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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KAAPSTAD, 21 JUNIE 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1297.

21 June 1989

No. 1297.

21 Junie 1989

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

No. 69 of 1989: Taxation Laws Amendment Act, 1989.

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

No. 69 van 1989: Wysigingswet op Belastingwette, 1989.

Act No. 69, 1989

TAXATION LAWS AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Transfer Duty Act, 1949, so as to restrict the exemption from transfer duty in respect of heirs and legatees to property of the deceased; to provide for exemptions from transfer duty in respect of the acquisition of property by way of a marriage concluded in community of property and the acquisition of property by insurers under certain circumstances; and to effect certain textual alterations to section 9A; to amend the Stamp Duties Act, 1968, so as to effect certain textual alterations to sections 1 and 4; to extend the exemption from stamp duty in terms of section 4 (1) (f) to a company, society or association providing residential accommodation to aged or retired persons as well as to certain institutions as referred to in section 10 (1) (cB) of the Income Tax Act, 1962; to effect consequential amendments to sections 7 (1), 19, 22 (4) (a), 23 (1) and (14) and 24 (10); to increase the stamp duty tariffs in respect of certain Items; and to make provision for exemptions from stamp duty in respect of the registration of transfer of marketable securities as well as in respect of the acquisition of marketable securities in certain circumstances; to amend the Companies Act, 1973, in order to delete the proviso to section 98 (2); to amend the Regional Services Councils Act, 1985, so as to provide for shorter periods in which payment of the regional services levy and regional establishment levy may be made; to amend the Sales Tax Act, 1978, so as to insert a definition of "returnable container"; to increase the rate of sales tax; to make new provision for the determination of the consideration deemed to have accrued to a seller under a sale of catalogues or samples for no consideration or a consideration less than the cost of such goods to the seller; to further regulate the recovery of sales tax in respect of goods imported into the Republic; to further regulate the deduction in respect of deposits on returnable containers refunded or credited; to make further provision in respect of certain failures to furnish returns or declarations and to pay sales tax; and to amend Schedules 1 and 4 to the said Act; to amend the Taxation Laws Amendment Act, 1988, in order to extend certain periods of exemption from stamp duty and transfer duty in respect of certain registrations of transfer of marketable securities or acquisitions of property consequent upon the rationalization of a group of companies; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 5 June 1989.)

Act No. 69, 1989

TAXATION LAWS AMENDMENT ACT, 1989

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

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 and section 4 of Act 87 of 1988

1. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—
 - (a) by the substitution for subparagraph (i) of paragraph (e) of subsection (1) of the following subparagraph:

“(i) property of the deceased acquired by *ab intestato* or testamentary succession or as a result of a re-distribution of the assets of a deceased estate in the process of liquidation; or”;
 - (b) by the addition to subsection (1) of the following paragraph:

“(k) a spouse in a marriage in community of property in respect of the acquisition of an undivided half-share in property by operation of law by virtue of the contraction of such marriage, if such property had been acquired by the other spouse prior to the date of contraction of the marriage.”; and
 - (c) by the addition of the following subsection:

“(14) No duty shall be payable in respect of the acquisition of any property by any insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), from any other insurer so registered, if such acquisition takes place in accordance with a transfer of insurance business as contemplated in section 25A of that Act.”.
- (2) Subsection (1) (c) shall come into operation on the date of commencement of section 25A of the Insurance Act, 1943 (Act No. 27 of 1943).

Amendment of section 9A of Act 40 of 1949, as inserted by section 4 of Act 66 of 1973 and amended by section 2 of Act 102 of 1979, section 7 of Act 106 of 1980 and section 5 of Act 87 of 1988

2. (1) Section 9A of the Transfer Duty Act, 1949, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) the date of acquisition of the acquired property shall for the purposes of sections 3 and 4 of this Act be deemed to be the date on which the relevant sectional plan [is] was registered [as contemplated in section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986)] by the Registrar of Deeds concerned or, where such sectional plan [is] was not so registered on or before [the expiry of eight years as from the date of commencement of that Act (as applicable in relation to the aforesaid building), the date immediately following upon such expiry] 30 March 1981, that date.”.
- (2) Subsection (1) shall be deemed to have come into operation on 13 July 1988.

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 and section 17 of Act 87 of 1988

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

“‘public officer’ means a person in the employ of the Government or a provincial administration [or the administration of the territory] and includes an authorised revenue officer;”.

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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 and section 18 of Act 87 of 1988

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

(a) by the substitution in the Afrikaans text for subparagraph (viii) of paragraph (b) of subsection (1) of the following subparagraph:

“(viii) die Raad van die Leningsfonds vir Plaaslike Besture ingestel by artikel 4 van die Wet op die Leningsfonds vir Plaaslike Besture, 1984 (Wet No. 67 van 1984),”;

(b) by the deletion of paragraph (e) of subsection (1); and

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

“(f) any instrument which is executed by or on behalf of— 15

(i) [an ecclesiastical] 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; or 20

(ii) any institution of a public character within the Republic which is exempt from tax in terms of section 10 (1) (cB) (i) (aa), (bb), (cc) or (dd) of the said Act; or

(iii) any company, society or association within the Republic which is exempt from tax in terms of section 10 (1) (cF) of the said Act, if the duty thereon would be legally payable and borne by such institution, fund, company, society or association, as the case may be.”. 25

(2) Subsection (1) (a) shall be deemed to have come into operation on 1 January 1985. 30

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 and section 7 of Act 118 of 1984

5. Section 7 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the deletion of paragraph (iA) of subsection (1); and 35

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

“(iB) in the case of any debit entry in an account, the banker or person carrying on the credit card scheme concerned or the mutual building society or building society concerned or the Post Office Savings Bank, as the case may be;” 40

Substitution of section 19 of Act 77 of 1968, as inserted by section 8 of Act 118 of 1984

6. The following section is hereby substituted for section 19 of the Stamp Duties Act, 1968:

“Debit entries 45

19. The duty payable in terms of Item 6 of Schedule 1 in respect of any debit entry in an account shall not be denoted by means of stamps but shall be paid by the banker or person carrying on the credit card scheme concerned or by the mutual building society or building society concerned or the Post Office Savings Bank, as the case may be, within a period of 21 days after the end of the month in which that entry is made or, where he satisfies the Commissioner that by reason of the accounting procedures adopted by him the duty cannot conveniently be paid within that period, within such further period as the Commissioner may allow, 50

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and if he fails to do so he shall, in addition to the amount of that duty, pay a penalty equal to 10 per cent of that amount for every month or part thereof reckoned from the end of the period within which that amount was payable as provided in this section to the date of payment of that amount: Provided that the Commissioner may, having regard to the circumstances of the case, remit the whole or any part of that penalty.” 5

Amendment of section 22 of Act 77 of 1968, as amended by section 19 of Act 103 of 1969, section 11 of Act 114 of 1977, section 6 of Act 95 of 1978, section 6 of Act 102 of 1979 and section 24 of Act 87 of 1988

7. Section 22 of the Stamp Duties Act, 1968, is hereby amended by the substitution 10 for paragraph (a) of subsection (4) of the following paragraph:

“(a) Any instrument whereby a lease (including any lease or agreement of lease chargeable with stamp duty under any previous Act of Parliament) is continued, renewed or extended beyond the period for which such lease (or any previous continuance, renewal or extension thereof) was required to be stamped, shall be chargeable with the duty payable in respect of a lease for a period equal to the entire period of the aforesaid lease (including any periods for which it has been continued, renewed or extended), less the sum of the amounts of stamp duty previously payable in respect of such lease and any earlier continuations, renewals or extensions thereof, 20 whether under this Act or any previous Act of Parliament.”

Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 66 of 1973, section 10 of Act 88 of 1974, section 20 of Act 106 of 1980, section 6 of Act 87 of 1982, section 5 of Act 92 of 1983 and section 25 of Act 87 of 1988 25

8. Section 23 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution in subsection (1) for the definition of “deed” or “declaration” of the following definition:

“‘deed’ or ‘declaration’ means a deed or declaration made, signed and dated with the true date of each signature by the parties to a transaction for the sale or disposal of any marketable security or by their respective agents, setting forth such particulars of the transaction as may be required for the determination of liability for duty and full and true particulars of such marketable security and of any consideration passing or, if there is no consideration passing, of the market value of the marketable security on the date of the transaction [or, in any case to which the provisions of subsection (1A) apply, on the date referred to in that subsection];”;

and

(b) by the substitution for subsection (14) of the following subsection: 40

“(14) For the purposes of the duty payable under Item 15 (5) [—

(a) a person shall be deemed to have acquired any marketable security if, upon the conclusion of any transaction for the sale or disposal of the marketable security to him by any other person, or, upon or in consequence of [the death of anybody or] the happening of any event, such person has become entitled to the ownership of that marketable security [;

(b) where any marketable security devolves upon any person under the will of a deceased person or by intestate succession, or where any person becomes entitled to any marketable security by virtue of a re-distribution of the assets of the estate of a deceased person during the course of the liquidation of such estate, the person upon whom the marketable security so devolves or who becomes entitled to the marketable security as aforesaid shall, for the purpose of determining the value upon which duty is payable, be deemed to have acquired the marketable security upon the date of death of the deceased person].” 55

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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 and section 26 of Act 87 of 1988

9. Section 24 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (10) for the words preceding paragraph (a) of the following words: 5
 "If any insurer who issues any class of policy of insurance chargeable with duty under paragraph (1), (2) or (2A) **[or (3)]** of Item 18 of Schedule 1 satisfies the Commissioner—".

Amendment 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 and section 7 of Act 92 of 1983 10

10. (1) Item 2 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution in the column under the heading "Amount of Duty" for the expression "R1,00" of the expression "R2,00".
 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1989. 15

Amendment of Item 3 of Schedule 1 to Act 77 of 1968, as amended by section 8 of Act 92 of 1983

11. (1) Item 3 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution in the column under the heading "Amount of Duty" for the expression "R5,00" of the expression "R10,00". 20
 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1989.

Amendment of Item 13A of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 92 of 1983

12. (1) Item 13A of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the substitution for the tariffs of stamp duty of the following tariffs: 25

	R	c	
"does not exceed R2 000	1	00	
exceeds R 2 000 but does not exceed R 5 000.....	2	00	
" R 5 000 " " " " R10 000	4	00	
" R10 000 " " " " R15 000	6	00	30
" R15 000 " " " " R20 000	8	00	
[" R20 000	10	00]	
" R20 000 " " " " R25 000	10	00	
" R25 000 " " " " R30 000	12	00	35
" R30 000 " " " " R35 000	14	00	
" R35 000 " " " " R40 000	16	00	
" R40 000 " " " " R45 000	18	00	
" R45 000	20	00".	

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1989.

Late payment of certain stamp duties 40

13. Where in consequence of any amendment effected by this Act to the Stamp Duties Act, 1968 (Act No. 77 of 1968), any amount of stamp duty which is required to be denoted on any instrument became payable before the commencement of this Act and that amount would not, but for the amendment, have been chargeable under the Stamp Duties Act, 1968, the instrument may be stamped for that amount 45 within a period of one month after the commencement of this Act, and the provisions of sections 8, 9 and 10 of the Stamp Duties Act, 1968, shall in relation to that amount

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be applied as though any period allowed under those provisions for the stamping of the instrument or the defacing of adhesive stamps affixed to the instrument, were that period of one month.

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

14. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the insertion after subparagraph (r) under the heading "*Exemptions from the duty under paragraph (3):*" of the following subparagraphs:
- “(s) Any registration of transfer of any marketable security from a trustee, who is the registered holder thereof, of a trust created in accordance with a will to a beneficiary entitled thereto under such will.
- (t) Any registration of transfer of any marketable security issued under section 19 (1) (b) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975).”;
- (b) by the insertion after subparagraph (t) under the heading "*Exemptions from the duty under paragraph (3):*" of the following subparagraph:
- “(u) Any registration of transfer of any marketable security registered in the name of any insurer registered under the Insurance Act, 1943 (Act No. 27 of 1943), to any other insurer so registered, if such transfer is made in accordance with a transfer of insurance business as contemplated in section 25A of that Act.”;
- (c) by the substitution for the heading "*Exemption from the duty under paragraph (5):*" of the following heading:
- “**[Exemption]** *Exemptions from the duty under paragraph (5):*”; and
- (d) by the addition under the heading referred to in paragraph (c) of the following paragraph, the existing exemption becoming paragraph (a):
- “(b) The acquisition of any marketable security of a deceased by an heir or legatee *ab intestato* or by testamentary succession or as a result of a re-distribution of the assets of a deceased estate in the process of liquidation.”.
- (2) Subsection (1) (b) shall come into operation on the date of commencement of section 25A of the Insurance Act, 1943 (Act No. 27 of 1943).

Amendment of section 98 of Act 61 of 1973, as amended by section 4 of Act 64 of 1977

15. Section 98 of the Companies Act, 1973, is hereby amended by the substitution for subsection (2) of the following subsection:
- “(2) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares (including, if the company so decides by special resolution, shares other than redeemable preference shares) up to the nominal amount of the shares redeemed or to be redeemed or in the case of preference shares of no par value, up to the book value of the shares redeemed or to be redeemed, as if those shares had never been issued, and the share capital of the company or the number of shares of no par value shall not for the purposes of section 75 (3) be deemed to be increased by the issue of shares in pursuance of this subsection **[: Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not for the purposes of any law relating to stamp duty, be deemed to have been issued in pursuance of this subsection, unless the old shares are redeemed within thirty days after the issue of the new shares]**”.

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Amendment of section 12 of Act 109 of 1985, as amended by section 8 of Act 78 of 1986 and section 14 of Act 49 of 1988

16. Section 12 of the Regional Services Councils Act, 1985, is hereby amended by the substitution for paragraph (dC) of subsection (1A) of the following paragraph: 5
 “(dC) authorize a council, if it appears to the council that the total monthly amount for which an employer or person in respect of the payment of a regional services levy and a regional establishment levy shall be liable, is less than the amount determined from time to time by the said Minister, to permit that employer or person to pay the total amount of such levies **[once per annum at the time determined in the permission]** within a period of 20 10 days after the end of every period of a year or such shorter period as the council may determine.”

Amendment of section 1 of Act 103 of 1978, as amended by section 1 of Act 111 of 1979, section 1 of Act 105 of 1980, section 1 of Act 97 of 1981, section 1 of Act 90 of 1982, section 1 of Act 95 of 1983, section 1 of Act 99 of 1984, section 1 of Act 102 of 1985, section 1 of Act 70 of 1986, section 1 of Act 31 of 1987, section 12 of Act 86 of 1987 and section 37 of Act 87 of 1988 15

17. Section 1 of the Sales Tax Act, 1978, is hereby amended by the insertion after the definition of “rental enterprise” of the following definition: 20
 “‘returnable container’ means any container belonging to a class of containers in relation to which, at the time of the sale of the contents thereof, ownership of that container is not transferred to the purchaser in relation to such sale and a specifically identified amount is usually charged as a deposit by the seller in relation to such sale upon the express undertaking of the vendor that upon the return of that container such deposit will be refunded or allowed as a credit to 25 such purchaser;”

Amendment of section 5 of Act 103 of 1978, as amended by section 3 of Act 111 of 1979, section 2 of Act 97 of 1981, section 1 of Act 40 of 1982, Government Notice No. R.1900 of 27 August 1982, section 2 of Act 95 of 1983, Government Notice No. R.142 of 26 January 1984, section 2 of Act 99 of 1984, section 2 of Act 102 of 1985 and 30 Government Notice No. 506 of 15 March 1989

18. (1) Section 5 of the Sales Tax Act, 1978, is hereby amended by the substitution in subsection (1) for the word “twelve” of the expression “13”.
 (2) The amendment effected by subsection (1) shall, subject to the provisions of section 11 of the said Act, apply for the purpose of determining the amounts of sales tax which in terms of section 8 of that Act are deemed to have become payable on any date falling on or after 20 March 1989. 35

Amendment of section 7 of Act 103 of 1978, as amended by section 5 of Act 111 of 1979, section 3 of Act 105 of 1980, section 4 of Act 97 of 1981, section 4 of Act 95 of 1983, section 4 of Act 99 of 1984, section 3 of Act 70 of 1986 and section 15 of Act 86 40 of 1987

19. (1) Section 7 of the Sales Tax Act, 1978, is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:
 “(a) Subject to the provisions of subsection (4)— 45
 (i) where under any agreement or transaction treated as a sale of goods for the purposes of this Act, goods (except goods referred to in subparagraph (ii)) are disposed of or the ownership therein passes or is to pass without the payment of any consideration to the seller in relation to such sale or for a consideration which is less than the cost of such goods to the seller, a consideration in respect of such sale shall 50 be deemed to have accrued to the seller equal in value to such cost or

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if the market value thereof at the time of such sale is less than such cost, such market value;

(ii) where under any agreement or transaction treated as a sale of goods for the purposes of this Act, goods consisting of catalogues or samples of goods offered for sale are disposed of or the ownership therein passes or is to pass without the payment of any consideration to the seller in relation to such sale or for a consideration which is less than the cost of such goods to the seller, a consideration in respect of such sale shall be deemed to have accrued to the seller equal in value to such cost.”

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1989.

Amendment of section 9 of Act 103 of 1978, as amended by section 5 of Act 95 of 1983 and section 5 of Act 99 of 1984

20. Section 9 of the Sales Tax Act, 1978, is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) in the case of goods imported into the Republic, by the importer or where such goods are not required to be cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964), and the tax has not been paid to the Commissioner in respect of such **[importation] goods**, by the purchaser in relation to any **[subsequent sale of such goods by the importer] transaction** with regard to such goods; or”.

Amendment of section 11 of Act 103 of 1978, as amended by section 7 of Act 111 of 1979, section 2 of Act 40 of 1982, section 6 of Act 95 of 1983, section 7 of Act 99 of 1984, section 4 of Act 70 of 1986, section 15 of Act 108 of 1986 and section 38 of Act 87 of 1988

21. (1) Section 11 of the Sales Tax Act, 1978, is hereby amended by the substitution for subparagraph (ii) of subsection (2) of the following subparagraph:

“(ii) where a deposit on any returnable container has been included under paragraph (a) (whether in respect of the tax period or a previous tax period) in the taxable value of goods sold by the vendor to a purchaser in the course of the vendor’s enterprise and the tax borne by the purchaser in respect of such deposit has been repaid or credited to the purchaser, so much of such deposit, together with such tax, as the vendor has during the tax period repaid or credited to the purchaser;”.

(2) Subsection (1) shall be deemed to have come into operation on 29 June 1984.

Amendment of section 17 of Act 103 of 1978, as amended by section 10 of Act 111 of 1979, section 7 of Act 97 of 1981 and section 7 of Act 31 of 1987

22. Section 17 of the Sales Tax Act, 1978, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Any vendor who fails to **[furnish any return in accordance]** comply with the provisions of subsection (1) or (2), or any person liable for the payment of tax under the provisions of subsection (3) who fails to **[pay that tax in accordance]** comply with the provisions of that subsection, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.”.

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Amendment of Schedule 1 to Act 103 of 1978, as amended by section 19 of Act 111 of 1979, section 7 of Act 105 of 1980, section 8 of Act 90 of 1982, section 8 of Act 95 of 1983, section 15 of Act 99 of 1984, section 17 of Act 70 of 1986, section 20 of Act 86 of 1987 and section 42 of Act 87 of 1988

23. (1) Schedule 1 to the Sales Tax Act, 1978, is hereby amended— 5
- (a) by the substitution for subparagraph (a) of paragraph 1 of the following subparagraph:
- “(a) In the case of a person who carries on any enterprise in the course of which goods are sold or let, **[the] any delivery** (excluding the delivery of goods contemplated in section 7 (1) (a)), installation, repair or maintenance service or any other [services] service whatsoever rendered or to be rendered by such person in connection with or following upon the sale or letting of such goods.”; and 10
- (b) by the substitution for subitem (dd) of item (ii) of subparagraph (b) of paragraph 1 of the following subitem: 15
- “(dd) any machinery or plant used directly in a process of manufacture or for the pumping of water or **[in respect of which any allowance has been or may be granted]** which qualifies or which, but for any provision in the Income Tax Act entitling any organization or body to exemption from normal tax, would have qualified for the granting of any allowance or deduction, as the case may be, for normal tax purposes under the provisions of section 11 (e), 12 (1) or (2), 12A (2) or (3), 12B (1), 15 (a) or 27 (2) (d) or (e) of [the Income Tax Act] the said Act; or” 20
- (2) Subsection (1) (b) shall be deemed to have come into operation on 1 January 1989. 25

Amendment of Schedule 4 to Act 103 of 1978, as amended by section 22 of Act 111 of 1979, section 9 of Act 105 of 1980, section 10 of Act 97 of 1981, section 11 of Act 95 of 1983, section 17 of Act 99 of 1984, section 19 of Act 70 of 1986 and section 22 of Act 86 of 1987

24. (1) Schedule 4 to the Sales Tax Act, 1978, is hereby amended by the substitution for subparagraph (a) of paragraph 1 of the following subparagraph: 30
- “(a) the agreement is in writing and provides for the letting and hiring of any asset (hereinafter referred to as the leased property) consisting of goods or of any machinery or plant referred to in paragraph 1 (b) (ii) (dd) or (ee) of Schedule 1 **[used directly in a process of manufacture or for the generation of power or for the pumping of water or in respect of which the lessor is or will be entitled to any allowance for normal tax purposes under the provisions of section 11 (e), 12 (1) or (2), 12A (2) or (3), 15 (a) or 27 (2) (d) or (e) of the Income Tax Act]**” 35
- (2) Subsection (1) shall be deemed to have come into operation on 1 January 1989. 40

Withdrawal of Government Notice

25. Government Notice No. 506 of 15 March 1989 is hereby withdrawn.

Amendment of section 48 of Act 87 of 1988

26. Section 48 of the Taxation Laws Amendment Act, 1988, is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “controlling company” of the following definition: 45
- “‘controlling company’, in relation to any other company, means a company which on a date between 17 June 1988 and 22 May 1989 and at the time of any agreement referred to in subsection (2) to which such other company is a party, holds for its own benefit, whether directly or indirectly through one or more companies in the group of companies of which all the companies in question are members, shares in such other 50

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- company which, together with shares in that other company held by a trustee under a scheme referred to in section 38 (2) (b) of the Companies Act, 1973 (Act No. 61 of 1973), entitle the holders of such shares altogether to not less than 75 per cent of the voting rights of all the shareholders in the said other company;” and
- (b) by the substitution for the expression “30 June 1989” wherever it occurs of the expression “30 June 1990”.

5

Short title

27. This Act shall be called the Taxation Laws Amendment Act, 1989.