



Government Gazette

REPUBLIC OF SOUTH AFRICA

Regulation Gazette

No. 7451

Vol. 447 Pretoria 13 September 2002 **No. 23820**



AIDS HELPLINE: 0800-123-22 Prevention is the cure

No. R. 1168

13 September 2002

REGULATIONS PRESCRIBING THE STEPS TO BE TAKEN TO LIQUIDATE, WIND UP OR DEREGISTER A COMPANY FOR PURPOSES OF SECTION 46 AND SECTION 64B OF THE INCOME TAX ACT, 1962 (ACT No. 58 OF 1962)

By virtue of the powers vested in me by section 46(6)(c) and section 64B(5)(c) of the Income Tax Act, 1962 (Act No. 58 of 1962), I, Trevor Andrew Manuel, Minister of Finance, hereby prescribe in the Schedule hereto, the steps that have to be taken to liquidate, wind up or deregister a company within the period specified therein, for purposes of determining whether the provisions of section 46 or section 64B(3)(b) and 64B(5)(c), as the case may be, apply.

T. A. MANUEL**Minister of Finance****SCHEDULE**

1. In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned.

2. For purposes of determining whether the provisions of section 46 or sections 64B(3)(b) and 64B(5)(c) of the Income Tax Act, 1962, apply, a company must be regarded as having taken the necessary steps to liquidate, wind up or deregister where—

- (a) in the case of a liquidation or winding-up—
 - (i) that company has lodged a resolution authorising the voluntary liquidation or winding-up of that company, for registration in terms of—
 - (aa) section 200 of the Companies Act, 1973 (Act No. 61 of 1973), in the case of a company registered in terms of that Act;
 - (bb) section 67 (2) of the Close Corporations Act, 1984 (Act No. 69 of 1984), in the case of a close corporation; or
 - (cc) a similar provision contained in any foreign law relating to the liquidation of companies, in the case where that company is incorporated in a country other than the Republic; and
 - (ii) that company has disposed of all assets and has settled all liabilities (other than assets required to satisfy any reasonably anticipated liabilities to the Commissioner and costs of administration relating to the liquidation or winding-up), unless the Commissioner otherwise allows for a period which the Commissioner deems reasonable to enable that company to take adequate steps to wind down the business of the company; and
 - (b) in the case of a deregistration of a company, that company has submitted a written statement signed by each of its directors confirming that the company has ceased to carry on business and has no assets or liabilities—
 - (i) to the Registrar of Companies in terms of section 73(5) of the Companies Act, 1973, in the case of a company registered in terms of that Act;
 - (ii) to the Registrar of Close Corporations in terms of section 26(2) of the Close Corporations Act, 1984, in the case of a close corporation; or
 - (iii) in the case where that company is incorporated in a country other than the Republic, to a person who, in terms of any similar provision contained in any foreign law, exercises the powers and performs the duties assigned to a Registrar contemplated in subparagraph (i) or (ii);
 - (c) that company has submitted a copy of the resolution contemplated in paragraph (a)(i) or the written statement contemplated in paragraph (b) to the Commissioner; and
 - (d) all the returns or information required to be submitted or furnished to the Commissioner in terms of any Act administered by the Commissioner by the end of the period contemplated in regulation 3, have been submitted or furnished or arrangements have been made with the Commissioner for the submission of any outstanding returns or furnishing of information.
3. The steps contemplated in regulation 2 must be taken by the company within a period of six months after the later of—
- (a) the date of publication of these regulations; or
 - (b) the liquidation distribution contemplated in section 46 or the distribution of the dividend contemplated in section 64B, as the case may be.