



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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## **STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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**STATE PRESIDENT'S OFFICE**

**KANTOOR VAN DIE STAATSPRESIDENT**

No. 2429.

15 December 1993

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

No. 168 of 1993: Income Tax Amendment Act, 1993.

No. 2429.

15 Desember 1993

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

No. 168 van 1993: Wysigingswet op Inkomstebelasting, 1993.

**GENERAL EXPLANATORY NOTE:**

Words underlined with a solid line indicate insertions in existing enactments.

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# ACT

To amend the Income Tax Act, 1962, so as to provide for the transfer of certain amounts between companies within the same group of companies; and to further provide for the refund of Standard Income Tax on Employees (SITE) under certain circumstances; to amend the Income Tax Act, 1993, so as to make further provision with regard to unbundling transactions; and to provide for matters connected therewith.

*(Afrikaans text signed by the Acting State President.)  
(Assented to 8 December 1993.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

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 and section 17 of Act 113 of 1993

1. (1) Section 22 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion of paragraph (f) of subsection (5); and
  - (b) by the insertion after subsection (5) of the following subsection:
 

“(5A) Where—

    - (a) any commercial or industrial undertaking has been acquired by one company from another company;
    - (b) both such companies are managed, controlled or owned by substantially the same persons; and
    - (c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (3B), or a LIFO reserve as contemplated in subsection (5)(d) has been determined in relation to such last-mentioned company,

the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsection (3B) or paragraphs (d) and (e) of subsection (5), as the case may be, be regarded as being one company.”
- (2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1994.

Amendment of section 23E of Act 58 of 1962, as inserted by section 19 of Act 113 of 1993

2. (1) Section 23E of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

“(8) Where—

- (a) any commercial or industrial undertaking has been acquired by one company from another company;
  - (b) both such companies are managed, controlled or owned by substantially the same persons; and
  - (c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (7),
- the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsections (1), (3), (4), (5), (6) and (7) be regarded as being one company.”

(2) Subsection (1) shall be deemed to have come into operation on 20 July 1993.

**Amendment of paragraph 11B of 4th Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991 and section 34 of Act 141 of 1992**

3. Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (4) of the following subparagraph:

“(4A) Where in respect of any tax period falling within a year of assessment which ended on the last day of February 1991, 1992 or 1993 any employee failed to furnish his employer with a return of personal particulars or a fresh return as required in terms of paragraph 12(1) and in consequence of such failure the employer determined an amount of Standard Income Tax on Employees in relation to such employee which exceeded the amount of Standard Income Tax on Employees which would have been determined had such return or fresh return been duly furnished, the Commissioner may, notwithstanding the provisions of subparagraph (6), amend the determination of the amount of Standard Income Tax on Employees payable by the employee in respect of such tax period and may, notwithstanding the provisions of section 102(2), make a refund of the amount paid in excess.”

**Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993**

4. (1) Section 60 of the Income Tax Act, 1993, is hereby amended—

- (a) by the addition of the word “and” at the end of paragraph (b) of the definition of “distributable shares” in subsection (1); and
- (b) by the addition to the definition of “distributable shares” in subsection (1) of the following paragraph:

“(c) any shares in an unlisted company held on 22 November 1993 by such holder for its own benefit if—

- (i) such holder’s interest in such unlisted company constitutes at least 30 per cent of the equity share capital of such unlisted company; or
- (ii) such shares so held represent at least 70 per cent of the market value of the assets of such holder, and such shares are, in pursuance of a distribution *in specie* thereof in the course of an unbundling transaction, 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;”

(2) Subsection (1) shall be deemed to have come into operation on 22 November 1993.

**Short title**

5. This Act shall be called the Income Tax Amendment Act, 1993.