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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1464.

4 Julie 1990

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4 July 1990

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

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

No. 89 van 1990: Wysigingswet op Belastingwette, 1990.

No. 89 of 1990: Taxation Laws Amendment Act, 1990.

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- 1964 (Act No. 91 of 1964), of such goods in the jewellery trade as may be specified by the Commissioner, sold and delivered by the seller to such foreign tourist or visitor to the Republic, if such seller complies with the procedures and conditions prescribed by the Commissioner regarding the production of proof that such goods have been taken out of the Republic by such purchaser; and”;
- 5 (d) by the addition to paragraph (a) of the definition of “goods” of the following subparagraph:
- 10 “(vi) any stamp which has a money value and has been sold or issued by the postal company as defined in the Post Office Act, 1958 (Act No. 44 of 1958), for the payment of postage, except when, subsequent to its sale or issue, it is disposed of or imported as a collector’s piece;”;
- (e) by the substitution for the definition of “specified country” of the following definition:
- 15 “‘specified country’ means Botswana, Lesotho, Swaziland, [the territory of South West Africa] Namibia or any country the territory of which formerly formed part of the Republic;”.
- (2) (a) Subsection (1) (a) shall be deemed to have come into operation on 15 March 1990.
- 20 (b) Subsection (1) (b) and (c) shall be deemed to have come into operation on 17 April 1990.
- (c) Subsection (1) (e) shall be deemed to have come into operation on 21 March 1990.

25 Amendment of section 6 of Act 103 of 1978, as amended by section 4 of Act 111 of 1979, section 2 of Act 105 of 1980, section 3 of Act 97 of 1981, section 2 of Act 90 of 1982, section 3 of Act 95 of 1983, section 3 of Act 99 of 1984, section 3 of Act 102 of 1985, section 2 of Act 70 of 1986, section 2 of Act 31 of 1987 and section 14 of Act 86 of 1987

2. (1) Section 6 of the Sales Tax Act, 1978, is hereby amended—
- 30 (a) by the substitution for subparagraph (iii) of paragraph (f) of subsection (1) of the following subparagraph:
- “ (iii) such goods consist of [returnable] containers intended to be let by the vendor in the ordinary course of [his] a rental enterprise in respect of which he is so registered for use in any foreign-going [ships] ship or foreign-going aircraft;”;
- 35 (b) by the substitution for paragraph (o) of subsection (1) of the following paragraph:
- “ (o) any rental consideration payable to the Department of Posts and Telecommunications or to the telecommunications company as defined in the Post Office Act, 1958 (Act No. 44 of 1958), in respect of telephones [or] and telex equipment;”;
- 40 (c) by the substitution for subparagraph (i) of paragraph (s) of subsection (1) of the following subparagraph:
- “ (i) any taxable service (other than any service referred to in paragraph 1A of Schedule 1) which is rendered wholly or mainly outside the Republic;”.
- 45 (2) Subsection (1) (a) shall be deemed to have come into operation on 21 June 1989.

50 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, section 15 of Act 86 of 1987 and section 19 of Act 69 of 1989

3. (1) Section 7 of the Sales Tax Act, 1978, is hereby amended by the substitution for paragraph (i) of the proviso to paragraph (a) of subsection (1) of the following paragraph:
- 55 “(i) where such sum includes any delivery charge which is charged by the seller [separately from] and shown as a separate item on any invoice, cash slip or other statement relating to the price charged for the goods under such sale,

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such sum shall be reduced by so much of the delivery charge so shown as is sufficient to reduce such sum to an amount equal to the full price which the seller would normally have charged for the said goods if not delivered by the seller;”.

- 5 (2) Subsection (1) shall come into operation on 1 July 1990.

Amendment of section 20 of Act 103 of 1978, as amended by section 10 of Act 99 of 1984, section 8 of Act 70 of 1986 and section 8 of Act 31 of 1987

4. Section 20 of the Sales Tax Act, 1978, is hereby amended by the substitution for subsection (2) of the following subsection:

- 10 “(2) Every request for a matter to be referred to an advisory committee under the provisions of subsection (1) shall be in writing and shall be lodged with the Commissioner within 21 days after the date of the notification by the Commissioner given in terms of section 12 (3), 13 (9), 19 (5) or 36 (4) or the proviso to section 32 (1), as the case may be, unless the Commissioner is satisfied that
- 15 reasonable grounds exist for any delay in lodging such request.”.

Amendment of section 22 of Act 103 of 1978, as amended by section 4 of Act 90 of 1982 and section 12 of Act 99 of 1984

5. (1) Section 22 of the Sales Tax Act, 1978, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
- 20 “(2) (a) Every notice of appeal shall be in writing and shall be lodged with the Commissioner within a period of ~~[thirty]~~ 30 days after the date of the notice mentioned in section 21 (4) ~~[and such notice of appeal shall be of no force or effect whatsoever unless it is lodged within the said period]~~.
- 25 (b) No notice of appeal shall be of any force or effect whatsoever unless it is delivered at the office of the Commissioner, or posted to the Commissioner in sufficient time to reach him, on or before the last day of the period allowed for the lodging of such notice, except if the Commissioner is satisfied that reasonable grounds exist for any delay in lodging such notice: Provided that any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal.”;
- 30 (b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- 35 “(a) the appellant shall be limited to the grounds stated in the notice of objection referred to in section 21 (2), unless the Commissioner agrees to the amendment of such grounds: Provided that the special court may, on good cause shown at the hearing of the appeal, permit the appellant to amend such notice of objection within a reasonable period, subject to such conditions with regard to any postponement of the hearing of the appeal and costs as the special court may deem fit;”;
- 40 and
- (c) by the substitution for subsection (5) of the following subsection:
- 45 “(5) The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law under section 86A of the Income Tax Act, as applied by subsection (4) of this section, but if any assessment is altered on appeal or in conformity with any such decision or any decision by the Commissioner to concede the appeal
- 50 to the special court or such court of law a due adjustment shall be made, amounts paid in excess being refunded with interest at the rate [of 10 per cent per annum] contemplated in paragraph (b) of the definition of ‘prescribed rate’ in section 1 of the Income Tax Act, such interest being
- 55 calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts shortpaid being recoverable with penalty calculated as provided in section 25 (1) [; Provided

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that where such date falls before 1 July 1982, the interest payable for the period from such date to 30 June 1982 shall be calculated at the rate of 7,5 per cent per annum].”

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

5 Amendment of section 43 of Act 103 of 1978, as amended by section 18 of Act 111 of 1979, section 14 of Act 70 of 1986 and section 12 of Act 31 of 1987

6. Section 43 of the Sales Tax Act, 1978, is hereby amended—

(a) by the insertion at the end of subparagraph (iii) of paragraph (d) of the word “or”; and

10 (b) by the addition of the following paragraph:

“(e) not being a vendor who is registered under section 12 in respect of any enterprise, knowingly and without lawful excuse (the burden of proof whereof shall be upon him) includes in or adds on to the price or amount charged to any other person who is a party to any transaction (other than any transaction referred to in paragraph (d)) any tax, where in fact no tax is payable in terms of this Act, and fails to pay such tax to the Commissioner.”

20 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 97 of 1981, 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, section 42 of Act 87 of 1988 and section 23 of Act 69 of 1989

7. Schedule 1 to the Sales Tax Act, 1978, is hereby amended—

25 (a) by the substitution for subitem (aa) of item (ii) of subparagraph (b) of paragraph 1 of the following subitem:

“(aa) any plant or equipment used for the purposes of heating (other than hot-water cylinders, non-industrial boilers or solar water heaters), ventilation, air-conditioning, refrigeration, television or radio or any communication system (including any alarm signalling system) other than any communication system installed by the Department of Posts and Telecommunications or the telecommunications company as defined in the Post Office Act, 1958 (Act No. 44 of 1958); or”; and

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

35 “1A. For the purposes of this Act, where any agreement provides—

(a) for the supply of any asset referred to in paragraph 1 (b) (ii); and

(b) for the rendering of [a] any service which in terms of [subparagraph] paragraph 1 (b) (ii), [or] (bA) or (bB) [of paragraph 1] is deemed to be a taxable service,

40 and the consideration payable under such agreement to the person supplying such asset and rendering such service is payable in respect of the supply of such asset and the rendering of such service [and] (including any materials, components or other goods supplied by such person which are required for the rendering of such service), the said agreement as a whole shall be treated as an agreement for the rendering of [such] a taxable service and the said consideration shall be deemed to be payable in respect of such taxable service.”

Amendment of section 11A of Act 109 of 1985, as inserted by section 7 of Act 78 of 1986 and amended by section 13 of Act 49 of 1988

50 8. Section 11A of the Regional Services Councils Act, 1985, is hereby amended by the substitution for paragraph (i) of the following paragraph:

“(i) the [imposition and claiming] determination of a rate of a levy, or the appropriation of funds in terms of section 12;”

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Amendment of section 48 of Act 87 of 1988, as amended by section 26 of Act 69 of 1989

9. Section 48 of the Taxation Laws Amendment Act, 1988, is hereby amended—
- (a) by the substitution in the definition of “controlling company” in subsection (1) for the expression “22 May 1989” of the expression “11 June 1990”; and
 - 5 (b) by the substitution for the expression “30 June 1990”, wherever it occurs, of the expression “30 June 1991”.

Special exemption in respect of privatization of the Deciduous Fruit Board

10. (1) No transfer duty or stamp duty shall be payable in respect of the passing of assets, rights, liabilities and obligations of the Deciduous Fruit Board to Unifruco Limited in terms of the agreement dated 1 March 1990 between the Deciduous Fruit Board, Unifruco Limited and Universal Frustrate (Co-operative) Limited.

(2) No stamp duty shall be payable in respect of the first issue of shares by Unifruco Limited to Universal Frustrate (Co-operative) Limited and producers as referred to in paragraph 3.1 of the statutes of Unifruco Limited.

15 (3) Subsections (1) and (2) shall be deemed to have come into operation on 1 October 1988.

Short title

11. This Act shall be called the Taxation Laws Amendment Act, 1990.