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Kaapstad,

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July
Julie

2005

THE PRESIDENCY

No. 698

13 July 2005

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

No. 10 of 2005: Taxation Laws Second Amendment Act, 2005.

DIE PRESIDENSIE

No. 698

13 Julie 2005

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

No. 10 van 2005: Tweede Wysligingswet op Belastingwette, 2005.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)
(Assented to 10 July 2005.)*

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate an offence regarding the failure to export goods within the specified period; to substitute a definition; and to require the Commissioner to keep certain Explanatory Notes and to provide for their evidentiary value; to amend the Stamp Duties Act, 1968, so as to delete a certain definition and substitute another; to make further provision for the manner in which instruments shall be written and stamped and for persons liable to stamp instruments; and to repeal a certain requirement in respect of debit entries; to amend the Value-Added Tax Act, 1991, so as to amend a definition; to further regulate the periods when returns must be submitted and to effect certain consequential amendments relating thereto; and to effect certain textual amendments; to amend the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003, so as to further regulate the period for submission of tax returns; and to amend the Taxation Laws Amendment Act, 2004, so as to further regulate the authority and responsibility to collect the payments referred to in Schedule 3 to that Act; and to provide for matters connected therewith.

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

Amendment of section 21 of Act 91 of 1964, as amended by section 9 of Act 105 of 1969, section 44 of Act 30 of 2002 and section 22 of Act 34 of 2004

1. Section 21 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (3) for subparagraph (iii) of paragraph (d) of the following subparagraph:

- “(iii) Where the importer fails to export the goods before the period of 6 months or any extended period lapses, the importer shall [—
(aa)] be guilty of an offence and shall—
(bb) [except if the goods are restricted or prohibited under any law, enter all goods of such class or kind for home consumption and payment of duty or for such other purposes as may be authorised under the rules for this section or any other provision of this Act] cause such goods to be abandoned or destroyed as provided in this Act; or

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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woerde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
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- _____ Woerde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.
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*(Engelse teks deur die President geteken.)
(Goedgekeur op 10 Julie 2005.)*

WET

Tot wysiging van die Doeane- en Aksynswet, 1964, ten einde 'n misdryf rakende die versuim om goed binne die voorgeskrewe tydperk uit te voer, verder te reël; 'n omskrywing te vervang; en van die Kommissaris te vereis om sekere Verklarende Notas te hou en om voorsiening te maak vir hul bewyswaarde; tot wysiging van die Wet op Seëlregte, 1968, ten einde 'n sekere omskrywing te skrap en 'n ander te vervang; verder voorsiening te maak vir die wyse waarop stukke geskryf en geseël moet word en vir persone aanspreeklik vir die seël van stukke; en 'n sekere vereiste ten opsigte van debetposte te skrap; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde 'n omskrywing te wysig; die tydperke wanneer opgawes ingedien moet word verder te reël en sekere gevolglike wysigings wat daarmee in verband staan, aan te bring; en sekere tekstuele wysigings aan te bring; tot wysiging van die Wet op Deviesebeheeramnestie en Wysiging van Belastingwette, 2003, ten einde die tydperk vir indiening van belastingopgawes verder te reël; en tot wysiging van die Wysigingswet op Belastingwette, 2004, ten einde die magtiging en verantwoordelikheid vir die invordering van betalings in Bylae 3 by daardie Wet bedoel, verder te reël; en om vir aangeleenthede wat daarmee in verband staan voorsiening te maak.

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

Wysiging van artikel 21 van Wet 91 van 1964, soos gewysig deur artikel 9 van Wet 105 van 1969, artikel 44 van Wet 30 van 2002 en artikel 22 van Wet 34 van 2004

1. Artikel 21 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur in subartikel (3) subparagraph (iii) van paragraaf (d) deur die volgende subparagraph te vervang:

“(iii) Waar die invoerder versuim om die goedere uit te voer voordat die tydperk van 6 maande of enige verlengde tydperk verstryk[—

(aa)] is die invoerder skuldig aan 'n oortreding en moet die invoerder—

[(bb)][aa] [behalwe wanneer die goedere verbode of beperk kragtens enige ander wet is, moet die invoerder alle goedere van sodanige klas of soort klaar vir binnelandse verbruik en betaling van reg of vir sodanige ander doeleindes wat kragtens die reëls vir hierdie artikel of enige ander bepaling van hierdie Wet toegelaat word] bewerkstellig dat sodanige goedere geabandoneer of vernietig word soos in hierdie Wet bepaal; of

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[(cc)](bb) [cause such goods to be abandoned or destroyed as provided in this Act] enter all goods of such class or kind for home consumption and payment of duty or for such other purposes as may be authorised under the rules for this section or any other provision of this Act, unless those goods are restricted or prohibited under any law.”.

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Amendment of section 21A of Act 91 of 1964, as inserted by section 121 of Act 60 of 2001 and amended by section 112 of Act 32 of 2004

2. Section 21A of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution in subsection (1) for the definition of “Industrial Development Zone” of the following definition:

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“**Industrial Development Zone**” or ‘IDZ’ means an area designated by the Minister of Trade and Industry in terms of any regulation made [under section 10(1)] in terms of the Manufacturing Development Act, 1993 (Act No. 187 of 1993);”;

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

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“(2) Any reference in this section, any Schedule or any rule to ‘regulations’ or ‘regulation’ shall, unless otherwise specified, be a reference to the regulations made [under section 10(1)] in terms of the Manufacturing Development Act, 1993.”;

(c) by the substitution for subsection (11) of the following subsection:

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“(11) Any amendment contemplated in subsection [(11)] (10) may be made with retrospective effect from such date as may be specified in such notice.”; and

(d) by the substitution for subsection (13) of the following subsection:

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“(13) The provisions of section 48(6) shall apply *mutatis mutandis* to any amendment to which subsections (10), (11) and (12) [and (13)] relates.”.

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, section 63 of Act 30 of 1998, section 53 of Act 53 of 1999, section 126 of Act 60 of 2001, section 104 of Act 74 of 2002 and section 138 of Act 45 of 2003

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3. (1) Section 47 of the Customs and Excise Act, 1964, is hereby amended by the addition to subsection (8) of the following paragraphs:

“(b) The Commissioner shall obtain and keep in his office two copies of such Explanatory Notes and shall effect thereto any amendment of which he is notified by the said Council from time to time and shall record the date of effecting each such amendment and any such amendment shall, for the purposes of this Act, be effective from the date so recorded.

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(c) Whenever in any legal proceedings any question arises as to the contents of such Explanatory Notes or as to the date upon which any amendment thereto was effected, a copy of such Explanatory Notes as amended in terms of this subsection shall be accepted as sufficient evidence of the contents thereof and of the effective date of any amendment thereto.”.

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(2) Subsection (1) shall be deemed to have come into operation on 12 December 2001.

[(cc)][(bb)] [moet die invoerder bewerkstellig dat sodanige goedere geabandoneer of vernietig word soos in hierdie Wet bepaal] alle goedere van sodanige klas of soort vir binnelandse verbruik en betaling van reg klaar of vir sodanige ander doeleindes wat kragtens die reëls vir hierdie artikel en enige ander bepaling van hierdie Wet toegelaat word, tensy daardie goedere beperk of verbode is kragtens enige wet.”.

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Wysiging van artikel 21A van Wet 91 van 1964, soos ingevoeg deur artikel 121 van Wet 60 van 2001 en gewysig deur artikel 112 van Wet 32 van 2004

2. Artikel 21A van die Doeane- en Aksynswet, 1964, word hierby gewysig—

- (a) deur in subartikel (1) die omskrywing van “Nywerheidsontwikkelingsone” 10
deur die volgende omskrywing te vervang:
“‘Nywerheidsontwikkelingsone’ of ‘NOS’ ‘n gebied deur die Minister van Handel en Nywerheid aangewys ingevolge enige regulasie wat **[kragtens artikel 10(1) van]** ingevolge die Wet op Vervaardigingsontwikkeling, 1993 (Wet No. 187 van 1993), uitgevaardig is;”; 15
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
“(2) Enige verwysing in hierdie artikel, enige Bylae of enige reël na ‘regulasies’ of ‘regulasië’ is, tensy anders vermeld, ’n verwysing na die regulasies wat **[kragtens artikel 10(1) van]** ingevolge die Wet op Vervaardigingsontwikkeling, 1993, uitgevaardig is.”; 20
- (c) deur subartikel (11) deur die volgende subartikel te vervang:
“(11) Enige wysiging in subartikel [(11)] (10) beoog, kan met terugwerkende krag vanaf die datum wat in sodanige kennisgewing vermeld word, uitgevaardig word.”; en
- (d) deur subartikel (13) deur die volgende subartikel te vervang:
“(13) Die bepalings van artikel 48(6) is *mutatis mutandis* op enige wysiging waarop subartikels (10), (11) en (12) [en (13)] betrekking het van toepassing.”. 25

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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, artikel 63 van Wet 30 van 1998, artikel 53 van Wet 53 van 1999, artikel 126 van Wet 60 van 2001, artikel 104 van Wet 74 van 2002 en artikel 138 van Wet 45 van 2003

3. (1) Artikel 47 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur in subartikel (8) die volgende paragrawe by te voeg:

“(b) Die Kommissaris moet twee kopieë van sodanige Verklarende Notas verkry en in sy of haar kantoor hou en moet enige wysiging daartoe waarvan hy van tyd tot tyd deur genoemde Raad in kennis gestel word, aanbring en moet die datum waarop elke sodanige wysiging aangebring is aanteken en enige sodanige wysiging is, by die toepassing van hierdie Wet, geldig vanaf die datum aldus aangeteken.” 40

(c) Wanneer in enige regsgeding enige vraag ontstaan met betrekking tot die inhoud van sodanige Verklarende Notas of met betrekking tot die datum waarop enige wysiging daartoe aangebring is, word ’n kopie van sodanige Verklarende Notas soos ingevolge hierdie subartikel gewysig, aanvaar as voldoende bewys van die inhoud daarvan en van die datum van inwerkingtreding van enige wysiging daarvan.”. 45

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(2) Subartikel (1) word geag op 12 Desember 2001 in werking te getree het.

Wysiging van artikel 1 van Wet 77 van 1968, soos gewysig deur artikel 16 van Wet 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, artikel 16 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 77 van Wet 30 van 1998, artikel 74 van Wet 53 van 1999, artikel 40 van Wet 5 van 2001, artikel 54 van Wet 19 van 2001, artikel 55

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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, section 16 of Act 27 of 1997, section 34 of Act 34 of 1997, section 77 of Act 30 of 1998, section 74 of Act 53 of 1999, section 40 of Act 5 of 2001, section 54 of Act 19 of 2001, section 141 of Act 60 of 2001, section 42 of Act 12 of 2003, section 37 of Act 16 of 2004 and section 73 of Act 32 of 2004

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4. Section 1 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion of the definition of “instalment credit agreement”; and
- (b) by the substitution for the definition of “instrument” of the following definition:

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“**instrument**” includes any written document or writing [and for the purposes of the duty contemplated in Item 6 of Schedule 1 in respect of any debit entry in an account, such a debit entry].”.

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Amendment of section 6 of Act 77 of 1968, as amended by section 10 of Act 114 of 1977, section 6 of Act 118 of 1984, section 20 of Act 87 of 1988, section 8 of Act 32 of 1999 and section 75 of Act 32 of 2004

5. Section 6 of the Stamp Duties Act, 1968, is hereby amended by the substitution for subsection (1) of the following subsection:

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- (1) Every instrument [(other than any debit entry contemplated in Item 6 of Schedule 1)] shall be written in such manner, and shall be so stamped, that the stamp appears on the face of the instrument.”.

Amendment of section 7 of Act 77 of 1968, as amended by section 18 of Act 103 of 1969, section 10 of Act 89 of 1972, section 8 of Act 66 of 1973, section 3 of Act 70 of 1975, section 5 of Act 87 of 1982, section 7 of Act 118 of 1984, section 5 of Act 69 of 1989, section 55 of Act 19 of 2001, section 43 of Act 12 of 2003, section 156 of Act 45 of 2003, section 38 of Act 16 of 2004 and section 76 of Act 32 of 2004

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6. (1) Section 7 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion in subsection (1) of paragraph (iB); and
- (b) by the deletion of subsection (2).

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(2) Subsection (1) is deemed to have come into operation on 1 March 2005 and applies in respect of any debit entry made in an account on or after that date.

Repeal of section 19 of Act 77 of 1968, as substituted by section 6 of Act 69 of 1989 and amended by section 75 of Act 53 of 1999 and substituted by section 87 of Act 32 of 2004

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7. (1) Section 19 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 1 March 2005 and applies in respect of any debit entry made in an account 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 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004 and section 92 of Act 32 of 2004

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8. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended by the addition to the definition of “consideration” of the following proviso:

“Provided that a deposit (other than a deposit on a returnable container), whether refundable or not, given in respect of a supply of goods or services shall not be considered as payment made for the supply unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;”.

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141 van Wet 60 van 2001, artikel 42 van Wet 12 van 2003, artikel 37 van Wet 16 van 2004 en artikel 73 van Wet 32 van 2004

4. Artikel 1 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur die omskrywing van “paalementkredietooreenkoms” te skrap; en

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

“‘stuk’ ook ’n geskrewe dokument of ’n geskrif [en vir die doeleindeste van die seëlreg beoog in Item 6 van Bylae 1 ten opsigte van ’n debetpos in ’n rekening, so ’n debetpos];”.

Wysiging van artikel 6 van Wet 77 van 1968, soos gewysig deur artikel 10 van Wet 114 van 1977, artikel 6 van Wet 118 van 1984, artikel 20 van Wet 87 van 1988, artikel 8 van Wet 32 van 1999 en artikel 75 van Wet 32 van 2004

5. Artikel 6 van die Wet op Seëlregte, 1968, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Elke stuk [(behalwe ’n debetpos in Item 6 van Bylae 1 bedoel)] moet op so ’n wyse geskryf word en moet so geseël word dat die seël op die voorkant van die stuk voorkom.”.

Wysiging van artikel 7 van Wet 77 van 1968, soos gewysig deur artikel 18 van Wet 103 van 1969, artikel 10 van Wet 89 van 1972, artikel 8 van Wet 66 van 1973, artikel 3 van Wet 70 van 1975, artikel 5 van Wet 87 van 1982, artikel 7 van Wet 118 van 1984, artikel 5 van Wet 69 van 1989, artikel 55 van Wet 19 van 2001, artikel 43 van Wet 12 van 2003, artikel 156 van Wet 45 van 2003, artikel 38 van Wet 16 van 2004 en artikel 76 van Wet 32 van 2004

6. (1) Artikel 7 van die Wet op Seëlregte, 1968, word hierby gewysig—

(a) deur paragraaf (iB) van subartikel (1) te skrap; en

(b) deur subartikel (2) te skrap.

(2) Subartikel (1) word geag op 1 Maart 2005 in werking te getree het en is van toepassing ten opsigte van enige debetpos op of na daardie datum in ’n rekening aangeteken.

Herroeping van artikel 19 van Wet 77 van 1968, soos vervang deur artikel 6 van Wet 69 van 1989 en gewysig deur artikel 75 van Wet 53 van 1999 en vervang deur artikel 87 van Wet 32 van 2004

7. (1) Artikel 19 van die Wet op Seëlregte, 1968, word hierby herroep.

(2) Subartikel (1) word geag op 1 Maart 2005 in werking te getree het en is van toepassing ten opsigte van enige debetpos op of na daardie datum in ’n rekening aangeteken.

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 1 van Wet 61 van 1993, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1996, artikel 23 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 81 van Wet 53 van 1999, artikel 76 van Wet 30 van 2000, artikel 64 van Wet 59 van 2000, artikel 65 van Wet 19 van 2001, artikel 148 van Wet 60 van 2001, artikel 114 van Wet 74 van 2002, artikel 47 van Wet 12 van 2003, artikel 164 van Wet 45 van 2003, artikel 43 van Wet 16 van 2004 en artikel 92 van Wet 32 van 2004

8. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in die omskrywing van “vergoeding” die volgende voorbehoudsbepaling by te voeg:

“: Met dien verstande dat ’n deposito (maar nie ’n deposito op ’n terugsendbare houer nie), hetsy terugbetaalbaar of nie, wat ten opsigte van ’n lewering van goed of dienste gegee is, nie beskou word as betaling gemaak vir die lewering nie, tensy en totdat die leweraar die deposito as vergoeding vir die lewering aanwend of bedoelde deposito verbeer word;”.

(2) Subartikel (1) word geag op 24 Januarie 2005 in werking te getree het.

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(2) Subsection (1) shall be deemed to have come into operation on 24 January 2005.

Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994, section 37 of Act 27 of 1997, section 92 of Act 53 of 1999 and section 178 of Act 45 of 2003

9. Section 23 of the Value-Added Tax Act, 1991, is hereby amended by the insertion 5
in subsection (4) of the following proviso:

"Provided that where that person is a public entity listed in Schedule 1 or Part A
or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of
1999), which was liable to be registered as a vendor for any supplies made on or
before 31 March 2005, but did not register before 1 April 2005, the Commissioner
must not register that person in respect of those supplies."

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Amendment of section 25 of Act 89 of 1991, as amended by section 96 of Act 30 of 1998 and section 94 of Act 53 of 1999

10. (1) Section 25 of the Value-Added Tax Act, 1991, is hereby amended by the 15
insertion after paragraph (d) of the following paragraph:

"(dA) any change whereby the provisions of section 27(4B)(a) cease to apply in
respect of that vendor."

(2) Subsection (1) shall come into operation on 1 August 2005.

**Amendment of section 27 of Act 89 of 1991, as amended by section 34 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 28 of Act 136 of 1992, 20
section 78 of Act 30 of 2000 and section 40 of Act 34 of 2004**

11. (1) Section 27 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the addition to subsection (1) after "Category E" of the following Category:

"'Category F' means the category of vendors whose tax periods are
periods of four months ending on the last day of June, October and
February of the calendar year."

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

"(a) Every vendor, not being a vendor who falls within category C, D,
[or] E or F as contemplated in subsection (3), (4), [or] (4A) or (4B), shall
fall within Category A or Category B."

(c) by the substitution in subsection (3) for the proviso of the following proviso:

"Provided that a vendor falling within Category C shall cease to fall
within that Category with effect from the commencement of a future period notified by the Commissioner, if the vendor has applied in writing to be placed within Category A, B, D, [or] E or F and the Commissioner is satisfied that by reason of a change in the vendor's circumstances he satisfies the requirements of this section for placing within Category A, B, D, [or] E or F."

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

"Provided that a vendor falling within Category D shall cease to fall within that Category with effect from the commencement of a future period notified by the Commissioner, if written application is made by the person who made the application referred to in paragraph (e) for the vendor to be placed within Category A, B, C, [or] E or F or the Commissioner is satisfied that by reason of a change in circumstances that vendor should be placed within Category A, B, C, [or] E or F."

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(e) by the substitution in subsection (4A) for paragraph (ii) of the proviso of the following paragraph:

"(ii) the Commissioner is satisfied that by reason of a change in circumstances, that vendor should be placed in Category A, B, C, [or] D or F; or"; and

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Wysiging van artikel 23 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 20 van 1994, artikel 37 van Wet 27 van 1997, artikel 92 van Wet 53 van 1999 en artikel 178 van Wet 45 van 2003

9. Artikel 23 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (4) die volgende voorbehoudsbepaling by te voeg:

“: Met dien verstande dat waar daardie persoon 'n openbare entiteit gelys is in Bylae 1 of Deel A of C van Bylae 3 by die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is, wat verplig was om te registreer as 'n ondernemer vir enige lewerings gemaak op of voor 31 Maart 2005, maar nie voor 1 April 2005 geregistreer het nie, moet die Kommissaris nie daardie persoon met betrekking tot daardie lewerings registreer nie.”.

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Wysiging van artikel 25 van Wet 89 van 1991, soos gewysig deur artikel 96 van Wet 30 van 1998 en artikel 94 van Wet 53 van 1999

10. (1) Artikel 25 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur na paragraaf (d) die volgende paragraaf in te voeg:

“(dA) enige verandering waarvolgens die bepalings van artikel 27(4B)(a) ophou om van toepassing te wees op daardie ondernemer;”.

(2) Subartikel (1) tree op 1 Augustus 2005 in werking.

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Wysiging van artikel 27 van Wet 89 van 1991, soos gewysig deur artikel 34 van Wet 136 van 1991, Goewermenskennisgewing 2695 van 8 November 1991, artikel 28 van Wet 136 van 1992, artikel 78 van Wet 30 van 2000 en artikel 40 van Wet 34 van 2004

11. (1) Artikel 27 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (1) na “Kategorie E” die volgende Kategorie in te voeg:

“**Kategorie F** die kategorie van ondernemers wie se belastingtydperke tydperke van vier maande is wat eindig op die laaste dag van Junie, Oktober en Februarie van die kalenderjaar.”;

(b) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Elke ondernemer wat nie 'n ondernemer is wat in Kategorie C, D, [of] E of F val soos in subartikel (3), (4), [of] (4A) of (4B) beoog nie, val in Kategorie A of Kategorie B.”;

(c) deur in subartikel (3) die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

“: Met dien verstande dat 'n ondernemer wat in Kategorie C val, ophou om in daardie Kategorie te val met ingang van die begin van 'n toekomstige tydperk deur die Kommissaris aangekondig, indien die ondernemer skriftelik aansoek gedoen het om in Kategorie A, B, D, [of] E of F geplaas te word en die Kommissaris oortuig is dat omrede 'n verandering van die ondernemer se omstandighede hy aan die vereistes van hierdie artikel voldoen om in Kategorie A, B, D, [of] E of F geplaas te word.”;

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(d) deur in subartikel (4) die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

“: Met dien verstande dat 'n ondernemer wat in Kategorie D val, ophou om in daardie Kategorie te val met ingang van die begin van 'n toekomstige tydperk deur die Kommissaris aangekondig, indien 'n skriftelike aansoek gedoen word deur die persoon wat die in paragraaf (e) bedoelde aansoek gedoen het om in Kategorie A, B, C, [of] E of F geplaas te word of die Kommissaris oortuig is dat omrede 'n verandering van omstandighede die ondernemer in Kategorie A, B, C, [of] E of F geplaas behoort te word.”;

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(e) deur in subartikel (4A) paragraaf (ii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

“(ii) die Kommissaris oortuig is dat omrede 'n verandering van omstandighede, die ondernemer in Kategorie A, B, C, [of] D of F geplaas behoort te word; of”; en

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- (f) by the insertion after subsection (4A) of the following subsection:
- “(4B) A vendor (other than a vendor registered under section 50), shall fall within Category F if—
- (a) the total value of the taxable supplies of the vendor—
- (i) has in the period of 12 months ending on the last day of any month not exceeded R1 million; and
- (ii) is not likely to exceed that amount in the period of 12 months commencing at the end of the period referred to in subparagraph (i); and
- (b) the vendor has made written application to the Commissioner in such form as the Commissioner may prescribe, to be placed in Category F:
- Provided that a vendor falling within Category F shall cease to fall within that Category with effect from a date notified by the Commissioner if—
- (i) written application is made by the vendor to be placed in a different Category;
- (ii) the Commissioner is satisfied that by reason of a change in circumstances that vendor should be placed within Category A, B, C, D or E; or
- (iii) the vendor has repeatedly made default in performing any of his obligations in terms of this Act.”.

(2) Subsection (1) shall come into operation on 1 August 2005 and shall apply in respect of any tax period commencing on or after that date.

Renumbering of section 54A of Act 89 of 1991, as inserted by section 42 of Act 34 of 2004

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12. (1) Section 54A of the Value-Added Tax Act, 1991, is hereby renumbered as section 41A.

(2) Subsection (1) shall come into operation on the date that Part 1A of Chapter III of the Income Tax Act, 1962, comes into operation.

Amendment of section 20 of Act 12 of 2003, as amended by section 61 of Act 16 of 2004

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13. Section 20 of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

- “(a) in respect of the tax relief contemplated in section 15 or 17, where the applicant or facilitator, as the case may be, fails to submit the tax return for the last year of assessment ending on or before 28 February 2003 by the later of—
- (i) a date determined by the amnesty unit[, in the case where the applicant or facilitator was not registered for tax or the registration of the applicant or facilitator was dormant at the time that the application for amnesty was submitted]; or
- (ii) 31 March 2004 [, in any other case]; or”.

Substitution of paragraph 3 of Schedule 3 to Act 16 of 2004

14. (1) The following paragraph hereby substitutes paragraph 3 of Schedule 3 to the Taxation Laws Amendment Act, 2004:

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“**3.** (1) The Commissioner for the South African Revenue Service has the authority and responsibility to collect the payments referred to in paragraph 2.

(2) The provisions of the Income Tax Act, 1962, contemplated in subsection (3) apply *mutatis mutandis* in respect of—

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- (a) the administration of this Schedule as regards the exercise of powers and performance of duties and the preservation of secrecy;
- (b) statements, the production of information, documents or things, enquiries, searches and seizures and evidence on oath for purposes of obtaining full information in respect of the calculation of the payments required in terms of this Schedule;

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- (f) deur na subartikel (4A) die volgende subartikel in te voeg:
- “(4B) ’n Ondernemer (behalwe ’n ondernemer wat geregistreer is ingevolge artikel 50), val in Kategorie F indien—
- (a) die totale waarde van die belasbare lewerings van die ondernemer—
- (i) in die tydperk van 12 maande wat eindig op die laaste dag van enige maand nie R1 miljoen oorskry het nie; en
- (ii) waarskynlik nie daardie bedrag in die tydperk van 12 maande wat begin aan die einde van die in subparagraph (i) bedoelde tydperk sal oorskry nie; en
- (b) die ondernemer skriftelik by die Kommissaris aansoek gedoen het in die vorm wat die Kommissaris voorskryf, om in Kategorie F geplaas te word:
- Met dien verstande dat ’n ondernemer wat in Kategorie F val, ophou om in daardie Kategorie te val met ingang van ’n datum deur die Kommissaris aangekondig indien—
- (i) die ondernemer skriftelik aansoek gedoen het om in ’n ander Kategorie geplaas te word;
- (ii) die Kommissaris oortuig is dat omrede ’n verandering van die ondernemer se omstandighede daardie ondernemer in Kategorie A, B, C, D of E geplaas moet word; of
- (iii) die ondernemer herhaaldelik versuim het om sy verpligte ingevolge hierdie Wet na te kom.”.
- (2) Subartikel (1) tree op 1 Augustus 2005 in werking en is van toepassing ten opsigte van enige belastingtydperk wat op of na daardie datum ’n aanvang neem.

Hernommering van artikel 54A van Wet 89 van 1991, soos ingevoeg deur artikel 42 van Wet 34 van 2004

- 12.** (1) Artikel 54A van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby hernummer as artikel 41A.
- (2) Subartikel (1) tree in werking op die datum wat Deel 1A van Hoofstuk III van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 20 van Wet 12 van 2003, soos gewysig deur artikel 61 van Wet 16 van 2004

- 13.** Artikel 20 van die Wet op Deviesebeheeramnestie en Wysiging van Belastingwette, 2003, word hierby gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:
- “(a) ten opsigte van die belastingverligting in artikel 15 of 17 beoog, waar die applikant of fasiliteerdeerder, na gelang van die geval, versuim om die belastingopgawe vir die laaste jaar van aanslag wat op of voor 28 Februarie 2003 eindig, in te dien teen die laatste van—
- (i) ’n datum deur die amnestie-eenheid bepaal[, in die geval waar die applikant of fasiliteerdeerder nie vir belasting geregistreer was nie of die registrasie van die applikant of fasiliteerdeerder op die tydstip wat die aansoek vir amnestie ingedien is, dormant was]; of
- (ii) 31 Maart 2004[, in enige ander geval]; of”.

Vervanging van paragraaf 3 van Bylae 3 by Wet 16 van 2004

- 14.** (1) Die volgende paragraaf vervang hierby paragraaf 3 van Bylae 3 by die Wysigingswet op Belastingwette, 2004:
- “**3.** (1) Die Kommissaris van die Suid-Afrikaanse Inkomstediens het die magtiging en verantwoordelikheid om die betalings in paragraaf 2 bedoel in te vorder.
- (2) Die bepalings van die Inkomstebelastingwet, 1962, in subartikel (3) beoog is *mutatis mutandis* van toepassing ten opsigte van—
- (a) die uitvoering van hierdie Bylae wat betref die uitoefening van bevoegdhede en uitvoering van pligte en die bewaring van geheimhouding;

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<ul style="list-style-type: none"> (c) any assessment, objection, appeal and settlement of dispute relating to the payment required in terms of this Schedule; (d) the payment, recovery or refund of any amount, interest or penalty required in terms of this Schedule; (e) any representative of a holder of a mining right, production right or mining permit or any prospecting right with a permission to remove and dispose of minerals or petroleum; (f) any transaction, operation or scheme entered into or carried out for the purposes of avoiding or postponing any liability for the payment required in terms of this Schedule or of reducing the amount of that payment; (g) reporting of unprofessional conduct; and (h) the jurisdiction of the courts. <p>(3) The provisions of the Income Tax, 1962, which apply to this Schedule are those relating to—</p> <ul style="list-style-type: none"> (a) the administration of the Act as contained in Chapter 1 of that Act; (b) returns, the production of information, documents or things, enquiries, searches and seizures and evidence on oath; (c) assessments, objections, appeals and settlement of disputes; (d) the payment, recovery and refund of tax, interest and penalties; (e) representative taxpayers and representative employers; (f) transactions, operations or schemes for purposes of avoiding or postponing liability for taxes on income or reducing the amount of taxes on income; (g) the reporting of unprofessional conduct; and (h) the jurisdiction of the courts.”. <p>(2) Subsection (1) shall come into operation on a date to be determined by the President by proclamation in the <i>Gazette</i>.</p>	5 10 15 20 25 30
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Short title

15. This Act is called the Taxation Laws Second Amendment Act, 2005.

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(b) state, verskaffing van inligting, dokumente of goed, ondervraging, deursoeking en beslaglegging en getuienis onder eed met die doel om volle inligting ten opsigte van die berekening van die betalings ingevolge hierdie Bylae vereis, te verskaf;	5
(c) enige aanslag, beswaar, appèl en skikking van geskil met betrekking tot die betaling ingevolge hierdie Bylae vereis;	
(d) die betaling, invordering of terugbetaling van enige bedrag, rente of boete ingevolge hierdie Bylae vereis;	
(e) enige verteenwoordiger van 'n houer van 'n 'mining right', 'production right' of 'mining permit' of enige 'prospecting right' met toestemming om minerale of petroleum te verwys;	10
(f) enige transaksie, handeling of skema aangegaan of uitgevoer met die doel om enige aanspreeklikheid vir betaling ingevolge hierdie Bylae te vermy of uit te stel of om die bedrag van daardie betaling te verminder;	15
(g) rapportering van onprofessionele gedrag; en	
(h) die jurisdiksie van die howe.	
(3) Die bepalings van die Inkomstebelastingwet, 1962, wat op hierdie Bylae van toepassing is, is daardie wat verband hou met—	
(a) die uitvoering van die Wet soos vervat in Hoofstuk 1 van daardie Wet;	20
(b) opgawes, die verskaffing van inligting, dokumente of goed, ondervragings, deursoeking en beslaglegging en getuienis onder eed;	
(c) aanslae, besware, appelle en skikkings van geskille;	25
(d) die betaling, invordering en terugbetaling van belasting, rente en boetes;	
(e) verteenwoordigende belastingpligtiges en verteenwoordigende werkgewers;	
(f) transaksies, handelinge of skemas met die doel om die aanspreeklikheid vir belasting op inkomste te vermy of uit te stel of om die bedrag van belasting op inkomste te verminder;	30
(g) die rapportering van onprofessionele gedrag; en	
(h) die jurisdiksie van die howe.”.	

(2) Subartikel (1) tree in werking op 'n datum deur die President by proklamasie in die 35
Staatskoerant bepaal.

Kort titel

15. Hierdie Wet heet die Tweede Wysigingswet op Belastingwette, 2005.