wat ingevolge die [Wet op Fondsinsameling, 1978 (Wet No. 107 van 1978)] Wet op Organisasies sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), geregistreer is, indien hy bedrywighede voortsit of van voorname is om bedrywighede voort te sit wat bestaan uit die verskaffing van kos, maaltye, losies, inwoning, klerasie of ander noedsaaklikehede, geriewe of genietinge aan bejaarde of behoeftige persone, kinders of liggaamlik of geestelik gestremde persone;".
- (2) Subartikel (1)(f) tree op 1 Januarie 2001 in werking.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996, section 24 of Act 27 of 1997 and section 87 of Act 30 of 1998

82. Section 2 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(k) The buying or selling of futures contracts and option contracts as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), or any similar contract: Provided that where a supply of the underlying goods or services takes place, that supply shall be deemed to be a separate supply of goods or services at the open market value thereof: Provided further that the open market value of those goods or services shall not be deemed to be consideration for a financial service as contemplated in this paragraph;”; and

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

“(v) ‘long-term insurance policy’ means any policy of insurance issued in the ordinary course of carrying on long-term insurance business as defined in section 1(1) of the [Insurance Act, 1943 (Act No. 27 of 1943)] Long-term Insurance Act, 1998 (Act No. 52 of 1998);”.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, paragraph 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996 and section 25 of Act 27 of 1997

5

10

15

20

25

83. Section 8 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for the first and second provisos to subsection (2) of the following proviso:

“Provided that—

- (i) where such right is so deemed to be supplied that supply shall be deemed to be a supply of a service;

(ii) [Provided further that] this subsection shall not apply to any such goods or right [in respect of the acquisition of which by such vendor] to the extent that a deduction in terms of section 16(3) has not been allowed or will not be allowed, in respect of the acquisition or use by such vendor, where such vendor on or before 30 June 2000—

[i] was registered pursuant to an application for registration under section 23 due to a bona fide error on the part of any person; and

[ii] has on or before 30 June 1992 requested the Commissioner in writing to cancel his registration and such request is granted by the Commissioner]

(aa) ceases to be a vendor for the sole reason that the total value of taxable supplies made by that vendor in the preceding period of 12 months has not exceeded R20 000; or

(bb) ceases to be a vendor in respect of a commercial rental establishment or a residential rental establishment for the sole reason that the total receipts and accruals derived from that commercial rental establishment or residential rental establishment in the preceding period of 12 months have not exceeded R48 000;

(iii) this subsection shall not apply to fixed property to the extent that a deduction in terms of section 16(3) has not been allowed or will not be allowed in respect of that fixed property or any improvements thereto, where such vendor, on or before 30 June 2000, requests the Commissioner in writing, in the circumstances contemplated in section 24(2), to cancel his registration.”;

30

35

40

45

50

55

Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet 136 van 1991, paragraaf 2 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 13 van Wet 136 van 1992, artikel 10 van Wet 20 van 1994, artikel 19 van Wet 37 van 1996, artikel 24 van Wet 27 van 1997 en artikel 87 van Wet 30 van 1998

5 **82.** Artikel 2 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur paragraaf (k) van subartikel (1) deur die volgende paragraaf te vervang:
“(k) die koop of verkoop van termynkontrakte of opsiekontrakte soos omskryf in artikel 1 van die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), of enige soortgelyke kontrak: Met dien verstande dat waar 'n lewering van die onderliggende goed of dienste plaasvind, daardie lewering geag word 'n afsonderlike lewering van goed of dienste teen die ope markwaarde daarvan te wees: Met dien verstande voorts dat die ope markwaarde van daardie goed of dienste nie geag word vergoeding te wees nie vir 'n finansiële diens soos beoog in hierdie paragraaf;”;
- (b) deur paragraaf (iv) van subartikel (2) deur die volgende paragraaf te vervang:
“(iv) 'langtermynversekeringspolis' enige versekeringspolis wat uitgereik word in die gewone loop van die dryf van langtermynversekeringsbezigheid soos in artikel 1(1) van die [Versekeringswet, 1943 (Wet No. 27 van 1943)] Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), omskryf;”.

Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 1991, paragraaf 4 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 15 van Wet 136 van 1992, artikel 24 van Wet 97 van 1993, artikel 11 van Wet 20 van 1994, artikel 20 van Wet 46 van 1996 en artikel 25 van Wet 27 van 1997

83. Artikel 8 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur die eerste en tweede voorbehoudsbepalings by subartikel (2) deur die volgende voorbehoudsbepaling te vervang:
“Met dien verstande dat—
(i) waar bedoelde reg aldus geag word gelewer te word, daardie lewering geag word 'n lewering van 'n diens te wees;
(ii) [Met dien verstande voorts dat] hierdie subartikel nie van toepassing is nie op enige genoemde goed of reg [ten opsigte van die verkryging waarvan deur daardie ondernemer] in die mate wat 'n aftrekking ingevolge artikel 16(3) ontsê is of nie toegelaat sal word nie, ten opsigte van die verkryging of aanwending deur daardie ondernemer, waar daardie ondernemer op of voor 30 Junie 2000—
(i) weens 'n bona fide-fout aan enige persoon se kant na aanleiding van 'n aansoek om registrasie ingevolge artikel 23 geregistreer is; en
(ii) voor of op 30 Junie 1992 die Kommissaris skriftelik versoek het om sy registrasie te kanselleer en daardie versoek deur die Kommissaris toegestaan word]
(aa) ophou om 'n ondernemer te wees slegs omdat die totale waarde van belasbare leweringe deur daardie persoon gedoen in die voorafgaande tydperk van 12 maande nie R20 000 te bove gegaan het nie; of
(bb) ophou om 'n ondernemer te wees ten opsigte van 'n kommersiële huurinrigting of 'n inwonershuurinrigting slegs omdat die totale ontvangste en toevallings uit dié kommersiële huurinrigting of inwonershuurinrigting verkry nie R48 000 in die voorafgaande 12 maande te bove gegaan het nie;
(iii) hierdie subartikel nie van toepassing is op vaste eiendom nie in die mate wat 'n aftrekking ingevolge artikel 16(3) ontsê is of nie toegelaat sal word nie, ten opsigte van daardie vaste eiendom of enige verbeterings daarvan, waar daardie ondernemer voor of op 30 Junie 2000 die Kommissaris skriftelik versoek het om sy registrasie, in die omstandighede soos uiteengesit in artikel 24(2), te kanselleer.”;

(b) by the insertion of the following subsection after subsection (2):

“(2A) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor solely as a consequence of the circumstances contemplated in paragraph (ii) of the proviso to subsection (2), the tax payable to the Commissioner in respect of that deemed supply shall, if the amount thereof is in excess of R3 000, be paid to the Commissioner in so many equal monthly instalments as the Commissioner may allow, the last of which shall not be paid later than 28 February 2001.”; and

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

“(a) For the purposes of this Act, any lay-by agreement (as defined in Government Notice No. R1234 of 13 June 1980, as amended by Government Notice No. R1814 of 29 August 1980, issued in terms of section 9 of the [Price Control Act, 1964 (Act No. 25 of 1964)] Sale and Service Matters Act, 1964 (Act No. 25 of 1964)), whereby goods are sold for a consideration not exceeding R10 000 and are reserved by deposit for delivery when the purchase price or a determined portion thereof is paid shall not be deemed to be a supply of goods or services unless and until the goods are delivered to the purchaser.”.

5

10

15

20

Amendment of Section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996 and section 27 of Act 27 of 1997

84. Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (i) of the proviso to subsection (2) of the following paragraph:

(i) there shall be excluded from such consideration the value of any postage stamp as defined in section 1 of the Post Office Act, 1958 (Act No. 44 of 1958), when used in the payment of consideration for any service supplied by the [Department of Posts and Telecommunications] postal company as defined in section 1 of the Post Office Act, 1958;”.

30

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, paragraph 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997 and section 89 of Act 30 of 1998

35

85. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(a) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and [has exported the goods]—

(i) the supplier has exported the goods in the circumstances contemplated in paragraph (a), (b) or (c) of the definition of ‘exported’ in section (1); or

(ii) the goods have been exported by the recipient and the supplier has elected to supply the goods at the zero rate as contemplated in Part 2 of an export incentive scheme referred to in paragraph (d) of the definition of ‘exported’ in section 1: Provided that—

(aa) where a supplier has supplied the goods to the recipient in the Republic otherwise than in terms of this subparagraph, such supply shall not be charged with tax at the rate of zero per cent; and

(bb) where the goods have been removed from the Republic by the recipient in accordance with the provisions of an export incentive scheme referred to in paragraph (d) of the definition

40

45

50

- (b) deur die volgende subartikel na subartikel (2) in te voeg:
- “(2A) Waar ’n lewering ingevolge subartikel (2) geag word deur ’n ondernemer gedoen te gewees het en daardie ondernemer ophou om ’n ondernemer te wees slegs as gevolg van die omstandighede soos beoog in paragraaf (ii) van die voorbehoudsbepaling by subartikel (2), is die belasting betaalbaar aan die Kommissaris in die geval van daardie geagte lewering, indien die bedrag daarvan meer as R3 000 beloop, in soveel gelyke maandelikse paaiememente aan die Kommissaris betaalbaar as wat die Kommissaris toelaat, waarvan die laaste nie later as 28 Februarie 2001 betaal mag word nie.”; en
- (c) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:
- “(a) By die toepassing van hierdie Wet word ’n bêrekoopooreenkoms (soos omskryf in Goewermentskennisgewing No. R1234 van 13 Junie 1980, soos gewysig deur Goewermentskennisgewing No. R1814 van 29 Augustus 1980, uitgereik kragtens artikel 9 van die Wet op [Prysbeheer, 1964 (Wet No. 25 van 1964)] Verkoop- en Diensaangeleenthede, 1964 (Wet No. 25 van 1964)], waarvolgens goed verkoop word teen ’n vergoeding van hoogstens R10 000 en met ’n deposito gereserveer word vir aflewering wanneer die koopsom of ’n bepaalde gedeelte daarvan betaal is, nie geag ’n lewering van goed of dienste te wees nie tensy en totdat die goed aan die koper afgelewer word.”.

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, paragraaf 5 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993, artikel 12 van Wet 20 van 1994, artikel 21 van Wet 37 van 1996, artikel 22 van Wet 46 van 1996 en artikel 27 van Wet 27 van 1997

84. Artikel 10 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (i) van die voorbehoudsbepaling by subartikel (2) deur die volgende paragraaf te vervang:
- 30 “(i) daarvan bedoelde vergoeding uitgesluit word die waarde van ’n posseël soos in artikel 1 van die Poswet, 1958 (Wet No. 44 van 1958), omskryf, wat gebruik word by die betaling vir enige diens gelewer deur die [Departement van Pos- en Telekommunikasiewese] posmaatskappy soos omskryf in artikel 1 van die Poswet, 1958;”.

35 **Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, paragraaf 6 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993, artikel 13 van Wet 20 van 1994, artikel 28 van Wet 27 van 1997 en artikel 89 van Wet 30 van 1998**

- 40 85. (1) Artikel 11 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- (a) deur paragraaf (a) van subartikel 1 deur die volgende paragraaf te vervang:
- “(a) die leweraar die goed (synde roerende goed) ingevolge ’n verkoop of paaientmentkreditooreenkoms gelewer het en [die goed uitgevoer het]—
- (i) die leweraar die goed uitgevoer het in die omstandighede in paragraaf (a), (b) of (c) van die omskrywing van ‘uitgevoer’ in artikel 1 beoog; of
- (ii) die goed deur die ontvanger uitgevoer is en die leweraar gekies het om die goed teen die nulkoers beoog in Deel 2 van ’n uitvoeraansporingskema bedoel in paragraaf (d) van die omskrywing van ‘uitgevoer’ in artikel 1, te lewer; Met dien verstande dat—
- (aa) waar ’n leweraar die goed aan die ontvanger in die Republiek gelewer het anders as ingevolge hierdie subparagraph, belasting nie op daardie lewering teen die nulkoers gehef word nie; en
- (bb) waar die goed ooreenkomsdig die bepalings van ’n uitvoeraansporingskema bedoel in paragraaf (d) van die omskrywing van ‘uitgevoer’ in artikel 1, deur die ontvanger uit die

- 5
- of ‘exported’ in section 1, such tax shall be refunded to the recipient in accordance with the provisions of section 44(9); or”;
- (b) by the insertion in subsection (1) of the word “and” at the end of subparagraph (bb) of paragraph (i) of the proviso to paragraph (e);
- (c) by the insertion in subsection (1) of the following subparagraph after subparagraph (bb) of paragraph (i) of the proviso to paragraph (e):
“(cc) in respect of supplies on or after 1 January 2000, such supplier and such recipient have at the time of the conclusion of the agreement for the disposal of such enterprise or part, as the case may be, agreed in writing that the consideration agreed upon for that supply is inclusive of tax at the rate of zero per cent;”;
- (d) by the substitution for paragraph (hB) of subsection (1) of the following paragraph:
“(hB) the goods consist of anti-knock preparations referred to in [Heading No 38.11.11.20 of PART A] subparagraph 1.4.4 of paragraph 1.4 of Schedule 1; or”;
- (e) by the substitution for subparagraph (ii) of paragraph (g) of subsection (2) of the following subparagraph:
“(ii) goods temporarily admitted into the Republic from an export country which are exempt from tax on importation under [Item 470.01, 470.02, 470.03 or 480.00] paragraph 1.12 of Schedule 1; or”;
- (f) by the substitution in subsection (2) for the words preceding item (aa) of subparagraph (ii) of paragraph (l) of the following words:
“in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—”;
- (g) by the substitution for subparagraph (iii) of paragraph (l) of subsection (2) of the following subparagraph:
“(iii) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time the services are [supplied] rendered;”;
- (h) by the addition in subsection (2) of the word “or” at the end of paragraph (p); and
- (i) by the addition to subsection (2) of the following paragraph:
“(q) the services are in terms of section 8(5) deemed to be supplied to a public authority or local authority to the extent that the payment contemplated in that section is made from donor funds granted under any international agreement to which the Government of the Republic is a party.”.
- 30
35
40
- (2) Subsection (1)(d) and (e) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 29 of Act 97 of 1993, section 15 of Act 20 of 1994 and section 30 of Act 27 of 1997

45

- 86.** (1) Section 13 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution for paragraph (iii) of the proviso to subsection (1) of the following paragraph:
“(iii) goods imported from or via Botswana, Lesotho, Swaziland or [and] Namibia shall be declared and tax paid [to an officer designated by the Commissioner for Customs and Excise] on entry into the Republic [in accordance with such procedures and at such place as the said Commissioner may prescribe by rule] as prescribed by the Commissioner in Chapter XIII of the Rules under the Customs and Excise Act.”;
- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
“(b) where such goods [are not required to be so entered, the amount of] have their origin in Botswana, Lesotho, Swaziland or Namibia and are
- 50
55

- Republiek verwyder is, daardie belasting ooreenkomstig die bepalings van artikel 44(9), aan die ontvanger terugbetaal word; of;
- (b) deur in subartikel (1) die woord "en" aan die einde van subparagraaf (bb) van paragraaf (i) van die voorbehoudsbepaling by paragraaf (e) in te voeg;
- (c) deur in subartikel (1) die volgende subparagraaf na subparagraaf (bb) van paragraaf (i) van die voorbehoudsbepaling by paragraaf (e) in te voeg:
- "(cc) ten opsigte van lewering op of na 1 Januarie 2000, daardie leweraar en daardie ontvanger ten tyde van die sluiting van die ooreenkoms vir die vandiehandsetting van daardie onderneming of gedeelte, na gelang van die geval, skriftelik ooreengekom het dat die ooreengekome vergoeding vir die lewering van belasting teen die koers van nul persent insluit;"
- (d) deur paragraaf (hB) van subartikel (1) deur die volgende paragraaf te vervang:
- "(hB) die goed bestaan uit klopweerpreparate in [Pos No 38.11.11.20 van DEEL A] subparagraaf 1.4.4 van paragraaf 1.4 van Bylae 1 vermeld; of";
- (e) deur subparagraaf (ii) van paragraaf (g) van subartikel (2) deur die volgende subparagraaf te vervang:
- "(ii) goed wat tydelik in die Republiek uit 'n uitvoerland toegelaat word wat kragtens [Item 470.01, 470.02, 470.03 of 480.00] paragraaf 1.12 van Bylae 1 by invoer van belasting vrygestel is; of";
- (f) deur in subartikel (2) die woorde wat item (aa) van subparagraaf (ii) van paragraaf (l) voorafgaan deur die volgende woorde te vervang:
- "in verband met roerende eiendom (uitgesonderd skuldobligasies, ekwiteits-effekte of deelnemersekuriteite) wat in die Republiek geleë is op die tydstip waarop die dienste gelewer word, behalwe roerende eiendom wat—";
- (g) deur subparagraaf (iii) van paragraaf (l) van subartikel (2) deur die volgende subparagraaf te vervang:
- "(iii) aan daardie persoon of enige ander persoon, behalwe in omstandighede beoog in subparagraaf (ii)(bb), indien daardie persoon of bedoelde ander persoon in die Republiek is op die tydstip waarop die dienste [gelewer verrig word];"
- (h) deur in subartikel (2) die woord "of" aan die einde van paragraaf (p) by te voeg; en
- (i) deur die volgende paragraaf by subartikel (2) te voeg:
- "(q) die dienste ingevolge artikel 8(5) geag word aan 'n openbare bestuur of plaaslike bestuur gelewer te word vir sover die betaling beoog in daardie artikel uit donateursfondse gedoen word wat ingevolge enige internationale ooreenkoms waartoe die Regering van die Republiek 'n party is, toegestaan is."
- (2) Subartikel (1)(d) en (e) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.
- 45 Wysiging van artikel 13 van Wet 89 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1991, artikel 19 van Wet 136 van 1992, artikel 29 van Wet 97 van 1993, artikel 15 van Wet 20 van 1994 en artikel 30 van Wet 27 van 1997
86. (1) Artikel 13 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- (a) deur paragraaf (iii) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:
- "(iii) goed wat van of via Botswana, Lesotho, Swaziland [en] of Namibië ingevoer word, by binnekoms in die Republiek [ooreenkomstig die procedures en op die plek wat die Kommissaris van Doeane en Aksyns by reël voorskryf] verklaar word en belasting [aan 'n beamppte aangewys deur genoemde Kommissaris] soos deur die Kommissaris in Hoofstuk XIIA van die Reëls kragtens die Doeane- en Aksynswet voorgeskryf, betaal word.";
- (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
- "(b) waar daardie goed [nie aldus geklaar moet word nie] hul oorsprong in Botswana, Lesotho, Swaziland of Namibië gehad het en vanaf daardie

- imported from such a country, the amount of the value [which would have been used for customs duty purposes had they been subject to customs duty] as contemplated in paragraph (a), except that such value shall not be increased by the factor of 10 per cent;”;
- (c) by the substitution for subsections (3) and (4) of the following subsections:
- “(3) The importation of the goods set forth in Schedule 1 to this Act shall be exempt from the tax imposed in terms of section 7(1)(b): Provided that the exemption in respect of the importation of goods contemplated in paragraphs 1.11 and 1.15 of Schedule 1 shall apply only to the extent of the value of the goods sent from the Republic on the day they left the Republic.
- (4) Where tax is payable in respect of the importation of goods into the Republic but has not been paid when the goods were imported, the importer shall within 7 days after the importation of the goods—
- (a) furnish the Commissioner with a declaration (in such form as the Commissioner may prescribe) containing such information as may be required; and
- (b) calculate the tax payable on the relevant value at the rate of tax in force on the date of importation of the goods and pay such tax to the Commissioner.”; and
- (d) by the substitution for the words and paragraph preceding paragraph (b) of subsection (5) of the following words and paragraph:
- “[Except as contemplated in subsection (4)] The Commissioner and the [Postmaster-General] postal company may make such arrangements as they may deem necessary—
- (a) for the collection (in such manner as they may determine) by the [Postmaster-General] postal company on behalf of the Commissioner of the value-added tax payable in terms of this Act in respect of the importation of any goods into the Republic; and”.
- (2) Subsection (1)(c) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.
- Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997 and section 91 of Act 30 of 1998**
87. Section 16 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution for paragraph (d) of subsection (2) of the following paragraph:
- “(d) a bill of entry or other document prescribed in terms of the Customs and Excise Act together with the receipt for the payment of the tax in relation to the said importation [has] have been delivered in accordance with that Act and [is] are held by the vendor making that deduction, or by his agent as contemplated in section 54(3), at the time that any return in respect of that importation is furnished.”;
- (b) by the insertion after paragraph (d) of subsection (3) of the following paragraph:
- “(dA) an amount equal to the tax fraction of any amount paid by the supplier of the services as contemplated in section 8(13) to the National Lottery Distribution Trust Fund, established by section 21 of the Lotteries Act, 1997 (Act No. 57 of 1997);”; and
- (c) by the substitution for subparagraph (i) of paragraph (b) of subsection (4) of the following subparagraph:
- “(i) to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price has been received by the vendor during that tax period for any supply of goods or services in respect of which the provisions of section 9(1), (3)(a), (b) or (d) or (4) or 21(2)(a) or (6) apply (other than a supply in respect of which the provisions of section 10(4) apply);”.

- land ingevoer is, die bedrag te wees van die waarde [wat vir doeane-regdoeleindes gebruik sou gewees het indien dit aan doeanereg onderworpe sou gewees het] soos beoog in paragraaf (a), behalwe dat daardie waarde nie deur die faktor van 10 persent verhoog word nie.”;
- 5 (c) deur subartikels (3) en (4) deur die volgende subartikels te vervang:
- “(3) Die invoer van goed wat in Bylae 1 by hierdie Wet uiteengesit word, is vrygestel van die belasting wat ingevolge artikel 7(1)(b) gehef word: Met dien verstande dat die vrystelling ten opsigte van die uitvoer van goed beoog in paragrawe 1.11 en 1.15 van Bylae 1 slegs van toepassing is tot die bedrag van die waarde van die goed uit die Republiek gestuur op die dag waarop dit die Republiek verlaat het.
- 10 (4) Waar belasting betaalbaar is ten opsigte van die invoer van goed in die Republiek maar nie betaal is toe die goed ingevoer is nie, moet die invoerder binne 7 dae na die invoer van die goed—
- 15 (a) ’n verklaring (in die vorm deur die Kommissaris voorgeskryf) aan die Kommissaris verstrek wat die inligting bevat wat nodig mag wees; en
- (b) die belasting wat op die betrokke waarde betaalbaar is, bereken teen die belastingskaal van krag op die datum van invoer van die goed, en daardie belasting aan die Kommissaris betaal.”; en
- 20 (d) deur die woorde en paragraaf wat paragraaf (b) van subartikel (5) voorafgaan deur die volgende woorde en paragraaf te vervang:
- “[Behalwe soos in subartikel (4) beoog, kan] Die Kommissaris en die [Posmeester-generaal] posmaatskappy kan die reëlings wat hulle nodig mag ag, tref—
- 25 (a) vir die invordering (op die wyse wat hulle mag bepaal) deur die [Posmeester-generaal] posmaatskappy ten behoeve van die Kommissaris van die belasting op toegevoegde waarde betaalbaar ingevolge hierdie Wet ten opsigte van die invoer van goed in die Republiek; en”.
- 30 (2) Subartikel (1)(c) tree in werking op ’n datum deur die President by proklamasie in die Staatskoerant bepaal.

Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur artikel 30 van Wet 136 van 1991, artikel 21 van Wet 136 van 1992, artikel 30 van Wet 97 van 1993, artikel 16 van Wet 20 van 1994, artikel 23 van Wet 37 van 1996, artikel 32 van Wet 27 van 1997 en artikel 91 van Wet 30 van 1998

- 87.** Artikel 16 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- (a) deur paragraaf (d) van subartikel (2) deur die volgende paragraaf te vervang:
- 40 “(d) ’n klaringsbrief of ander dokument wat ingevolge die Doeane- en Aksynswet voorgeskryf is tesame met die kwitansie vir die betaling van die belasting met betrekking tot bedoelde invoer [voorgeskryf is], ooreenkomsdig daardie Wet voorgelê [is] en deur die ondernemer wat die aftrekking doen, of deur sy agent soos in artikel 54(3) beoog, gehou word wanneer ’n opgawe ten opsigte van bedoelde invoer verstrek word.”;
- 45 (b) deur die volgende paragraaf na paragraaf (d) van subartikel (3) in te voeg:
- 50 “(dA) ’n bedrag gelyk aan die belastingbreukdeel van enige bedrag betaal deur die leweraar van die dienste beoog in artikel 8(13) aan die Nasionale Lotery Distribusie Trustfonds, wat by artikel 21 van die Wet op Loterye, 1997 (Wet No. 57 van 1997), ingestel is;”;
- (c) deur subparagraaf (i) van paragraaf (b) van subartikel (4) deur die volgende subparagraaf te vervang:
- 55 “(i) in die mate wat betaling van enige vergoeding wat die uitwerking het om ’n verpligting (hetsy ’n bestaande verpligting of ’n verpligting wat in die toekoms sal ontstaan) wat op die koopprys betrekking het, te verminder of te vervul deur die ondernemer gedurende daardie belastingtydperk ontvang is vir enige lewering van goed of dienste ten opsigte waarvan die bepalings van artikel 9(1), (3)(a), (b) of (d) of (4) of 21(2)(a) of (6) van toepassing is (behalwe ’n lewering ten opsigte waarvan die bepalings van artikel 10(4) van toepassing is).”.

Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, paragraph 9 of Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993, section 17 of Act 20 of 1994, section 33 of Act 27 of 1997 and section 92 of Act 30 of 1998

88. Section 17 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (i) of the proviso to subsection (1) for the expression “90 per cent” of the expression “95 per cent”. 5

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, paragraph 10 of Government Notice 2695 of 8 November 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993, section 18 of Act 20 of 1994, section 37 of Act 27 of 1997 and section 93 of Act 30 of 1998 10

89. Section 18 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (4) in the proviso to the definition of symbol “C” for the expression “90 per cent” of the expression “95 per cent”. 15

Amendment of section 18A of Act 89 of 1991, as inserted by section 24 of Act 136 of 1992 and amended by section 19 of Act 20 of 1994 and section 24 of Act 37 of 1996 15

90. Section 18A of the Value-Added Tax Act, 1991, is hereby amended by the substitution in the proviso to subsection (1) for the expression “90 per cent” of the expression “95 per cent”. 20

Amendment of section 20 of Act 89 of 1991, as amended by paragraph 11 of Government Notice 2695 of 8 November 1991, section 25 of Act 136 of 1992, section 33 of Act 97 of 1993, section 35 of Act 27 of 1997 and section 94 of Act 30 of 1998 20

91. Section 20 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:
“Except as otherwise provided in this section, a supplier, being a registered vendor, making a taxable supply (other than a supply contemplated in section 8(10)) to a recipient, [being a registered vendor] shall, at the request of the recipient, provide that recipient, within 21 days after receiving that request, with a tax invoice containing such particulars as are specified in this section.”; 25

(b) by the insertion of the word “or” at the end of paragraph (b) of subsection (7) and by the addition of the following paragraph:
“(c) that the particulars specified in subsection (4) or (5) be furnished in any other manner.”; and 30

(c) by the substitution in subsection (8) for paragraph (A) of the proviso to subparagraph (i) of paragraph (a) of the following paragraph:
“(A)shall verify such name and identity number of any such natural person with reference to his identity document, as contemplated in section 1 of the Identification Act, [1986 (Act No. 72 of 1986)] 1997 (Act No. 68 of 1997), and, where the value of the supply is R1 000 or more, retain a photocopy of such name and identity number appearing in such identity document; or”. 35 40

Wysiging van artikel 17 van Wet 89 van 1991, soos gewysig deur artikel 31 van Wet 136 van 1991, paragraaf 9 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 22 van Wet 136 van 1992, artikel 31 van Wet 97 van 1993, artikel 17 van Wet 20 van 1994, artikel 33 van Wet 27 van 1997 en artikel 92 van 5 Wet 30 van 1998

88. Artikel 17 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in paragraaf (i) van die voorbehoudsbepaling by subartikel (1) die uitdrukking "90 persent" deur die uitdrukking "95 persent" te vervang.

Wysiging van artikel 18 van Wet 89 van 1991, soos gewysig deur artikel 32 van 10 Wet 136 van 1991, paragraaf 10 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 23 van Wet 136 van 1992, artikel 32 van Wet 97 van 1993, artikel 18 van Wet 20 van 1994, artikel 37 van Wet 27 van 1997 en artikel 93 van 5 Wet 30 van 1998

89. Artikel 18 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (4) in die voorbehoudsbepaling by die omskrywing van simbool "C" die uitdrukking "90 persent" deur die uitdrukking "95 persent" te vervang.

Wysiging van artikel 18A van Wet 89 van 1991, soos ingevoeg deur artikel 24 van 15 Wet 136 van 1992 en gewysig deur artikel 19 van Wet 20 van 1994 en artikel 24 20 van Wet 37 van 1996

90. Artikel 18A van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in die voorbehoudsbepaling by subartikel (1) die uitdrukking "90 persent" deur die uitdrukking "95 persent" te vervang.

Wysiging van artikel 20 van Wet 89 van 1991, soos gewysig deur paragraaf 11 van 25 Goewermentskennisgewing 2695 van 8 November 1991, artikel 25 van Wet 136 van 1992, artikel 33 van Wet 97 van 1993, artikel 35 van Wet 27 van 1997 en artikel 94 van Wet 30 van 1998

91. Artikel 20 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- 30 (a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
“Behalwe soos anders in hierdie artikel bepaal, moet 'n leweraar wat 'n geregistreerde ondernemer is, en wat 'n belasbare lewering maak (behalwe 'n lewering beoog in artikel 8(10)) aan 'n ontvanger [**wat 'n geregistreerde ondernemer is**] op versoek van die ontvanger binne 21 dae na ontvangs van die versoek die ontvanger voorsien van 'n belastingfaktuur waarin die besonderhede vervat word wat in hierdie artikel vermeld word.”;
- 35 (b) deur die woorde “of” aan die einde van paragraaf (b) van subartikel (7) in te voeg en die volgende paragraaf by te voeg:
“(c) dat die besonderhede vermeld in subartikel (4) of (5) op enige ander wyse verstrek word.”; en
- 40 (c) deur in subartikel (8) paragraaf (A) van die voorbehoudsbepaling by subparagraaf (i) van paragraaf (a) deur die volgende paragraaf te vervang:
“(A) daardie naam en identiteitsnommer van 'n natuurlike persoon moet verifieer met verwysing na sy identiteitsdokument, soos beoog in artikel 1 van die Wet op Identifikasie, [**1986 (Wet No. 72 van 1986)**] 1997 (**Wet No. 68 van 1997**), en, waar die waarde van die lewering R1 000 of meer is, 'n fotostaat van daardie naam en identiteitsnommer wat in bedoelde identiteitsdokument verskyn, moet behou; of”.
- 45
- 50

Act No. 53, 1999**REVENUE LAWS AMENDMENT ACT, 1999****Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994 and section 37 of Act 27 of 1997****92. Section 23 of the Value-Added Tax Act, 1991, is hereby amended—**

- (a) by the substitution in paragraph (a) of subsection (1) for the expression “R150 000” of the expression “R300 000”; 5
- (b) by the substitution in subsection (1) in the words preceding paragraph (i) of the proviso for the expression “R150 000” of the expression “R300 000”; and
- (c) by the substitution for subsection (3) of the following subsection: 10
 - “(3) Notwithstanding the provisions of subsections (1) and (2), every person who satisfies the Commissioner that, on or after the commencement date—
 - (a) that person is carrying on any enterprise as contemplated in paragraph (b)(ii) or (iii) or (c) of the definition of ‘enterprise’ in section 1; or 15
 - (b) that person is carrying on any enterprise other than as contemplated in paragraph (b)(ii) or (iii) or (c) of the definition of ‘enterprise’ in section 1 and the total value of taxable supplies made by that person in the course of carrying on all enterprises in the preceding period of 12 months has exceeded R20 000; or
- [(b)](c) that person intends to carry on any enterprise from a specified date, where that enterprise will be supplied to him as a going concern and the total value of taxable supplies made by the supplier of the going concern from carrying on that enterprise or part of the enterprise which will be supplied has exceeded R20 000 in the preceding period of 12 months; or 20
- (d) that person is continuously and regularly carrying on an activity which, in consequence of the nature of that activity, can reasonably be expected to result in taxable supplies being made for a consideration only after a period of time and where the total value of taxable supplies to be made can reasonably be expected to exceed R20 000 in a period of 12 months, 25 may apply to the Commissioner in the approved form for registration under this Act and provide the Commissioner with such further particulars as the Commissioner may require for the purpose of registering that person.”. 30

Amendment of section 24 of Act 89 of 1991, as amended by section 21 of Act 20 of 1994**93. Section 24 of the Value-Added Tax Act, 1991, is hereby amended—**

- (a) by the deletion of the proviso to subsection (3); and
- (b) by the substitution for subsection (5) of the following subsection: 35
 - “(5) Where the Commissioner is satisfied that a vendor [is not carrying on any enterprise] no longer complies with the requirements for registration as contemplated in section 23(3) the Commissioner may cancel such vendor’s registration with effect from the last day of the tax period during which the Commissioner is so satisfied, or from such other date as may be determined by the Commissioner.”. 40

Amendment of section 25 of Act 89 of 1991, as amended by section 96 of Act 30 of 1998**94. Section 25 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after paragraph (e) of the following paragraph:**

- “(f) the appointment or resignation of a representative vendor as contemplated in section 48(1);”.

Wysiging van artikel 23 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 20 van 1994 en artikel 37 van Wet 27 van 1997

92. Artikel 23 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- 5 (a) deur in paragraaf (a) van subartikel (1) die uitdrukking “R150 000” deur die uitdrukking “R300 000” te vervang;
- (b) deur in subartikel (1) in die woorde wat paragraaf (i) van die voorbehoudsbepaling voorafgaan die uitdrukking “R150 000” deur die uitdrukking “R300 000” te vervang; en
- 10 (c) deur subartikel (3) deur die volgende subartikel te vervang:
 - “(3) Ondanks die bepalings van subartikels (1) en (2), kan elke persoon wat die Kommissaris oortuig dat op of na die aanvangsdatum—
 - (a) daardie persoon 'n onderneming bedryf soos beoog in paragraaf (b)(ii) of (iii) of (c) van die omskrywing van 'onderneming' in artikel 1; of
 - 15 (b) daardie persoon 'n onderneming bedryf anders as beoog in paragraaf (b)(ii) of (iii) of (c) van die omskrywing van 'onderneming' in artikel 1 en die totale waarde van belasbare lewerings deur daardie persoon gedoen in die loop van die bedryf van alle ondernemings in die voorafgaande tydperk van 12 maande R20 000 te bowe gegaan het; of
 - 20 [(b)][c] daardie persoon vooremens is om 'n onderneming van 'n bepaalde datum te bedryf, waar daardie onderneming aan hom gelewer sal word as 'n lopende saak en die totale waarde van belasbare lewerings deur die leweraar van die lopende saak gedoen in die loop van die bedryf van daardie onderneming of gedeelte van die onderneming wat gelewer sal word, R20 000 in die voorafgaande 12 maande te bowe gegaan het; of
 - 25 (d) daardie persoon voortdurend en gereeld 'n aktiwiteit bedryf wat, as gevolg van die aard van daardie aktiwiteit, redelikerwys verwag kan word dat dit belasbare lewerings teen 'n vergoeding slegs na 'n tydsverloop sal meebring en waar die totale waarde van belasbare lewerings wat gedoen sal word redelickerwys verwag kan word om R20 000 in 'n tydperk van 12 maande te bowe te gaan,
- 30 in die goedgekeurde vorm by die Kommissaris aansoek doen om registrasie ingevolge hierdie Wet en die verdere besonderhede verstrek wat die Kommissaris vereis ten einde daardie persoon te regstreer.”.
- 35 .

Wysiging van artikel 24 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 20 van 1994

93. Artikel 24 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- 40 (a) deur die voorbehoudsbepaling by subartikel (3) te skrap; en
- (b) deur subartikel (5) deur die volgende subartikel te vervang:
 - “(5) Waar die Kommissaris oortuig is dat 'n ondernemer [nie 'n onderneming bedryf nie] nie langer aan die vereistes vir registrasie soos beoog in artikel 23(3) voldoen nie, kan die Kommissaris daardie ondernemer se registrasie kanselleer met ingang van die laaste dag van die belastingtydperk waarin die Kommissaris aldus oortuig is of vanaf daardie ander datum wat deur die Kommissaris bepaal word.”.

Wysiging van artikel 25 van Wet 89 van 1991, soos gewysig deur artikel 96 van Wet 30 van 1998

- 50 **94.** Artikel 25 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende paragraaf na paragraaf (e) in te voeg:

“(f) die aanstelling of uittreding van 'n verteenwoordigende ondernemer beoog in artikel 48(1):”.

Amendment of section 32 of Act 89 of 1991, as amended by section 38 of Act 27 of 1997 and section 97 of Act 30 of 1998

95. Section 32 of the Value-Added Tax Act, 1991, is hereby amended by the addition to paragraph (a) of subsection (1) of the following subparagraph:

“(v) in terms of section 43(5) and (6) notifying a member, shareholder or trustee of a vendor that he is required to provide surety in respect of the vendor's liability for tax from time to time; or”.

5

Amendment of Section 33A of Act 89 of 1991, as inserted by section 36 of Act 136 of 1991

96. Section 33A of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (a) of subsection (1) for the expression “R20 000” of the expression “R30 000”. 10

Amendment of section 43 of Act 89 of 1991, as amended by section 99 of Act 30 of 1998

97. Section 43 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following subsections:

“(5) Notwithstanding the provisions of subsection (1), the Commissioner may, having regard to the circumstances of any vendor which is not a natural person, require of any or all of the members, shareholders or trustees involved in the management of such vendor to enter into a contract of suretyship in respect of the vendor's liability for tax which may arise from time to time.”

15

“(6) Such suretyship shall be for such amount and for such period as the Commissioner may direct and for the duration thereof, the said members, shareholders or trustees may jointly and severally with the vendor be held liable for paying the tax imposed on the vendor.”.”

20

25

Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993, section 27 of Act 37 of 1996, section 42 of Act 27 of 1997 and section 100 of Act 30 of 1998

98. Section 44 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in paragraph (ii) of the proviso to subsection (1) for the expression “R10” of the expression “R25”;
- (b) by the substitution in paragraph (b) of subsection (3) for the expression “R10” of the expression “R25”; and
- (c) by the substitution in subsection (4) for the expression “R10” of the expression “R25”.

30

35

Amendment of section 48 of Act 89 of 1991

99. Section 48 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following subsection:

“(8) Every representative vendor contemplated in section 48(1) shall remain responsible for performing the duties imposed on him by this Act until such time as he notifies the Commissioner in writing that he no longer acts as representative vendor, or until the Commissioner has been notified of the name and address of another person who shall act as representative vendor.”.”

40

Wysiging van artikel 32 van Wet 89 van 1991, soos gewysig deur artikel 38 van Wet 27 van 1997 en artikel 97 van Wet 30 van 1998

95. Artikel 32 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subparagraaf by paragraaf (a) van subartikel (1) te voeg:
- 5 “(v) ingevolge artikel 43(5) en (6) waarin ’n lid, aandeelhouer of trustee van ’n ondernemer verwittig word dat van hom vereis word om borg te staan met betrekking tot die ondernemer se belastingaanspreeklikheid van tyd tot tyd; of”.

Wysiging van artikel 33A van Wet 89 van 1991, soos ingevoeg deur artikel 36 van 10 Wet 136 van 1991

96. Artikel 33A van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in paragraaf (a) van subartikel (1) die uitdrukking “R20 000” deur die uitdrukking “R30 000” te vervang.

Wysiging van artikel 43 van Wet 89 van 1991, soos gewysig deur artikel 99 van 15 Wet 30 van 1998

97. Artikel 43 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikels by te voeg:

- 20 “(5) Ondanks die bepalings van subartikel (1) kan die Kommissaris, met inagneming van die omstandighede van enige ondernemer wat nie ’n natuurlike persoon is nie, van enige of alle lede, aandeelhouders of trustees betrokke by die bestuur van daardie ondernemer vereis om ’n kontrak vir borgskap aan te gaan met betrekking tot die ondernemer se belastingaanspreeklikheid wat van tyd tot tyd mag ontstaan.
- 25 (6) Daardie borgskap sal vir daardie bedrag en vir daardie tydperk wees wat die Kommissaris mag bepaal en vir die duur daarvan mag genoemde lede, aandeelhouders of trustees gesamentlik en afsonderlik met die ondernemer vir die betaling van die belasting aan hom opgelê, aanspreeklik gehou word.”.

Wysiging van artikel 44 van Wet 89 van 1991, soos gewysig deur artikel 37 van 30 Wet 97 van 1993, artikel 27 van Wet 37 van 1996, artikel 42 van Wet 27 van 1997 en artikel 100 van Wet 30 van 1998

98. Artikel 44 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- 35 (a) deur in paragraaf (ii) van die voorbeholdsbepligting by subartikel (1) die uitdrukking “R10” deur die uitdrukking “R25” te vervang;
- 35 (b) deur in paragraaf (b) van subartikel (3) die uitdrukking “R10” deur die uitdrukking “R25” te vervang; en
- 35 (c) deur in subartikel (4) die uitdrukking “R10” deur die uitdrukking “R25” te vervang.

Wysiging van artikel 48 van Wet 89 van 1991

- 40 99. Artikel 48 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikel by te voeg:
- 40 (8) Elke verteenwoordigende ondernemer beoog in artikel 48(1) bly verantwoordelik vir die verrigting van die pligte wat deur hierdie Wet aan hom opgelê word totdat hy die Kommissaris skriftelik in kennis stel dat hy nie langer as 45 verteenwoordigende ondernemer optree nie of totdat die Kommissaris van die naam en adres van ’n ander persoon wat as verteenwoordigende ondernemer moet optree, in kennis gestel is.”.

Amendment of section 54 of Act 89 of 1991, as amended by section 40 of Act 136 of 1991, section 34 of Act 136 of 1992, section 25 of Act 20 of 1994 and section 46 of Act 27 of 1997

100. Section 54 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for the words following upon paragraph (b) in subsection 5
(3) of the following words:

“the agent shall maintain sufficient records to enable the name and address and registration number of the principal to be ascertained and in respect of all supplies made on or after 1 January 2000 by or to the agent on behalf of the principal, the agent shall notify the principal in writing within 21 days of the end of the calendar month during which the supply was made or received, of the particulars contemplated in paragraphs (e), (f) and (g) of section 20(4) in relation to such supplies.”;

- (b) by the substitution for subsection (4) of the following subsection:

“(4) For the purposes of subsection (5), the expression ‘auctioneer’ means a vendor carrying on an enterprise which comprises or includes the supply by him by auction [or by sale on a national fresh produce market as defined in section 1 of the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970)], of goods as an auctioneer or agent for or on behalf of another person (hereinafter in this section referred to as a principal) and includes an agent, fresh produce agent and livestock agent as defined in section 1 of the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992). ”; and

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

“Provided that the auctioneer or agent shall maintain the records contemplated in section 20(8) as if the principal made a supply of second-hand goods to him, not being a taxable supply.”.

Amendment of section 57D of Act 89 of 1991, as amended by section 49 of Act 27 of 1997

101. Section 57D of the Value-Added Tax Act, 1991, is hereby amended by the 30 substitution for paragraph (a) of subsection (9) of the following paragraph:

“(a) Any person may apply to the relevant division of the [Supreme Court] High Court for the return of any information, documents or things seized under this section.”.

Amendment of section 58 of Act 89 of 1991, as amended by section 41 of Act 136 of 35 1991, section 39 of Act 97 of 1993 and section 25 of Act 46 of 1996

102. Section 58 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(m) being an agent or an auctioneer as contemplated in section 54, fails to comply with any of the requirements of section 54(3) or the proviso to section 54(5),”; and

- (b) by the substitution for the words following on paragraph (m) of the following words:

“shall be guilty of an offence and liable on conviction to a fine [not exceeding R4 000] or to imprisonment for a period not exceeding [12 months or to both such fine and such imprisonment] 24 months.”.

Wysiging van artikel 59 van Wet 89 van 1991, soos gewysig deur artikel 40 van Wet 97 van 1993

103. Artikel 59 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die woorde wat op paragraaf (i) van subartikel (1) volg deur die 5 volgende woorde te vervang:

“is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete [van hoogstens R10 000] of met gevangenisstraf vir ’n tydperk van hoogstens [24 maande of met sodanige boete sowel as sodanige gevangenisstraf] 60 maande.”.

10 Wysiging van artikel 60 van Wet 89 van 1991, soos gewysig deur artikel 42 van Wet 136 van 1991 en artikel 50 van Wet 27 van 1997

104. Artikel 60 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

15 “(b) om te veroorsaak dat ’n terugbetaling aan hom deur die Kommissaris [ingevolge artikel 44(1)] van ’n bedrag belasting (dié bedrag hieronder die oorskot genoem) gemaak word wat meer is as die bedrag wat behoorlik, [ingevolge bedoelde artikel, gelees met artikel 16(5)] voordat artikel 44(6) toegepas word, terugbetaalbaar is.”.

20 Wysiging van artikel 62 van Wet 89 van 1991, soos gewysig deur artikel 103 van Wet 30 van 1998

105. Artikel 62 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

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

“Ondanks die bepalings van artikel 6 kan die Kommissaris [kan] van tyd tot tyd [by kennisgewing in die Staatskoerant ’n lys van persone] vir algemene inligting daardie besonderhede publiseer [wat aan ’n] soos vermeld in subartikel (2), wat verband hou met enige misdryf wat gepleeg is deur enige persoon waar daardie persoon aan daardie misdryf skuldig bevind is ingevolge—”; en

30 (b) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang:

“(2) Elke [lys wat] publikasie ingevolge hierdie artikel [gepubliseer word] kan vermeld—”.

Vervanging van Bylae 1 by Wet 89 van 1991, soos gewysig deur artikel 48 van Wet 136 van 1991, paragraaf 24 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 43 van Wet 136 van 1992, Goewermentskennisgewing 2244 van 31 Julie 1992, artikel 44 van Wet 97 van 1993, Goewermentskennisgewing 1955 van 7 Oktober 1993, artikel 32 van Wet 20 van 1994, artikel 32 van Wet 37 van 40 1996 en artikel 53 van Wet 27 van 1997

106. (1) Bylae 1 by die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby deur die volgende Bylae vervang:

1.5.9	Milk powder; unflavoured, being the powder obtained by the removal of water from milk and which falls under the following classifications determined by the Minister of Agriculture under the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or any regulation under that Act: High-fat milk powder; Full-fat milk powder; Medium-fat milk powder; Low-fat milk powder; Fat-free milk powder; provided the fat or protein content of such milk powder consists solely of milk fat or milk protein.	5 10
1.5.10	Dairy powder blend, being any dairy powder blend which falls under the following classifications determined by the Minister of Agriculture under the Agricultural Product Standards Act, 1990, or any regulation under that Act: High-fat dairy powder blend; Full-fat dairy powder blend; Medium-fat dairy powder blend; Low-fat dairy powder blend; Fat-free dairy powder blend.	15
1.5.11	Rice, whether husked, milled, polished, glazed, parboiled or broken.	20
1.5.12	Vegetables, not cooked or treated in any manner except for the purpose of preserving such vegetables in their natural state, but excluding dehydrated, dried, canned or bottled vegetables or such vegetables as are described under separate subparagraphs to this paragraph.	
1.5.13	Fruit, not cooked or treated in any manner except for the purposes of preserving such fruit in its natural state, but excluding dehydrated, dried, canned or bottled fruit and nuts.	25
1.5.14	Vegetable oil, marketed and supplied for use in the process of cooking food, but excluding olive oil.	
1.5.15	Milk, being the milk of cattle, sheep or goats that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any other process other than homogenization or preservation by pasteurization, ultra-high temperature treatment, sterilization, chilling or freezing.	30
1.5.16	Cultured milk, being cultured milk as classified under the Agricultural Product Standards Act, 1990, with the following class designation: Cultured high-fat milk; Cultured full-fat milk; Cultured low-fat milk; Cultured fat-free milk.	35
1.5.17	Brown wheaten meal, being pure, sound wheaten meal, but excluding separated wheaten bran, wheaten germ and wheaten semolina.	40
1.5.18	Eggs, being raw eggs laid by hens of the species <i>gallus domesticus</i> , whether supplied in their shells or in the form of egg pulp being raw pulp consisting of the yolk and white which is obtained from such eggs after the shells have been removed.	45
1.5.19	Edible legumes and pulse of leguminous plants, dried, whole, split, crushed, skinned or in powder form, but not further prepared or processed or where packaged as seed or such pulse as are described under separate subparagraphs to this paragraph.	
1.6	<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 R400 (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.	50
1.7	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, alcoholic beverages and tobacco goods) the <i>bona fide</i> property of a natural person (including a returning resident of the	55 60

Wysiging van artikel 54 van Wet 89 van 1991, soos gewysig deur artikel 40 van Wet 136 van 1991, artikel 34 van Wet 136 van 1992, artikel 25 van Wet 20 van 1994 en artikel 46 van Wet 27 van 1997

100. Artikel 54 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (3) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:

“moet die agent voldoende aantekeninge behou sodat die naam en adres en registrasienommer van die prinsipaal vasgestel kan word en met betrekking tot alle lewerings gemaak op of na 1 Januarie 2000 aan of deur die agent namens die prinsipaal, moet die agent die prinsipaal binne 21 dae na die einde van die kalendermaand waarin die lewering gemaak of ontvang is van die besonderhede beoog in paragrawe (e), (f) en (g) van artikel 20(4) met betrekking tot daardie lewerings, skriftelik in kennis stel.”;

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) By die toepassing van subartikel (5) beteken die uitdrukking ‘afslaer’ ‘n ondernemer wat ‘n onderneming bedryf wat uit die lewering van goed by wyse van veiling [of by wyse van verkoop op ‘n nasionale varsproduktemark soos omskryf in artikel 1 van die Wet op die Kommissie vir Varsproduktemarke, 1970 (Wet No 82 van 1970)], deur hom as afslaer of agent vir of namens ‘n ander persoon (hieronder in hierdie artikel ‘n prinsipaal genoem) bestaan of dit insluit en ook ‘n agent, varsprodukte-agent en lewendehawe-agent soos omskryf in artikel 1 van die Wet op Landbouprodukte-agente, 1992 (Wet No. 12 van 1992).”; en

(c) deur die volgende voorbehoudsbepaling by subartikel (5) te voeg:
“Met dien verstande dat die afslaer of agent die aantekeninge beoog in artikel 20(8) moet behou asof die prinsipaal ‘n lewering van tweedehandse goed wat nie ‘n belasbare lewering is nie aan hom gedoen het.”.

Wysiging van artikel 57D van Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 27 van 1997

101. Artikel 57D van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (a) van subartikel (9) deur die volgende paragraaf te vervang:

“(a) Enige persoon kan by die betrokke afdeling van die [Hooggereghof] Hoë Hof aansoek doen om die teruggawe van enige inligting, dokumente of goed waarop kragtens hierdie artikel beslag gelê is.”.

Wysiging van artikel 58 van Wet 89 van 1991, soos gewysig deur artikel 41 van Wet 136 van 1991, artikel 39 van Wet 97 van 1993 en artikel 25 van Wet 46 van 1996

102. Artikel 58 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

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

“(m) ‘n agent of ‘n afslaer soos beoog in artikel 54 is en versuum om aan enige van die vereistes van artikel 54(3) of die voorbehoudsbepaling by artikel 54(5) te voldoen.”; en

(b) deur die woorde wat op paragraaf (m) volg deur die volgende woorde te vervang:

“is aan ‘n misdryf skuldig en by skuldigbevinding strafbaar met ‘n boete [van hoogstens R4 000] of met gevangenisstraf vir ‘n tydperk van hoogstens [12 maande of met sodanige boete sowel as sodanige gevangenisstraf] 24 maande.”.

Amendment of section 59 of Act 89 of 1991, as amended by section 40 of Act 97 of 1993

103. Section 59 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for the words following on paragraph (i) of subsection (1) of the following words:

5
“shall be guilty of an offence and liable on conviction to a fine [not exceeding R10 000] or to imprisonment for a period not exceeding [24 months or to both such fine and such imprisonment] 60 months.”.

Amendment of section 60 of Act 89 of 1991, as amended by section 42 of Act 136 of 1991 and section 50 of Act 27 of 1997

10

104. Section 60 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (b) of subsection 1 of the following paragraph:

“(b) to cause a refund to him by the Commissioner [in terms of section 44(1)] of any amount of tax (such amount being referred to hereunder as the excess) which is in excess of the amount properly refundable to him [under the said 15 section, read with section 16(5)] before applying section 44(6),”.

Amendment of section 62 of Act 89 of 1991, as amended by section 103 of Act 30 of 1998

105. Section 62 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of subsection (1) of 20 the following words:

“Notwithstanding the provisions of section 6, the Commissioner may from time to time publish [by notice in the Gazette a list of persons who have] for general information such particulars as specified in subsection 25 (2), relating to any offence committed by any person, where such person has been convicted of [any] such offence in terms of—”; and

(b) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

“Every [list published] publication in terms of this section [shall] may 30 specify—”.

Substitution of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, paragraph 24 of Government Notice 2695 of 8 November 1991, section 43 of Act 136 of 1992, Government Notice 2244 of 31 July 1992, section 44 of Act 97 of 1993, Government Notice 1955 of 7 October 1993, section 32 of Act 20 of 1994, section 32 of Act 37 of 1996 and section 53 of Act 27 of 1997

35

106. (1) The following Schedule is hereby substituted for Schedule 1 to the Value-Added Tax Act, 1991:

- 1.5.9 Melkpoeier: ongegeurd, synde die poeier verkry deur die ontwatering van melk en wat ressorteer onder die volgende klassifikasies soos bepaal deur die Minister van Landbou kragtens die Wet op Landbouprodukstandaarde, 1990 (Wet No. 119 van 1990), of enige regulasie kragtens daardie Wet:
- 5 Hoëvet-melkpoeier;
Volvet-melkpoeier;
Mediumvet-melkpoeier;
Laevet-melkpoeier;
Vetvrye-melkpoeier,
- 10 mits die vet- of proteïeninhoud van bedoelde melkpoeier uitsluitlik uit melkvet of melkproteïen bestaan.
- 1.5.10 Suiwelpoeiermengsel, synde 'n suiwelpoeiermengsel wat ressorteer onder die volgende klassifikasies soos bepaal deur die Minister van Landbou kragtens die Wet op Landbouprodukstandaarde, 1990, of enige regulasie kragtens daardie Wet:
- 15 Hoëvet-suiwelpoeiermengsel;
Volvet-suiwelpoeiermengsel;
Mediumvet-suiwelpoeiermengsel;
Laevet-suiwelpoeiermengsel;
Vetvrye-suiwelpoeiermengsel.
- 20 1.5.11 Rys, hetsy gepel, bewerk, gepoleer, verglans, halfgaar gekook of gebreek.
1.5.12 Groente, nie gaargemaak of op enige wyse behandel nie behalwe met die doel om sodanige groente in die natuurlike toestand daarvan te bewaar, maar uitgesonderd ontwaterde, droë of ingemaakte groente, hetsy in blikke of in bottels of daardie groente wat onder afsonderlike subparagraawe in hierdie paragraaf beskryf word.
- 25 1.5.13 Vrugte, nie gaargemaak of op enige wyse behandel nie behalwe met die doel om sodanige vrugte in die natuurlike toestand daarvan te bewaar, maar uitgesonderd ontwaterde, droë of ingemaakte vrugte, hetsy in blikke of in bottels en neute.
- 30 1.5.14 Plantaardige olie, bemark en gelewer vir gebruik in die proses van gaarmaak van voedsel, maar uitgesonderd olyfolie.
- 35 1.5.15 Melk, synde die melk van vee, skape of bokke wat nie gekonsentreer, gekondenseer, ingedamp, versoet, gegeur of aangesuur is of aan enige ander proses behalwe homogenisasie of bewaring deur pasteurisasie, ultra-hoë temperatuurbehandeling, sterilisasie, verkoeling of bevriesing onderwerp is nie.
- 40 1.5.16 Aangesuurde melk, synde aangesuurde melk soos geklassifiseer kragtens die Wet op Landbouprodukstandaarde, 1990, met die volgende klasbenaming:
Aangesuurde hoëvetmelk;
Aangesuurde volvetmelk;
Aangesuurde laevetmelk;
Aangesuurde vetvrye-melk.
- 45 1.5.17 Bruinkoringmeel, synde suwer, gesonde koringmeel, maar uitgesonderd geskeide koringsemels, koringkiem en koringsemolina.
- 50 1.5.18 Eiers, synde rou eiers deur 'n hen van die spesie *gallus domesticus* gelê, verskaf in doppe of in die vorm van eierpap synde rou pap bestaande uit die eiergeel en eierwit wat verkry word van bedoelde eiers nadat die doppe verwyder is.
- 55 1.5.19 Eetbare peule en sade van peulplante, gedroog, heel, gesplete, gebreek, afgenerf of in poeievorm, maar nie verder voorberei of verwerk of waar as saad verpak nie of daardie sade wat onder afsonderlike subparagraawe in hierdie paragraaf beskryf word nie.
- 60 1.6 *Bona fide* ongevraagde geskenke van nie meer as twee pakkies per persoon per kalenderjaar nie en waarvan die waarde per pakkie nie R400 oorskry nie (uitgesonderd goed in passasiersbagasie ingesluit, wyn, spiritus en bewerkte tabak (met inbegrip van sigarette en sigare) deur natuurlike persone in die buiteland aan natuurlike persone in die Republiek versend).
- 1.7 Huisraad, ander huishoudelike besittings en ander verplaasbare artikels (met inbegrip van toerusting nodig vir die uitoefening van die roeping, ambag of beroep van die persoon, behalwe industriële, kommersiële of landboutoerusting en uitgesonderd motorvoertuie, alkoholiese dranke en tabakware) die *bona fide*-eiendom van 'n natuurlike persoon (met inbegrip van 'n terug-

Republic after an absence of six months or more) and members of his family, imported for own use on change of his residence to the Republic: Provided that the said goods are not disposed of within a period of six months as from the date of entry.	
1.8 Used personal or household effects (excluding motor vehicles) bequeathed to persons residing in the Republic.	5
1.9 Used property of a person normally resident in the Republic who dies while temporarily outside the Republic.	
1.10 Goods temporarily exported from the Republic which are, at the time of export, registered as such with the Controller of Customs and Excise (in such form as the Commissioner may prescribe), and thereafter returned to the exporter, no change of ownership having taken place, and which can be identified on reimportation.	10
1.11 Goods sent abroad for processing or repair, provided they are exported under customs and excise supervision, retain their essential character, are returned to the exporter, no change of ownership having taken place, and can be identified on reimportation: Provided that this exemption shall apply only to the extent of the value of the goods sent from the Republic on the day such goods left the Republic.	15
1.12 Goods temporarily admitted— (i) for processing, provided such goods do not become the property of any person of the Republic; (ii) for repair, cleaning or reconditioning; (iii) as parts for goods temporarily imported for repair, cleaning or reconditioning; (iv) which are cleared in terms of a permit issued by the Director-General: Trade and Industry, on the recommendation of the Board of Trade and Industry, for use in the manufacturing, processing, finishing, equipping or packing of goods exclusively for export; (v) subject to exportation in the same state: Provided that the Controller of Customs and Excise ensures that the tax is secured by the lodging of a provisional payment or bond (except where the Commissioner otherwise directs, or in the circumstances contemplated in rule 120A.01(c) under the Customs and Excise Act).	20 25 30
1.13 Goods which are shipped or conveyed to the Republic for trans-shipment or conveyance to any export country: Provided that the Controller of Customs and Excise ensures that the tax is secured by the lodging of a provisional payment or bond (except where the Commissioner otherwise directs, or in the circumstances contemplated in rule 120A.01(c) under the Customs and Excise Act).	35 40
1.14 Packing containers or pallets, which are the property of a vendor, exported from the Republic by the vendor and thereafter returned to the vendor in the Republic, without having been subjected to any process of manufacture or manipulation and no change of ownership having taken place.	
1.15 Compensating products obtained abroad from goods temporarily exported for outward processing, in terms of a specific permit issued by the Director-General: Trade and Industry on the recommendation of the Board of Trade and Industry, provided— (i) the specific permit is obtained before the temporary exportation of the goods; (ii) if the ownership of the compensating products is transferred prior to entry for customs purposes, such goods are entered in the name of the person who exported the goods; and (iii) any additional conditions which may be stipulated in the said permit, are complied with: Provided that this exemption shall apply only to the extent of the value of the goods sent from the Republic on the day such goods left the Republic.	45 50 55
1.16 Goods for Heads of State, Diplomatic and other Foreign Representatives.	
1.17 Goods imported—	60

- (a) vir die verligting van menslike nood in gevalle van hongersnood of ander nasionale rampe;
- (b) kragtens enige tegniese hulpooreenkoms; of
- (c) ingevolge 'n verpligting kragtens enige multilaterale internasionale ooreenkoms waarby die Republiek 'n party is:
- Met dien verstande dat—
- (i) die invoer van enige goed onder hierdie paragraaf onderworpe is aan 'n sertifikaat uitgereik deur die Direkteur-generaal: Handel en Nywerheid en aan die ander voorwaardes soos deur die Regerings van die Republiek en Botswana, Lesotho, Namibië of Swaziland ooreengekom word; en
- (ii) goed wat kragtens hierdie paragraaf ingevoer is nie verkoop of van die hand gesit mag word aan enige party wat nie op die voorregte kragtens die paragraaf geregtig is nie, of na die gebied van Botswana, Lesotho, Namibië of Swaziland verwyder mag word sonder die toestemming van die Direkteur-generaal: Handel en Nywerheid nie.
- 1.18 Goed ingevoer vir enige doel soos ooreengekom deur die Regerings van die Republiek en Botswana, Lesotho, Namibië of Swaziland: Met dien verstande dat—
- (i) die bepalings van hierdie paragraaf nie van toepassing is op enige besending of hoeveelheid of soort goed nie, tensy die voorafgaande goedkeuring van die Regerings van die Republiek en Botswana, Lesotho, Namibië of Swaziland vir die toepassing van sodanige bepalings ten opsigte van elke sodanige besending of hoeveelheid of soort goed verkry is;
- (ii) die invoer van enige goed kragtens hierdie paragraaf onderworpe is aan 'n sertifikaat uitgereik deur die Direkteur-generaal: Handel en Nywerheid en aan die ander voorwaardes soos deur die Regerings van die Republiek en Botswana, Lesotho, Namibië of Swaziland ooreengekom word; en
- (iii) goed kragtens hierdie paragraaf ingevoer nie verkoop of van die hand gesit mag word aan enige party wat nie op die voorregte kragtens hierdie paragraaf geregtig is, of na die gebied van Botswana, Lesotho, Namibië of Swaziland verwyder mag word sonder die toestemming van die Kommissaris nie.
2. Enige van die volgende items wat in die Republiek ingevoer word ten opsigte waarvan die Kontroleur van Doeane en Aksyns ingevolge die voorbehoudsbepaling by artikel 38(1)(a) van die Doeane- en Aksynswet toestemming verleen het dat klaring nie gemaak hoef te word nie:
- (i) Houers tydelik ingevoer;
- (ii) die stoflike oorskot van mense;
- (iii) goed wat volgens die oordeel van die Kommissaris van geen kommer-siële waarde is nie;
- (iv) goed wat kragtens 'n internasionale carnet ingevoer is; of
- (v) goed met 'n waarde vir doeanebedoeleindes van hoogstens R200, en waarop geen sodanige reg ingevolge Bylae No. 1 by daardie Wet betaalbaar is nie.
3. Goed, synde gedrukte boeke, koerante, joernale en tydskrifte, wat per pos in die Republiek ingevoer word, met 'n waarde vir belastingbedoeleindes ingevolge die Doeane- en Aksynswet van hoogstens R100 per pakket.
4. Goed, synde goudmuntstukke wat as sodanig ingevoer word en wat die Reserwebank ooreenkomsdig die bepalings van artikel 14 van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989), in die Republiek uitgereik het of wat in sirkulasie bly soos in die voorbehoudsbepaling by subartikel (1) van daardie artikel beoog.
5. Goed wat ongevraagd en gratis deur 'n nie-inwoner versend word aan—
- (a) 'n openbare bestuur of 'n plaaslike bestuur; of
- (b) 'n vereniging sonder winsoogmerk wat die Kommissaris oortuig het dat sodanige goed deur daardie vereniging gebruik gaan word uitsluitlik—
- (i) vir opvoekundige, godsdienstige of welsynsdoeleindes; of
- (ii) by die uitvoering van daardie vereniging se doelstellings gerig op die lewering van opvoekundige, mediese of welsynsdienste of mediese of wetenskaplike navorsing; of

(iii) for issue to or treatment of indigent persons, free of charge.”.

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

Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993, section 4 of Act 168 of 1993, section 34 of Act 20 of 1994, section 6 of Act 37 of 1995, section 34 of Act 37 of 1996, section 55 of Act 27 of 1997 and section 105 of Act 30 of 1998 5

107. Section 60 of the Income Tax Act, 1993, is hereby amended—

- (a) by the substitution in subsection (1) for the words following on paragraph (b) 10
of the definition of “distributable shares” of the following words:
“and such shares are, in pursuance of a distribution *in specie* thereof in
the course of an unbundling transaction, to be listed on a [licensed] stock
exchange as defined in section 1 of the Stock Exchanges Control Act,
1985 (Act No. 1 of 1985), within six months of such distribution *in
specie*, or within such further period as the Commissioner, having regard
to the circumstances of the case, may approve;”; 15
- (b) by the substitution in subsection (1) for the definition of “distribution *in
specie*” of the following definition:
“‘distribution *in specie*’, in relation to an unbundling transaction, means
a distribution by an unbundling company or intermediate company of
distributable shares in the course of an unbundling transaction whether
such distribution occurs by means of a dividend (including a liquidation
dividend), a total or partial reduction of capital (including any share
premium), [or] a redemption of redeemable preference shares or an
acquisition of shares in terms of section 85 of the Companies Act, 1973 25
(Act No. 61 of 1973);”; and
- (c) by the substitution for the definition of “listed company” in subsection (1) of
the following definition:
“‘listed company’ means a company the equity share capital of which is
listed on a [licensed] stock exchange as defined in section 1 of the Stock 30
Exchanges Control Act, 1985 (Act No. 1 of 1985);”.

Amendment of section 39 of Act 20 of 1994, as amended by section 7 of Act 37 of 1995, section 35 of Act 37 of 1996 and section 56 of Act 27 of 1997

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

- (a) by the substitution in subsection (1) in the definition of “holding company” 35
for the expression “R250 million” of the expression “R75 million”; and
- (b) by the substitution in subsection (1) for the definition of “listed company” of
the following definition:
“‘listed company’ means a company the equity share capital of which is
listed on a [licensed] stock exchange as defined in section 1 of the Stock 40
Exchanges Control Act, 1985 (Act No. 1 of 1985);”.

Insertion of section 1A in Act 31 of 1998

109. The following section is hereby inserted in the Uncertificated Securities Tax Act, 1998, after section 1:

“Administration of Act

45

1A. The Commissioner shall administer this Act.”.

- kerende inwoner van die Republiek na 'n afwesigheid van minstens ses maande) en lede van sy familie, ingevoer vir eie gebruik by verandering van sy woonplek na die Republiek: Met dien verstande dat bedoelde goed nie binne 'n tydperk van ses maande vanaf die datum van klaring daarvan vervreem mag word nie.
- 5 1.8 Gebruikte persoonlike of huishoudelike besittings (uitgesonderd motorvoertuie) wat bemaak is aan persone wat in die Republiek woonagtig is.
- 10 1.9 Gebruikte eiendom van 'n persoon wat gewoonlik in die Republiek woonagtig is en sterf terwyl tydelik buite die Republiek.
- 15 1.10 Goed tydelik uitgevoer vanaf die Republiek en wat, ten tyde van die uitvoer, as sodanig geregistreer is by die Kontroleur van Doeane en Aksyns (in die vorm deur die Kommissaris voorgeskryf) en waar dit na die uitvoerder teruggestuur word sonder dat verandering in eiendsomsreg plaasgevind het, en by herinvoer uitgeken kan word.
- 20 1.11 Goed wat na die buitenland gestuur word vir verwerking of reparasie, mits dit uitgevoer word onder doeane- en aksynstoesig, hul wesenlike aard behou, na die uitvoerder teruggestuur word sonder dat verandering in eiendsomsreg plaasgevind het en by herinvoer uitgeken kan word: Met dien verstande dat hierdie vrystelling slegs van toepassing is op die bedrag van die waarde van die goed uit die Republiek gestuur op die dag waarop die goed die Republiek verlaat het.
- 25 1.12 Goed tydelik toegelaat—
 (i) vir verwerking, mits bedoelde goed nie die eiendom van enige persoon van die Republiek word nie;
- 30 (ii) vir herstel, skoonmaak of opknapping;
 (iii) as onderdele vir goedere tydelik ingevoer vir herstel, skoonmaak of opknapping;
 (iv) wat geklaar word ingevolge 'n permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid, op aanbeveling van die Raad van Handel en Nywerheid, vir gebruik by die vervaardiging, verwerking, aferwing, uitrusting of verpakking van goedere uitsluitlik vir uitvoer;
 (v) onderhewig aan uitvoer in dieselfde toestand:
 Met dien verstande dat die Kontroleur van Doeane en Aksyns verseker dat die belasting gesekureer is deur 'n voorlopige betaling of die lewering van sekuriteit (behalwe waar die Kommissaris anders gelas, of in die omstandighede soos beoog in reël 120A.01(c) kragtens die Doeane- en Aksynswet).
- 35 1.13 Goed wat na die Republiek verskeep of vervoer word vir herverskeping of vervoer na enige uitvoerland: Met dien verstande dat die Kontroleur van Doeane en Aksyns verseker dat die belasting gesekureer is deur die betaling van 'n voorlopige betaling of die lewering van sekuriteit (behalwe waar die Kommissaris anders gelas, of in die omstandighede soos beoog in reël 120A.01(c) kragtens die Doeane- en Aksynswet).
- 40 1.14 Verpakkingshouers of laaiborde wat die eiendom van 'n ondernemer is, wat vanuit die Republiek uitgevoer word en daarna na die ondernemer in die Republiek teruggestuur word, sonder dat dit enige proses van vervaardiging of bewerking ondergaan het en sonder dat verandering in eiendsomsreg plaasgevind het.
- 45 1.15 Kompenserende produkte wat in die buitenland bekom is van goed wat tydelik uitgevoer is vir buitewaartse prosessering, ingevolge 'n bepaalde permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid op aanbeveling van die Raad van Handel en Nywerheid, mits—
 (i) die bepaalde permit verkry word voor die tydelike uitvoer van die goed;
 (ii) indien die eienaarskap van die kompenserende produkte oorgedra word voordat klaring vir doeanedoeleindes gemaak word, sodanige goedere in die naam van die persoon wat die goed uitgevoer het, geklaar word; en
 (iii) enige bykomende voorwaardes wat in genoemde permit gestel is, nagekom word:
 Met dien verstande dat hierdie vrystelling slegs van toepassing is op die bedrag van die waarde van die goed uit die Republiek gestuur op die dag waarop dit die Republiek verlaat het.
- 55 1.16 Goed vir Staatshoofde, Diplomatieke en ander Buitelandse Verteenwoordigers.
- 60 1.17 Goed ingevoer—

<ul style="list-style-type: none"> (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: <p>Provided that—</p> <ul style="list-style-type: none"> (i) the importation of any goods under this paragraph shall be subject to a certificate issued by the Director-General: Trade and Industry and to such other conditions as may be agreed upon by the Governments of the Republic and Botswana, Lesotho, Namibia or Swaziland; and (ii) goods imported under this paragraph shall not be sold or disposed of to any party who is not entitled to any privileges under this paragraph, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the Director-General: Trade and Industry. 	5
1.18 Goods imported for any purpose agreed upon between the Governments of the Republic and Botswana, Lesotho, Namibia or Swaziland: Provided that—	10
(i) the provisions of this paragraph shall not apply in respect of any consignment or quantity or class of goods unless the prior approval of the Governments of the Republic and Botswana, Lesotho, Namibia or Swaziland has been obtained for the application of such provisions in respect of every such consignment or quantity or class of goods;	15
(ii) the importation of any goods under this paragraph shall be subject to a certificate issued by the Director-General: Trade and Industry and to such other conditions as may be agreed upon by the Governments of the Republic and Botswana, Lesotho, Namibia or Swaziland; and	20
(iii) goods imported under this paragraph shall not be sold or disposed of to any party who is not entitled to any privileges under this paragraph, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the Commissioner.	25
2. Any of the following items imported into the Republic in respect of which the Controller of Customs and Excise has, in terms of the proviso to section 38(1)(a) of the Customs and Excise Act, granted permission that entry need not be made:	30
(i) Containers temporarily imported;	35
(ii) human remains;	
(iii) goods which in the opinion of the Commissioner are of no commercial value;	
(iv) goods imported under an international carnet; or	
(v) goods of a value for customs duty purposes not exceeding R200, and on which no such duty is payable in terms of Schedule No. 1 to the said Act.	40
3. Goods, being printed books, newspapers, journals and periodicals, imported into the Republic by post of a value for duty purposes under the Customs and Excise Act not exceeding R100 per parcel.	45
4. Goods, being gold coins imported as such and which the Reserve Bank has issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section.	50
5. Goods forwarded unsolicited and free of charge by a non-resident to—	
(a) a public authority or a local authority; or	
(b) any association not for gain which satisfies the Commissioner that such goods will be used by that association exclusively—	
(i) for educational, religious or welfare purposes; or	
(ii) in the furtherance of that association's objectives directed to the provision of educational, medical or welfare services or medical or scientific research; or	55

(iii) vir gratis uitreiking aan of behandeling van behoeftiges.”.

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

Wysiging van artikel 60 van Wet 113 van 1993, soos gewysig deur artikel 20 van 5 Wet 140 van 1993, artikel 4 van Wet 168 van 1993, artikel 34 van Wet 20 van 1994, artikel 6 van Wet 37 van 1995, artikel 34 van Wet 37 van 1996, artikel 55 van Wet 27 van 1997 en artikel 105 van Wet 30 van 1998

107. Artikel 60 van die Inkomstebelastingwet, 1993, word hierby gewysig—

- (a) deur in subartikel (1) die omskrywing van “genoteerde maatskappy” deur die volgende omskrywing te vervang:
“‘genoteerde maatskappy’ ‘n maatskappy waarvan die ekwiteitsaan-delekapitaal op ‘n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurse] Aandelebeurse, 1985 (Wet No. 1 van 1985), genoteer is;”
- (b) deur in subartikel (1) die woorde wat op paragraaf (b) van die omskrywing van “uitkeerbare aandele” volg deur die volgende woorde te vervang:
“en bedoelde aandele, na aanleiding van ‘n uitkering *in specie* daarvan in die loop van ‘n ontbondelingstransaksie, binne ses maande vanaf bedoelde uitkering *in specie*, of binne die verdere tydperk wat die Kommissaris met inagneming van die omstandighede van die geval mag goedkeur, op ‘n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurs] Aandelebeurse, 1985 (Wet No. 1 van 1985), genoteer staan te word;”; en
- (c) deur in subartikel (1) die omskrywing van “uitkering *in specie*” deur die volgende omskrywing te vervang:
“uitkering *in specie*”, met betrekking tot ‘n ontbondelingstransaksie, ‘n uitkering deur ‘n ontbondelingsmaatskappy of ‘n tussenmaatskappy van uitkeerbare aandele ooreenkomsdig ‘n ontbondelingstransaksie het sy bedoelde uitkering plaasvind by wyse van ‘n dividend (met inbegrip van ‘n likwidasie-dividend), ‘n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandelepremie), [of] ‘n aflossing van aflosbare voorkeuraandele of ‘n verkryging van aandele ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973).”.

35 Wysiging van artikel 39 van Wet 20 van 1994, soos gewysig deur artikel 7 van Wet 37 van 1995, artikel 35 van Wet 37 van 1996 en artikel 56 van Wet 27 van 1997

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

- (a) deur in subartikel (1) die omskrywing van “genoteerde maatskappy” deur die volgende omskrywing te vervang:
“‘genoteerde maatskappy’ ‘n maatskappy waarvan die ekwiteitsaan-delekapitaal op ‘n [gelisensieerde effektebeurs] aandelebeurs soos omskryf in artikel 1 van die Wet op Beheer van [Effektebeurse] Aandelebeurse, 1985 (Wet No. 1 van 1985), genoteer is;”; en
- (b) deur in subartikel (1) in die omskrywing van “houermaatskappy” die uitdrukking “R250 miljoen” deur die uitdrukking “R75 miljoen” te vervang.

Invoeging van artikel 1A in Wet 31 van 1998

109. Die volgende artikel word hierby in die Wet op Belasting op Sertifikaatlose Aandele, 1998, na artikel 1 ingevoeg:

50 “Administrasie van Wet

1A. Die Kommissaris moet hierdie Wet administreer.”.

Amendment of section 7 of Act 31 of 1998

110. Section 7 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the insertion of the following subsection after subsection (1):

“(1A) Where in addition to any amount of tax which is payable by any person in terms of this Act an amount of penalty or interest is payable by that person in terms of section 8 or 10 of this Act, any payment made by that person in respect of such tax, penalty or interest which is less than the total amount due by him in respect of such tax, penalty and interest, shall for the purposes of this Act be deemed to be made—

- (a) in respect of such penalty;
- (b) to the extent to which such payment exceeds the amount of such penalty, in respect of such interest; and
- (c) to the extent to which such payment exceeds a sum of the amounts of such penalty and interest, in respect of such tax.”

Amendment of section 3 of Act 9 of 1999

111. Section 3 of the Skills Development Levies Act, 1999, is hereby amended by the deletion of subsections (2) and (3).

Amendment of section 4 of Act 9 of 1999

112. Section 4 of the Skills Development Levies Act, 1999, is hereby amended by the addition of the following paragraph:

“(e) any municipality in respect of which a certificate of exemption has been granted on such conditions and for such period as the Minister may prescribe by regulation, in consultation with the Minister of Finance and the Minister for Provincial and Local Government.”.

Amendment of section 12 of Act 9 of 1999

113. Section 12 of the Skills Development Levies Act, 1999, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to subsection (2), if any levy remains unpaid after the last day for payment thereof as contemplated in section 6 (2) or 7[(3)] (4), a penalty of 10 per cent of that unpaid amount is payable in addition to the interest contemplated in section 11.”.

Repeal of laws

114. Decree No. 3 (Immovable Property Taxation) of 1991 of the Republic of Transkei is hereby repealed.

Short title and commencement

115. (1) This Act is called the Revenue Laws Amendment Act, 1999.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax in terms of the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2000.

Wysiging van artikel 7 van Wet 31 van 1998

110. Artikel 7 van die Wet op Belasting op Sertifikaatlose Aandele, 1998, word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg:

- “(1A) Waar, benewens ’n bedrag belasting wat ingevolge hierdie Wet deur ’n persoon betaalbaar is, ’n bedrag aan boete of rente ingevolge artikel 8 of 10 van hierdie Wet deur die persoon betaalbaar is, word enige betaling deur daardie persoon gedoen ten opsigte van daardie belasting, boete of rente wat minder is as die totale bedrag deur hom betaalbaar ten opsigte van daardie belasting, boete en rente, by die toepassing van hierdie Wet, geag gedoen te wees—
- (a) ten opsigte van bedoelde boete;
- (b) vir sover bedoelde betaling die bedrag van bedoelde boete oorskry, ten opsigte van bedoelde rente; en
- (c) vir sover bedoelde betaling die totaal van die bedrae van bedoelde boete en rente oorskry, ten opsigte van bedoelde belasting.”.

15 Wysiging van artikel 3 van Wet 9 van 1999

111. Artikel 3 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur subartikels (2) en (3) te skrap.

Wysiging van artikel 4 van Wet 9 van 1999

112. Artikel 4 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur die volgende paragraaf by te voeg:

“(e) noma imuphi uMasipala osenikwe isitifiketi sokuyekela kuleyomibandela nakuleyonkathi enqunywe ngesimiselo nguNgqongqoshe, ebonisana noN-gqongqoshe weZimali kanye noNgqogqoshe woHulumeni beziFunda nabaseKhaya.”.

25 Wysiging van artikel 12 van Wet 9 van 1999

113. Artikel 12 van die Zoeloe van die “uMthetho weZibizontela wokuThuthukisa aMakhono, 1999,” word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Kuye ngesigatshana (2), uma noma isiphi isibisontela esisala singakhokiwe ngemuva kosuku lokugcina lokukhokhwa kwaso njengoba kucats-hangwe kusigaba 6(2) noma 7[(3)](4), inhlawulo engamaphesenti ayi-10 alesos-amba esingakhokhiwe iyokhokhwa ngaphezulu kwenzuko ecatshangwe kusigaba 11.”.

Herroeping van wette

35 114. Dekreet No. 3 (“Immovable Property Taxation”) van 1991 van die Republiek van Transkei word hierby herroep.

Kort titel en inwerkingtreding

115. (1) Hierdie Wet heet die Wysigingswet op Inkomstewette, 1999.

(2) Behalwe vir sover in hierdie Wet anders bepaal word of uit die samehang anders blyk, word die wysigings deur hierdie Wet aan die Inkomstebelastingwet, 1962, aangebring, vir die doeleindes van aanslae ten opsigte van normale belasting ingevolge die Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 Januarie 2000 eindig.

