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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1193.

9 July 1993

No. 1193.

9 Julie 1993

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

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

No. 97 of 1993: Taxation Laws Amendment Act, 1993.

No. 97 van 1993: Wysigingswet op Belastingwette, 1993.

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.

ACT

To amend the Marketable Securities Tax Act, 1948, so as to provide for an exemption; and to provide for the manner in which payments are to be allocated; to amend the Transfer Duty Act, 1949, so as to amend the rates of transfer duty; to provide for certain exemptions and to withdraw certain other exemptions; and to provide for the manner in which payments are to be allocated; to amend the Estate Duty Act, 1955, so as to insert or delete certain definitions and to further define a certain expression; to delete certain provisions relating to family companies; to provide for certain deductions; to provide for the valuation of members' interests in close corporations; to make certain decisions of the Commissioner subject to objection and appeal; to make provision for the manner in which payments are to be allocated; and to increase the penalties in respect of certain offences; to amend the Stamp Duties Act, 1968, so as to provide for certain exemptions and to withdraw others; to regulate the levying and manner of payment of stamp duty on certain insurance policies; to provide for the manner in which payments are to be allocated; to abolish stamp duty on certain agreements and contracts; and to make certain textual alterations; to amend the Regional Services Councils Act, 1985, so as to amend the definition of "person"; to amend the KwaZulu and Natal Joint Services Act, 1990, so as to amend the definition of "person"; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to increase the tax rate; to provide for certain exemptions; to extend the provisions relating to a branch of an enterprise situated outside the Republic to a vendor's main business when so situated; to increase from R200 to R500 the maximum amount of consideration in respect of which a simplified tax invoice may be issued; to reduce from R100 to R10 the amount in respect of which a refund of tax is not automatic; to create an offence relating to inadequate records and the failure to retain records; to create offences relating to the fraudulent issuing, making, furnishing or using of tax invoices, debit notes, credit notes, bills of entry or other documents; to provide that the surrender of certain diplomatic tax relief certificates may be required; to make further or other provision in respect of the circumstances in which the supply of goods is deemed to be otherwise than in the course or furtherance of an enterprise, the input tax allowable to a share block company, the time of supply of fixed property, the value of goods or services supplied between connected persons, the exemption in respect of the supply of management services to members by certain bodies corporate or share block companies, the calculation of tax, the deductions permissible in respect of input tax, liability for tax in respect of past supplies or importations, the retention of records by vendors and the application of the tax rate when that rate is increased or reduced; and to effect certain textual alterations; to provide for a once-off exemption from stamp duty in respect of the issue of shares by Cape Mohair (Holdings) Limited; and to provide for matters connected therewith.

(English text signed by the Acting State President.)
(Assented to 28 June 1993.)

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

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 and section 1 of Act 136 of 1992 5

1. Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) in respect of the purchase of any interest-bearing debentures, including debenture stock, debenture bonds and any other securities of a juristic person, whether constituting a charge on the assets of the juristic person or not, listed by any recognized stock exchange in the Republic or listed by a financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989).” 15

Substitution of section 6 of Act 32 of 1948

2. The following section is hereby substituted for section 6 of the Marketable Securities Tax Act, 1948:

“Recovery of tax by Commissioner

6.(1) Notwithstanding anything contained in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), any amount payable under this Act shall be recoverable by the Commissioner by action in the court of the magistrate having jurisdiction in respect of the stockbroker by whom such amount is so payable. 20

(2) Where, in addition to any amount of tax which is payable by any person in terms of this Act, an amount of penalty 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 which is less than the total amount due by him in respect of such tax and penalty shall for the purposes of this Act be deemed to be made— 25

(a) in respect of such penalty; and

(b) to the extent that such payment exceeds the amount of such penalty, in respect of such tax. 30

(3) Any agreement concluded prior to 1 April 1994 between the Commissioner and the person liable for the payment of any tax or penalty which provides for the allocation of any payment to be made on or after that date otherwise than in accordance with the provisions of subsection (2) shall, in so far as it provides for such allocation, cease to have effect.” 35

Amendment of section 2 of Act 40 of 1949, as substituted by section 2 of Act 77 of 1964 and amended by section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988 and section 2 of Act 136 of 1992 40

3.(1) Section 2 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively: 45

“(a) ~~seven~~ 10 per cent of the said value or the said amount, as the case may be, if the person by whom the property is acquired or in whose favour or for whose benefit the said interest or restriction is renounced is a person other than a natural person; or 50

- (b) subject to the provisions of subsection (5)—
- (i) 1 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R50 000] R60 000**; and
 - (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R50 000] R60 000** but does not exceed R250 000; and
 - (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds R250 000,
if the person by whom the property is acquired or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person.”

(2) Subsection (1) shall be deemed to have come into operation on 7 April 1993 and shall apply in respect of any acquisition of property or any renunciation of an interest in or restriction upon the use or disposal of property on or after that date.

Amendment of section 3 of Act 40 of 1949, as substituted by section 4 of Act 88 of 1974 and amended by section 1 of Act 99 of 1981

4. Section 3 of the Transfer Duty Act, 1949, is hereby amended by the addition thereto of the following subsections:

- “(4) Where, in addition to any amount of duty which is payable by any person in terms of this Act, an amount of penalty 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 duty or penalty which is less than the total amount due by him in respect of such duty and penalty shall for the purposes of this Act be deemed to be made—
- (a) in respect of such penalty; and
 - (b) to the extent that such payment exceeds the amount of such penalty, in respect of such duty.
- (5) Any agreement concluded prior to 1 April 1994 between the Commissioner and the person liable for the payment of any duty or penalty which provides for the allocation of any payment to be made on or after that date otherwise than in accordance with the provisions of subsection (4) shall, in so far as it provides for such allocation, cease to have effect.”

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991 and section 4 of Act 136 of 1992

5.(1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 - “(b) any **[divisional council]** rural council, municipal council, town council, village council, town board, local board, village management board, health committee **[or other committee of a similar nature]** or any district council **[or any local or general council established or deemed to have been established under the Black Affairs Act, 1959 (Act No. 55 of 1959), or an Affairs Administration Board established under the Black Affairs Administration Act, 1971 (Act No. 45 of 1971), or the Evaton Black Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959]** or the Far West Rand Dolomitic Water

Association formed on 6 July 1964, or the Rand Water Board, or the [body] council established under section 2 of the [Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal] Local Government Affairs Council Act (House of Assembly), 1989 (Act No. 84 of 1989), or the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984), or any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or any joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);”;

(b) by the substitution for subsection (9) of the following subsection:

“(9) If any property has by expropriation or compulsory sale under any law been acquired by the State (including the South African Transport Services and a provincial administration) or any [divisional council] rural council, municipal council, town council, village council, town board, local board, village management board, health committee [or other committee of a similar nature] or any district council [or any local or general council established or deemed to have been established under the Black Affairs Act, 1959 (Act No. 55 of 1959)] or any board, body or institution of a public character established by law, and such property is, upon the cancellation or variation on or after 1 January 1964, of such expropriation or sale, re-acquired by the person from whom such property was expropriated or by whom such property was sold under such sale, no duty shall be payable in respect of such re-acquisition.”; and

(c) by the insertion after subsection (12A) of the following subsection:

“(12B) No duty shall be payable in respect of the acquisition by way of a transaction concluded on or after 7 April 1993 by a natural person of the full ownership in—

- (a) any property consisting of land and any dwelling-house thereon or of a residential apartment and an undivided share in common property held under a sectional title deed contemplated in the Sectional Titles Act, 1986, if the value of such property, determined in accordance with the provisions of sections 5, 6, 7 and 8, does not exceed R60 000; or
- (b) any unimproved land acquired for the purpose of erecting a dwelling-house thereon, if the value of such land, determined in accordance with the provisions of sections 5, 6, 7 and 8, does not exceed R24 000.”.

(2) Subsection (1) shall be deemed to have come into operation on 7 April 1993.

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 and section 7 of Act 87 of 1988

6. Section 1 of the Estate Duty Act, 1955, is hereby amended—

(a) by the insertion after the definition of “child” of the following definition:

“‘close corporation’ means a close corporation within the meaning of the Close Corporations Act, 1984 (Act No. 69 of 1984);”;

(b) by the deletion of the definition of “family company”; and

(c) by the substitution for the definition of “stocks or shares” of the following definition:

“‘stocks or shares’ in relation to any company means any part of the share capital or members’ interest of that company and includes any debenture, debenture stock or any other like form of marketable security.”.

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985 and section 9 of Act 87 of 1988

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7. Section 3 of the Estate Duty Act, 1955, is hereby amended—
- (a) by the deletion in subsection (3) of paragraph (cB); and
 - (b) by the deletion of subsection (4).

Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987 and section 10 of Act 87 of 1988

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- 8.(1) Section 4 of the Estate Duty Act, 1955, is hereby amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
 - “(a) so much of the funeral, tombstone and death-bed expenses of the deceased which the Commissioner considers to be fair and reasonable;”;
 - (b) by the substitution in paragraph (h) for subparagraph (i) of the following subparagraph:
 - “(i) any charitable, educational or religious institution of a public character which is exempt from tax in terms of section 10(1)(f) of the Income Tax Act, 1962 (Act No. 58 of 1962), and any fund which has been approved by the Commissioner under the provisions of [the said] section 10(1)(fA) of that Act; or”;
 - (c) by the substitution for paragraph (p) of the following paragraph:
 - “(p) so much of the value of any property deemed to be property of the deceased by virtue of the provisions of section 3(3) as has not been deducted under any of the other provisions of this section and as the Commissioner is satisfied has been taken into account under the provisions of section 5(1)(f)bis in the determination of the value of any company shares or a member's interest in a close corporation included as property in the estate;”.

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(2) Subsection (1)(b) shall apply in respect of the estate of any person who died or dies on or after the date on which section 10(1)(fA) of the Income Tax Act, 1962 (Act No. 58 of 1962), comes into operation.

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 and section 2 of Act 136 of 1991

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9. Section 5 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:
 - “(e) in the case of any property referred to in section 3(3)(b) [or (cB)], an amount determined in the manner prescribed in section 62 of the Income Tax Act, 1962 (Act No. 58 of 1962) [Provided that the value of so much of any consideration as in terms of section 3(4) is deemed to be property donated by the deceased to a family company, shall be deemed to be not less than the amount required in terms of section 76 of the Companies Act, 1973 (Act No. 61 of 1973), to be transferred by the family company concerned to its

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- share premium account in respect of the shares issued by it to the deceased];”;
- (b) by the substitution in subsection (1) for subparagraphs (i), (ii) and (iii) of paragraph (f) *bis* of the following subparagraphs, respectively:
- “(i) no regard shall be had to any provision in the memorandum and articles of association, founding statement, association agreement or rules of the company, as the case may be, restricting the transferability of shares therein, but it shall be assumed that such shares were freely transferable; 5
- (ii) no regard shall be had to any provision in the memorandum and articles of association, founding statement, association agreement or rules of the company, as the case may be, whereby or whereunder the value of the shares of the deceased or any other member is to be determined; 10
- (iii) if upon a winding-up of the company the deceased would have been entitled to share in the assets of the company to a greater extent *pro rata* to shareholding or membership than other shareholders or members, no lesser value shall be placed on the shares held by the deceased than the amount to which he would have been so entitled if the company had been in course of winding-up and the said amount had been determined as at the date of his death;” and 15 20
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) For the purposes of subsection (1) *(f) bis* [(a)], the term ‘shares’ includes any members’ interests or any class of shares, stock, debenture stock, [debenture] debentures or right to purchase members’ interests or to subscribe for or purchase shares, stocks or debentures, and the term ‘company’ includes any company or close corporation incorporated in the Republic or elsewhere.”. 25

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 and section 8 of Act 86 of 1987 30

10. Section 24 of the Estate Duty Act, 1955, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) *(a)* Every executor or other person liable for duty under this Act who is aggrieved by any assessment of such duty in terms of section 9 may, within 30 days after the date of the assessment notice **[or within such further period as the Commissioner may on good cause approve]**, lodge with the Commissioner an objection in writing which shall specify in detail the grounds upon which it is made. 35 40
- (b) No objection shall be considered by the Commissioner which is not delivered at his office or posted to him in sufficient time to reach him on or before the last day appointed for lodging objections, unless the Commissioner is satisfied that there are reasonable grounds for the delay in lodging the objection: Provided that any decision of the Commissioner under this paragraph shall be subject to objection and appeal.”; 45
- (b) by the substitution for paragraph (a) of the proviso to subsection (4) of the following paragraph:
- “(a) if the immovable property in question is property which is situated outside the area of jurisdiction of any body (other than a divisional council) contemplated by section 84(1)(f)(i) of the **[Republic of South Africa Constitution Act] Provincial Government Act, 1961 (Act No. 32 of 1961)**, and on which farming operations are carried on, be persons who are *bona fide* farmers; or” and 50 55
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) *(a)* Every notice of appeal shall be in writing and shall be lodged with the Commissioner within 30 days after the date of the notice referred to in subsection (3). 55

(b) No notice of appeal which is not delivered at the Commissioner's office or posted to him in sufficient time to reach him on or before the last day appointed for lodging appeals, shall be of any force or effect whatsoever unless the Commissioner is satisfied that there are reasonable grounds for the delay in lodging the notice of appeal: Provided that any decision of the Commissioner under this paragraph shall be subject to objection and appeal." 5

Amendment of section 25 of Act 45 of 1955, as substituted by section 9 of Act 86 of 1987

11. Section 25 of the Estate Duty Act, 1955, is hereby amended by the addition thereto of the following subsections: 10

"(5) Where, in addition to any amount of duty which is payable by any person in terms of this Act, any 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 duty or interest which is less than the total amount due by him in respect of such duty and interest shall for the purposes of this Act be deemed to be made— 15

(a) in respect of such interest; and
(b) to the extent that such payment exceeds the amount of such interest, in respect of such duty. 20

(6) Any agreement concluded prior to 1 April 1994 between the Commissioner and the person liable for the payment of any duty or interest which provides for the allocation of any payment to be made on or after that date otherwise than in accordance with the provisions of subsection (5) shall, in so far as it provides for such allocation, cease to have effect." 25

Amendment of section 28 of Act 45 of 1955, as amended by section 17 of Act 77 of 1962, section 7 of Act 81 of 1965 and section 9 of Act 81 of 1985

12. Section 28 of the Estate Duty Act, 1955, is hereby amended by the substitution in subsection (2) for the expression "one hundred rand" of the expression "R1 000". 30

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 4 of Act 69 of 1989 and section 5 of Act 136 of 1992 35

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

(a) by the substitution in subsection (1) for subparagraph (i) of paragraph (b) of the following subparagraph: 40

"(i) any [divisional council] rural council, municipal council, town council, village council, town board, local board, village management board, health committee or [other committee of a similar nature] district council; or";

(b) by the deletion in subsection (1) of subparagraph (ii) of paragraph (b);

(c) by the substitution in subsection (1) for subparagraph (iii) of paragraph (b) of the following subparagraph: 45

"(iii) the Rand Water Board, the Far West Rand Dolomitic Water Association formed on 6 July 1964, or any regional water services corporation constituted under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal, or any irrigation board established under Chapter VI, any water board established under Chapter VII or any body established under Chapter VIIA of the Water Act, 1956 (Act No. 54 of 1956); or"; 50

(d) by the deletion in subsection (1) of subparagraph (v) of paragraph (b);

- (e) by the addition in subsection (1) of the following subparagraph to paragraph (b):
- “(ix) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or any joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);”;
- (f) by the substitution in subsection (1) for subparagraph (i) of paragraph (f) of the following subparagraph:
- “(i) a religious, charitable or educational institution of a public character which is exempt from tax in terms of section 10(1)(f) of the Income Tax Act, 1962 (Act No. 58 of 1962), and any fund which **[has been approved by the Commissioner under the provisions of the said section]** is exempt from tax in terms of section 10(1)(fA) of the said Act; or”; and
- (g) by the substitution in subsection (1) for subparagraph (iii) of paragraph (f) of the following subparagraph:
- “(iii) any company, society, trust or other association within the Republic which is exempt from tax in terms of section 10(1)(cF), (cI) **[or]**, (cJ) or (cL), as the case may be, of the said Act.”.
- (2)(a) Subsection (1)(f) shall come into operation on the date on which section 10(1)(fA) of the Income Tax Act, 1962 (Act No. 58 of 1962), comes into operation.
- (b) Subsection (1)(g) shall come into operation on the date on which section 10(1)(cL) of the said Act comes into operation.

Amendment of section 24 of Act 77 of 1968, as amended by section 21 of Act 103 of 1969, section 11 of Act 88 of 1974, section 4 of Act 70 of 1975, section 12 of Act 114 of 1977, section 6 of Act 92 of 1983, section 26 of Act 87 of 1988 and section 9 of Act 69 of 1989

- 14.(1) Section 24 of the Stamp Duties Act, 1968, is hereby amended by the insertion after subsection (2) of the following subsections:
- “(3) The duty chargeable under Item 18(6) of Schedule 1 in respect of any policy or certificate of insurance or any endorsement thereto or renewal thereof referred to in that paragraph shall not be denoted by means of stamps affixed to such instrument but shall be paid in the manner prescribed in subsection (4).
- (4) Every insurer who derives premiums in respect of policies or certificates of insurance or endorsements thereto or renewals thereof chargeable with duty under Item 18(6) of Schedule 1, shall within two months after the end of each period of three months ending 31 March, 30 June, 30 September and 31 December in any year or within such further period as the Commissioner, having regard to the special circumstances of the case, may approve—
- (a) deliver to a receiver of revenue a statement in such form as the Commissioner may prescribe, reflecting dutiable premiums for the said period of three months, being—
- (i) the sum of the premiums (hereinafter referred to as total premiums) on all such policies, certificates of insurance and endorsements executed and all such renewals falling due during the said period, less premiums in respect of any such policies, certificates or endorsements which have not been in force or of effect and renewal premiums in respect of policies which have not been renewed and have during the said period ceased to be renewable, provided the premiums so deducted have been included in total premiums in the said statement or in any statement delivered under this paragraph in respect of any previous period; or
- (ii) if the Commissioner, having regard to the circumstances of the case, consents and subject to such conditions as the Commissioner may impose, the sum of the premiums received by the said insurer during

- the said period in respect of all such policies, certificates of insurance, endorsements and renewals:
- Provided that where the aggregate of the premiums on any aforesaid policy, certificate of insurance or renewal thereof and any additional premiums payable in terms of any endorsements to such policy, certificate or renewal in respect of the same period of insurance exceeds R25 000, the amount by which such aggregate exceeds R25 000 shall be disregarded in the determination of such dutiable premiums; and
- (b) pay to such receiver of revenue an amount of duty calculated at the rate prescribed in Item 18(6) of Schedule 1 on the amount of such dutiable premiums.
- (5)(a) Re-insurance premiums payable by or to other insurers shall not be taken into account for the purposes of the duty payable under subsection (4).
- (b) Where a collective policy or certificate of insurance or any endorsement thereto or renewal thereof has been issued, such instrument shall for the purposes of subsection (4) be deemed to have been executed by the insurer by whom such instrument has been issued.
- (6) If any insurer fails to deliver a statement as required by subsection (4) or delivers a statement which is false, incomplete or inaccurate or, after having been requested by the Commissioner to furnish further information or to produce any books or documents required for the purpose of determining or verifying the duty payable, fails to furnish such information or to produce such books or documents, the Commissioner may estimate the duty payable in respect of the period in question and the duty so estimated shall, until the contrary is proved, be deemed for the purposes of this Act to be duty payable by the insurer in respect of such period.
- (7) Any insurer who fails to pay within the period prescribed for payment in subsection (4), or within such further period as the Commissioner may approve under that subsection, any amount of the duty referred to in that subsection, shall, in addition to such amount of duty, pay a penalty equal to 10 per cent of the said amount for every month or part thereof reckoned from the beginning of such first-mentioned period to the date of payment of such amount: Provided that the Commissioner may, having regard to the circumstances of the case, remit the whole or any part of such penalty.”
- (2) Subsection (1) shall come into operation on 1 September 1993 and shall apply in respect of all premiums which are payable on or after that date in terms of any policy or certificate of insurance or any endorsement thereto or renewal thereof as referred to in that subsection.

Amendment of section 30 of Act 77 of 1968

15. Section 30 of the Stamp Duties Act, 1968, is hereby amended by the addition thereto of the following subsections:

“(5) Where, in addition to any amount of duty which is payable by any person in terms of this Act, an amount of penalty 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 duty or penalty which is less than the total amount due by him in respect of such duty and penalty shall for the purposes of this Act be deemed to be made—

(a) in respect of such penalty; and

(b) to the extent that such payment exceeds the amount of such penalty, in respect of such duty.

(6) Any agreement concluded prior to 1 April 1994 between the Commissioner and the person liable for the payment of any duty or penalty which provides for the allocation of any payment to be made on or after that date otherwise than in accordance with the provisions of subsection (5) shall, in so far as it provides for such allocation, cease to have effect.”

Deletion of Item 2 of Schedule 1 to Act 77 of 1968, as amended by section 8 of Act 72 of 1970, section 11 of Act 66 of 1973, section 14 of Act 88 of 1974, section 13 of Act 114 of 1977, section 7 of Act 92 of 1983 and section 10 of Act 69 of 1989

16.(1) Item 2 of Schedule 1 to the Stamp Duties Act, 1968, is hereby deleted.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1993 and shall apply to agreements or contracts executed on or after that date. 5

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 82 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 and section 8 of Act 136 of 1992 10
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17. Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution for paragraph (p) under the heading "*Exemptions from the duty under paragraph (3)*:" of the following paragraph:

"(p) Any registration of transfer of any interest-bearing debentures, including debenture stock, debenture bonds or any other securities of a company, whether constituting a charge on the assets of the company or not, listed by any recognized stock exchange in the Republic or listed by any financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989),"; and 20
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(b) by the substitution for paragraph (v) under the heading "*Exemptions from the duty under paragraph (3)*:" of the following paragraph:

"(v) Any registration of transfer of any share in a share block company as defined in section 1 of the Share Blocks Control Act, 1980 (Act No. 59 of 1980), which confers a right to or an interest in the use of immovable property, where such registration is in consequence of a sale or disposal of such share which in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), constitutes a supply of such share and in terms of that Act value-added tax has been or will be paid by the transferor in respect of such supply or such supply is subject to the said tax at a rate of zero per cent." 30
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Amendment of Item 18 of Schedule 1 to Act 77 of 1968, as amended by section 26 of Act 103 of 1969, section 18 of Act 66 of 1973 and section 34 of Act 87 of 1988

18.(1) Item 18 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the insertion after paragraph (5) of the following paragraph: 40

“(6) Policy or certificate of insurance or any endorsement thereto or renewal thereof—

- (a) creating an obligation the assumption of which is determined by the Registrar of Insurance in terms of section 67(2) of the Insurance Act, 1943 (Act No. 27 of 1943), to be life business as defined in section 1 of that Act; and
- (b) which is not subject to duty under any of the foregoing paragraphs

A duty of 1 per cent on the dutiable premiums referred to in section 24(4)(a) of this Act.”.

(2) Subsection (1) shall come into operation on 1 September 1993 and shall apply in respect of all premiums which are payable on or after that date in terms of any policy or certificate of insurance or any endorsement thereto or any renewal thereof as referred to in that subsection.

Amendment of Item 19 of Schedule 1 to Act 77 of 1968, as amended by section 23 of Act 88 of 1974 and section 16 of Act 92 of 1983

19. Item 19 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the addition after paragraph (b) under the heading “Exemptions” of the following paragraph:

“(c) Power granted by an employee to his employer empowering such employer to pay an amount of the remuneration of such employee to another person.”.

Amendment of section 1 of Act 109 of 1985, as amended by section 1 of Act 78 of 1986, section 1 of Act 49 of 1988 and section 1 of Act 127 of 1991

20. Section 1 of the Regional Services Councils Act, 1985, is hereby amended by the substitution for the definition of “person” of the following definition: “‘person’ includes the State [and], the estate of a deceased person and any trust as defined in the Income Tax Act, 1962 (Act No. 58 of 1962);”.

Amendment of section 1 of Act 84 of 1990, as amended by section 4 of Act 127 of 1991

21. Section 1 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the substitution for the definition of “person” of the following definition:

“‘person’ includes the State [and], the estate of a deceased person and any trust as defined in the Income Tax Act, 1962 (Act No. 58 of 1962);”.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 12 of Act 136 of 1992

22. Section 1 of the Value-Added Tax Act, 1991 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in the definition of “connected persons” for paragraph (a) of the following paragraph:

“(a) any natural person (including the estate of a natural person if such person is deceased or insolvent) and—

- (i) any relative of that natural person (being a relative as defined in section 1 of the Income Tax Act) or the estate of any such relative if the relative is deceased or insolvent; or
- (ii) any trust fund in respect of which any such relative or such estate of such relative is or may be a beneficiary; or”;

- (b) by the substitution in the definition of "enterprise" in subparagraph (iv) of paragraph (c) for the words following upon item (cc) of the following words:
 "and, in the case of a regional services council or a joint services board, any other activities of that council or board which are financed by levies referred to in section 8(6)(b):"; 5
- (c) by the substitution in the definition of "enterprise" for paragraph (ii) of the proviso of the following paragraph:
 "(ii) the supply outside the Republic of goods or services by any concern from any branch or main business thereof **[which is] where—** 10
(aa) such branch or main business is permanently located at premises outside the Republic, if—
[(aa)] (A) the branch or main business can be separately identified; and
[(bb)] (B) an independent system of accounting is maintained by the concern in respect of the branch or main business; or
 (bb) the person carrying on such concern from such branch or main business is registered as a vendor under a law imposing a value-added tax or similar tax in a specified country, shall **[not]** be deemed not to be effected in the course or furtherance of any enterprise or activity carried on by such concern;"; 15 20
- (d) by the substitution in the definition of "exported" for subparagraph (i) of paragraph (d) of the following subparagraph:
 "(i) the recipient is ordinarily resident or carries on business in such country except where such goods are removed as contemplated in subparagraph (ii) of this paragraph;"; and 25
- (e) by the substitution in the definition of "input tax" for the words in paragraph (b) preceding the proviso of the following words:
 "an amount equal to the tax fraction (being the tax fraction applicable at the time of payment) of any amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of the purchase price, in respect of any consideration in money given by the vendor for the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic or a specified country of any second-hand goods situated in the Republic or a specified country:". 30 35

Amendment of section 7 of Act 89 of 1991, as amended by section 23 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 14 of Act 136 of 1992 40

23.(1) Section 7 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the expression "10" of the expression "14"; and
 (b) by the substitution in paragraph (a) of subsection (3) for the expression "10" of the expression "14". 45

(2) Subsection (1) shall be deemed to have come into operation on 7 April 1993.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 15 of Act 136 of 1992

24.(1) Section 8 of the principal Act is hereby amended— 50

- (a) by the substitution for subsection (9) of the following subsection:
 "(9) For the purposes of this Act, where any vendor in carrying on an enterprise in the Republic transfers goods or provides any service to or

for the purposes of his branch or main business in respect of which the provisions of paragraph (ii) of the proviso to the definition of 'enterprise' in section 1 are applicable, the vendor shall be deemed to supply such goods or service in the course or furtherance of his enterprise.";

(b) by the substitution for subsection (14) of the following subsection: 5

"(14) For the purposes of this Act, where any goods are supplied by a vendor to a person otherwise than in the circumstances contemplated in paragraph 2(b) of the Seventh Schedule to the Income Tax Act, and a deduction under section 16(3) in respect of the acquisition by the vendor of such goods was denied in terms of section 17(2) or would have been denied if section 7 of this Act had been applicable prior to the commencement date, the vendor shall be deemed to have supplied the goods otherwise than in the course or furtherance of his enterprise.";

and
(c) by the substitution for subsection (18) of the following subsection: 15

"(18) For the purposes of the definition of 'input tax' in section 1 and section 18(4) and (5), as applicable to any share block company, any taxable supply of a share referred to in subsection (17) made on or after a date fixed by the Minister by notice in the *Gazette* by a share block developer where such share is a share in a share block scheme in respect of which that developer is a share block developer as contemplated in section 1 of the Share Blocks Control Act, 1980, shall be deemed to have been made by the share block company in relation to which that developer is a share block developer, to the extent that—

(a) the supply of such share to such developer was not a taxable supply by such company to such developer; or 25

(b) such developer was not or will not in terms of section 16(3) be entitled to make a deduction of input tax referred to in paragraph (b) of the definition of 'input tax' in section 1 in respect of the supply of such share to him." 30

(2) Subsection (1)(b) shall be deemed to have come into operation on 30 September 1991.

Amendment of section 9 of Act 89 of 1991, as amended by section 25 of Act 136 of 1991

25. Section 9 of the principal Act is hereby amended— 35

(a) by the deletion in subsection (3) of subparagraph (i) of paragraph (d); and

(b) by the substitution in subsection (3) for the words following upon subparagraph (iii) of paragraph (d) of the following words:

"whichever date is [earliest] earlier;" 40

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 16 of Act 136 of 1992

26. Section 10 of the principal Act is hereby amended—

(a) by the substitution in subsection (4) for paragraph (c) of the following paragraph: 45

"(c) if a consideration for the supply equal to the open market value of the supply had been paid by the recipient [is not], he would not have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply," 50

(b) by the deletion in subsection (5) at the end of subparagraph (ii) of paragraph (a) of the word "and";

- (c) by the substitution in subsection (5) at the end of subparagraph (iii) of paragraph (a) for the word "or" of the word "and";
- (d) by the addition in subsection (5) to paragraph (a) of the following subparagraph:
- “(iv) where such goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply or would in terms of that section have been deemed to be the open market value of the supply were it not for the fact that the recipient would have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply, such open market value to the extent that it exceeds the consideration in money for that supply; or”; and
- (e) by the substitution in subsection (9) for item (aa) of subparagraph (i) of the paragraph defining the meaning of the symbol "A" of the following item:
- “(aa) the cost [of those goods or services] (including any tax [charged in respect] forming part of such cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply or would in terms of that section have been deemed to be the open market value of the supply were it not for the fact that the recipient would have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply, the cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or”.

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 17 of Act 136 of 1992

- 27.(1) Section 11 of the principal Act is hereby amended—
- (a) by the insertion in subsection (1) after paragraph (hA) of the following paragraph:
- “(hB) the goods consist of anti-knock preparations referred to in Heading No. 38.11.11.20 of PART A of Schedule 1; or”;
- (b) by the substitution in subsection (1) for paragraph (i) of the following paragraph:
- “(i) the goods are supplied, as contemplated in section 8(9), by a vendor to or for the purposes of his branch or main business situated in an export country in respect of which the provisions of paragraph (ii) of the proviso to the definition of 'enterprise' in section 1 are applicable; or”;
- (c) by the insertion in subparagraph (ii) of paragraph (g) of subsection (2) after the expression "470.02" of the expression "470.03"; and
- (d) by the substitution in subsection (2) for paragraph (o) of the following paragraph:
- “(o) the services are supplied, as contemplated in section 8(9), by a vendor to or for the purposes of his branch or main business situated in an export country in respect of which the provisions of paragraph (ii) of the proviso to the definition of 'enterprise' in section 1 are applicable; or”.
- (2) Subsection (1)(a) shall be deemed to have come into operation on 15 July 1992.

Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 18 of Act 136 of 1992

28. Section 12 of the principal Act is hereby amended by the substitution in paragraph (f) for the first proviso of the following proviso: 5

“Provided that this paragraph shall not apply or shall apply to a limited extent where such body corporate or share block company applies in writing to the Commissioner, and the Commissioner, having regard to the circumstances of the case, directs that the provisions of this paragraph shall not apply to that body corporate or share block company or that the provisions of this paragraph shall apply only to a limited extent specified by him:” 10

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991 and section 19 of Act 136 of 1992

29. Section 13 of the principal Act is hereby amended by the substitution in subsection (1) of the Afrikaans text for the third proviso of the following proviso: 15

“Met dien verstande voorts dat goed wat van Botswana, Lesotho, Swaziland en Namibië ingevoer word, by binnekoms in die Republiek ooreenkomstig die prosedures en op die plek wat genoemde Kommissaris by reël voorskryf, [geklaar] verklaar word en belasting aan ’n beampte aangewys deur die Kommissaris van Doeane en Aksyns betaal word.” 20

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991 and section 21 of Act 136 of 1992

30. Section 16 of the principal Act is hereby amended— 25

(a) by the substitution in subsection (3) for subparagraph (ii) of paragraph (a) of the following subparagraph:

“(ii) in respect of supplies of second-hand goods to which paragraph (b) of the definition of ‘input tax’ in section 1 applies, to the extent that payment which reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of the purchase price in respect of those supplies has been made during that tax period;” 30

(b) by the substitution in subsection (3) for subparagraph (i) of paragraph (b) of the following subparagraph: 35

“(i) in respect of supplies of goods and services made to the vendor in respect of which the provisions of section 9(1), 9(3)(a), 9(3)(b), 9(3)(d) or 9(4) apply, to the extent that payments of consideration which reduce or discharge any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of the purchase price in respect of such supplies have been made during the tax period;” 40

(c) by the substitution in subsection (3) in paragraph (h) for item (aa) of subparagraph (i) of the paragraph defining the meaning of the symbol “B” of the following item: 45

“(aa) the cost [of those goods or services] (including any tax [charged in respect] forming part of such cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or”; and 50

- (d) by the substitution in subsection (4) for subparagraph (i) of paragraph (b) of the following subparagraph:
- “(i) to the extent that payment of consideration which reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of the purchase price, has been received by the vendor during the tax period in respect of a supply of goods or services in respect of which the provisions of section 9(1), 9(3)(a), 9(3)(b), 9(3)(d), 9(4), 21(2)(a) or 21(6) apply;”.

Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 22 of Act 136 of 1992

31. Section 17 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (i) of the proviso of the following paragraph:
- “(i) where the intended use of goods or services in the course of making taxable supplies is equal to not less than 90 per cent of the total intended use of such goods or services, the goods or services concerned [shall] may for the purposes of this Act be [deemed to have] regarded as having been acquired wholly for the purpose of making taxable supplies; and”;
- (b) by the substitution in subsection (2) for the words in paragraph (a) preceding the proviso of the following words:
- “in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of entertainment;” and
- (c) by the substitution in subsection (2) for paragraph (v) of the proviso to paragraph (a) of the following paragraph:
- “(v) such goods or services are acquired by a local authority for the purpose of providing sporting or recreational facilities or public amenities to the public in the circumstances referred to in section 8(6)(a) or for the purposes of the provision of the goods or services referred to in paragraph (c)(iv) of the definition of ‘enterprise’ in section 1;”.

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 23 of Act 136 of 1992

32. Section 18 of the principal Act is hereby amended—

- (a) by the substitution in subsection (4) for subparagraph (i) of the paragraph defining the meaning of the symbol “B” of the following subparagraph:
- “(i) the cost [of those goods or services] (including any tax [charged in respect] forming part of such cost) to the vendor of the acquisition, manufacture, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or” and
- (b) by the substitution in subsection (5) for item (aa) of subparagraph (i) of the paragraph defining the meaning of the symbol “B” of the following item:
- “(aa) the cost (including any tax [charged in respect of those goods or services] forming part of such cost) to the vendor of the

acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or”.

Amendment of section 20 of Act 89 of 1991, as amended by Government Notice 2695 of 8 November 1991 and section 25 of Act 136 of 1992

33. Section 20 of the principal Act is hereby amended by the substitution in subsection (5) for the expression “R200” of the expression “R500”.

Amendment of section 21 of Act 89 of 1991, as amended by Government Notice 2695 of 8 November 1991 and section 26 of Act 136 of 1992

34. Section 21 of the principal Act is hereby amended—

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

“the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, that supplier shall either make a deduction in terms of section 16(3) in respect of the amount of that excess (such amount being deemed for the purposes of that section to be input tax), or reduce the amount of output tax attributable to the said tax period in terms of section 16(4) by the amount of that excess;” and

(b) by the substitution for subsection (6) of the following subsection:

“(6) Where any recipient, being a registered vendor, has been issued with a credit note in terms of subsection (3)(a), or has written or other notice or otherwise knows that any tax invoice which the vendor holds is incorrect as a result of any one or more of the events specified in any of paragraphs (a), (b), (c) or (d) of subsection (1) and has made a deduction of any amount of input tax in any tax period in respect of the supply of goods or services to which the credit note or that notice or other knowledge, as the case may be, relates, either the amount of the excess referred to in subsection (3)(a) shall be deemed to be tax charged in relation to a taxable supply made by the recipient attributable to the tax period in which the credit note was issued, or that notice or, as the case may be, other knowledge was received, or the amount of input tax deducted in terms of section 16(3) in the last-mentioned tax period shall be reduced by the amount of the said excess, to the extent that the input tax deducted in the first-mentioned tax period exceeds the output tax properly charged.”.

Amendment of section 34 of Act 89 of 1991

35. Section 34 of the principal Act is hereby amended by the substitution in subsection (1) in the Afrikaans text for the expression “83” of the expression “33”.

Amendment of section 41 of Act 89 of 1991, as amended by Government Notice 2695 of 8 November 1991 and section 32 of Act 136 of 1992

36. Section 41 of the principal Act is hereby amended—

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

“(a) no amount of tax otherwise properly chargeable and payable by any person or deductible by him under this Act, shall be

- recoverable by the Commissioner in respect of any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to the promulgation of the Taxation Laws Amendment Act, 1993, which had not been withdrawn by him at the time at which the said person became contractually obliged to supply or receive such goods or services, as the case may be, no tax was payable in respect of such supply or importation;”;
- (b) by the substitution for paragraph (b) of the following paragraph: 10
 “(b) no further amount of tax shall be recoverable by the Commissioner in respect of or in relation to any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to the date of promulgation of the Taxation Laws Amendment Act, 1993, which had not been withdrawn by him at the time of such supply or importation, the tax payable or deductible in respect of such supply or importation had been calculated and paid or had been deducted in accordance with such ruling, as the case may be;” and 15
- (c) by the substitution in paragraph (c) for the words preceding subparagraph (i) of the following words: 20
 “where any written decision or, prior to the date of promulgation of the Taxation Laws Amendment Act, 1993, an oral decision has been given by the Commissioner—” 25

Amendment of section 44 of Act 89 of 1991

37. Section 44 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (ii) of the proviso to subsection (1) for the expression “R100” of the expression “R10”; and
- (b) by the substitution in subsection (4) for the expression “R100” of the expression “R10”. 30

Amendment of section 55 of Act 89 of 1991, as amended by section 35 of Act 136 of 1992

38. Section 55 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 35
 “Every vendor shall keep such books of account (which books of account, where generated by means of a computer, shall be retained in the form of a computer print-out) or other records as may enable him to observe the requirements of this Act and enable the Commissioner to satisfy himself that the vendor has observed such requirements, and every vendor shall, in particular, keep the following records and documents—”;
- (b) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 45
 “(a) a record of all goods and services supplied by or to the vendor showing the goods and services, and the suppliers or their agents, in sufficient detail to enable the goods and services, the suppliers or the agents to be readily identified by the Commissioner, and all invoices, tax invoices, credit notes, **[and]** debit notes, bank statements, deposit slips, stock lists and paid cheques relating thereto;” 50
- (c) by the substitution for subsection (2) of the following subsection: 55
 “(2) Such books of account, **[or other]** records **[such invoices, tax invoices, credit notes, debit notes and other documents relating to entries**

in such books or records and such charts, codes, manuals, list and documentary proof] and documents referred to in subsection (1), whether in their original form or in a form authorized by the Commissioner in terms of subsection (4), shall at all reasonable times during the relevant period [of five years] referred to in subsection (3) be open for inspection by any person acting under the authority of the Commissioner.”;

(d) by the substitution for subsection (3) of the following subsection:

“(3) All such books of account, records and [other] documents, whether in their original form or in a form authorized by the Commissioner in terms of subsection (4)—

(a) required to be kept in terms of subsection (1) and section 75(1)(f) of the Income Tax Act, shall be retained and carefully preserved by the vendor for the period referred to in the said section 75(1)(f); and

(b) required to be kept in terms of subsection (1), but in respect of which a return referred to in the said section 75(1)(f) need not be submitted, shall—

[(a)] (i) where kept in book form, be retained and carefully preserved by the vendor for a period of five years from the date of the last entry in any book; or

[(b)] (ii) where [consisting of bank statements, deposit slips, invoices, tax invoices, credit notes, debit notes, stock lists, paid cheques or other documents] not kept in book form, be retained and carefully preserved by the vendor for a period of five years after the completion of the transactions, acts or operations to which they relate.”; and

(e) by the substitution for subsection (4) of the following subsection:

“(4)(a) The Commissioner may, subject to such conditions as he may determine, authorize the retention of the information contained in any records or documents referred to in subsection (3) (other than ledgers, cash books, journals and paid cheques) in a form acceptable to him, in lieu of the retention of the originals of such records or documents.

(b) The originals of any records or documents in respect of which the information therein contained is retained as contemplated in paragraph (a), shall be retained and carefully preserved for a period of one year from the beginning of the period for which the said records or documents should, but for the said paragraph (a), have been retained in terms of subsection (3).”.

Amendment of section 58 of Act 89 of 1991, as amended by section 41 of Act 136 of 1991

39. Section 58 of the principal Act is hereby amended by the substitution for paragraph (f) of the following paragraph:

“(f) fails to [keep or preserve any books of account, records or other documents as provided in subsection (1) or (3) of section 55 or, where the provisions of subsection (4) of that section are applicable, fails to keep or preserve any microfilm copy or computer tape record the retention of which was authorized by the Commissioner under the said subsection (4)] comply with any of the requirements of the provisions of section 55; or”.

Amendment of section 59 of Act 89 of 1991

40. Section 59 of the principal Act is hereby amended—

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

“(h) knowingly issues any tax invoice showing an amount charged as tax where the supply in respect of which the tax is charged will not take place; or”;

- (b) by the insertion in subsection (1) of the following paragraph after paragraph (h):
- “(i) for the purposes of section 16(2), fabricates, produces, furnishes or makes use of any tax invoice, debit note, credit note, bill of entry or other document contemplated in that section knowing the same to be false.”. 5

Amendment of section 67A of Act 89 of 1991, as inserted by section 6 of Act 61 of 1993

- 41.(1) Section 67A of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for the words preceding the proviso of the following words: 10
- “Subject to the provisions of subsection (3), where goods or services would in terms of section 9 be deemed to be supplied at a time within the period commencing on the date of the announcement of an increase in the rate of tax leviable in terms of section 7(1)(a) and ending on the day before the date on which the increase in the rate of tax becomes effective, that supply shall, to the extent to which it consists of the provision of goods on or after the day following the last day of the period of 21 days after the date on which the increase of the rate becomes effective, or the performance of services on or after the date on which the increase of the rate becomes effective, be deemed not to take place at the said time, but on the date on which the increase in the rate becomes effective:”; and 15
- (b) by the addition of the following subsection: 20
- “(5) Where—
- (a) goods are sold in terms of a lay-by agreement as contemplated in section 8(4)(a); or 25
- (b) a service is supplied in relation to the said agreement as contemplated in section 8(4)(b), 30
- and such agreement is concluded before the date on which an increase of the rate of tax leviable in terms of section 7(1)(a) becomes effective and the deposit referred to in the said section 8(4)(a) was paid before that date, the rate at which tax is in terms of the said section 7(1)(a) leviable in respect of that supply, shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.”. 35
- (2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.

Amendment of section 69 of Act 89 of 1991, as amended by section 44 of Act 136 of 1991 and section 40 of Act 136 of 1992

42. Section 69 of the principal Act is hereby amended by the addition to subsection (1) of the following proviso: 40
- “Provided that the Commissioner, in consultation with the Director-General: Foreign Affairs, may, by notice in writing to such person or such representative, as the case may be, cancel such registration with effect from a date determined by the Commissioner and may require such person or such representative to surrender such diplomatic tax relief certificate.”. 45

Amendment of section 76 of Act 89 of 1991, as amended by section 46 of Act 136 of 1991

43. Section 76 of the principal Act is hereby amended by the insertion in paragraph (c) of subsection (1) after the expression “paragraph (b)” of the expression “or (bA)”. 50

Amendment of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 43 of Act 136 of 1992

44.(1) Schedule 1 to the principal Act is hereby amended—

- (a) by the insertion in paragraph 1 of PART A, before Heading No. 10.05, of the following Headings: 5
- | | | |
|---------------|---|----|
| “07.01 | Potatoes, fresh or chilled. | |
| 07.02 | Tomatoes, fresh or chilled. | |
| 07.03 | Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled. | 10 |
| 07.04 | Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled. | |
| 07.05 | Lettuce and chicory, fresh or chilled. | |
| 07.06 | Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled. | 15 |
| 07.07 | Cucumbers and gherkins, fresh or chilled. | |
| 07.08 | Leguminous vegetables, shelled or unshelled, fresh or chilled. | |
| 07.09 | Other vegetables, fresh or chilled. | |
| 07.13 | Dried leguminous vegetables, shelled, whether or not skinned or split. | 20 |
| 08.06/0806.10 | Grapes, fresh. | |
| 08.07 | Melons (including watermelons) and papaws (<i>papayas</i>), fresh. | |
| 08.08 | Apples, pears and quinces, fresh. | 25 |
| 08.09 | Apricots, cherries, peaches (including nectarines), plums and sloes, fresh. | |
| 08.10 | Other fruit, fresh.”; | |
- (b) by the insertion in paragraph 1 of PART A, after Heading No. 10.05, of the following Headings: 30
- | | | |
|------------------|---|--|
| “10.06 | Rice. | |
| 16.04/1604.13.15 | Sardinella, in airtight metal containers. | |
| 16.04/1604.13.20 | Sardines (pilchards), in airtight metal containers.”; | |
- (c) by the insertion in subparagraph (a) of paragraph 1 of PART B after the expression “Headings Nos.” of the expressions “07.01, 07.02, 07.03, 07.04, 07.05, 07.06, 07.07, 07.08, 07.09, 07.13, 08.06/0806.10, 08.07, 08.08, 08.09, 08.10,”; 35
- (d) by the insertion in subparagraph (a) of paragraph 1 of PART B after the expression “10.05,” of the expressions “10.06, 16.04/1604.13.15, 16.04/1604.13.20,”; 40
- (e) by the substitution for paragraph 3 of PART B of the following paragraph: 40
- “3. Goods which are shipped or conveyed to the Republic for transshipment or conveyance to any export country.”;
- (f) by the deletion in subparagraph (a) of paragraph 1 of PART C of the expression “409.02,”; 45
- (g) by the insertion in subparagraph (a) of paragraph 1 of PART C after the expression “Headings Nos.” of the expressions “07.01, 07.02, 07.03, 07.04, 07.05, 07.06, 07.07, 07.08, 07.09, 07.13, 08.06/0806.10, 08.07, 08.08, 08.09, 08.10,”; 50
- (h) by the insertion in subparagraph (a) of paragraph 1 of PART C after the expression “10.05,” of the expressions “10.06, 16.04/1604.13.15, 16.04/1604.13.20,”; and
- (i) by the substitution for paragraph 2 of PART C of the following paragraph: 55
- “2. Goods which are shipped or conveyed to the Republic for transshipment or conveyance to any export country.”.
- (2)(a) Subsection (1)(a), (c) and (g) shall be deemed to have come into operation on 7 April 1993.
- (b) The amendments effected by subsection (1)(b), (d) and (h)— 60
- (i) in respect of Heading No. “10.06” shall be deemed to have come into operation on 7 April 1993; and

- (ii) in respect of Headings Nos. "16.04/1604.13.15" and "16.04/1604.13.20" shall be deemed to have come into operation on 31 July 1992.

Amendment of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, Government Notice 2695 of 8 November 1991 and section 44 of Act 136 of 1992

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45.(1) Schedule 2 to the principal Act is hereby amended—

- (a) by the substitution in paragraph 1 of PART B for the expression "paragraphs 2 and 3" of the expression "paragraph 2";
- (b) by the addition to paragraph 1 of PART B of the following Items:

"Item 11	Rice, whether husked, milled, polished, glazed, parboiled or broken.	10
Item 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 Items in this PART.	15
Item 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.	20
Item 14	Vegetable oil, marketed and supplied for use in the process of cooking food, but excluding olive oil.	
Item 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.	25
Item 16	Cultured milk, being cultured milk as classified under the Marketing Act, 1968 (Act No. 59 of 1968), with the following class designation: Cultured high-fat milk Cultured full-fat milk Cultured low-fat milk Cultured fat-free milk.	30 35
Item 17	Brown wheaten meal, being pure, sound wheaten meal, but excluding separated wheaten bran, wheaten germ and wheaten semolina.	
Item 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.	40
Item 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 Items in this PART."; and	45

- (c) by the deletion of paragraph 3.

(2) Subsection (1)(b) shall be deemed to have come into operation on 7 April 1993. 50

Special exemption in respect of shares issued by Cape Mohair (Holdings) Limited

46.(1) No stamp duty shall be payable in respect of the issue of 4 000 000 ordinary shares of 1 cent each at an issue price of 250 cents each by Cape Mohair (Holdings) Limited to registered producers as referred to in clause 1.1.21 of the Articles of Association of Cape Mohair (Holdings) Limited. 55

(2) Subsection (1) shall be deemed to have come into operation on 31 October 1992.

Short title

47. This Act shall be called the Taxation Laws Amendment Act, 1993.