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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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# STAATSKOERANT

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No. 13412

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1662.

17 July 1991

No. 1662.

17 Julie 1991

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

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

No. 136 of 1991: Taxation Laws Amendment Act, 1991

No. 136 van 1991: Wysigingswet op Belastingwette, 1991

**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.

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*(Afrikaans text signed by the State President.)*  
*(Assented to 27 June 1991.)*

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# ACT

To amend the Marketable Securities Tax Act, 1948, so as to decrease the rate of tax payable in respect of the purchase of marketable securities; to amend the Estate Duty Act, 1955, so as to provide further for the value for estate duty purposes of fiduciary, usufructuary or other like interests in property; to amend the Income Tax Act, 1962, so as to apply certain provisions of that Act where a beneficiation process is carried on; and to provide for the imposition of a levy in respect of financial services; to amend the Stamp Duties Act, 1968, so as to empower the Commissioner for Inland Revenue to authorize certain persons to pay duty by means of the issue of a special receipt; to alter the provisions relating to the imposition of stamp duty in terms of Item 15(4) of Schedule 1; to make provision for exemption from stamp duty in respect of the original issue of shares in certain circumstances; and to decrease the stamp duty tariffs in respect of certain Items; to amend the Sales Tax Act, 1978, so as to further define certain expressions; to further regulate a certain exemption from sales tax; to provide that there shall be a tax period ending on the day before the commencement date of the value-added tax; to further regulate the circumstances in which any penalty on assessment may be remitted; to make new provision relating to evidence as to assessments having been made and as to the correctness thereof; and to amend Schedules 1, 2, 3, 5 and 7 to the said Act; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to fix a tax rate; to make further provision in respect of supplies of goods and services by local authorities, the supply of goods in respect of which a deduction of input tax was denied, the supply of goods or services held or used partly for making taxable supplies, the time of supply and value of goods and services, the application of a zero rate in respect of certain supplies, the exemption in respect of certain transport services, the denial of the deduction of input tax, the adjustments in respect of changes in use or consumption of goods or services, and the tax periods of vendors; so as to provide for certain appeals to be heard by a board; to make further provision in respect of pooling arrangements and penalty or interest in respect of certain late payments of tax; to include certain market agents in the provisions relating to auctioneers; to provide that increases or decreases of tax be taken into account in respect of certain fees, charges or other amounts fixed by law; to alter the provisions relating to certain international agreements; to empower the Minister of Finance during a limited period to amend the said Act; to further provide for transitional matters; to amend Schedules 1 and 2 to the said Act; and to make certain textual changes; to repeal sections 10 to 20 of this Act; and to provide for matters connected therewith.

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

**Amendment of section 2 of Act 32 of 1948, as substituted by section 1 of Act 114 of 1977 and amended by section 1 of Act 102 of 1979 and section 1 of Act 71 of 1986**

1.(1) Section 2 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the expression "1,5 per cent" of the expression "1 per cent".

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

**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 and section 12 of Act 87 of 1988**

2. Section 5 of the Estate Duty Act, 1955, is hereby amended by the substitution for the first proviso to subsection (2) of the following proviso:

"Provided that where [it is established to the satisfaction of the Commissioner] the Commissioner is satisfied that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to 12 per cent on such value of the property, the Commissioner may fix such sum (whether or not such sum is fixed for the purposes of the inclusion of such right as property in the estate of the deceased in terms of section 3 or the allowance thereof as a deduction in terms of section 4) as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of [paragraph] paragraphs (b) and (f) of subsection (1) be deemed to be the annual value of the right of enjoyment of such property:"

**Insertion of section 37E in Act 58 of 1962**

3.(1) The following section is hereby inserted in Part I of Chapter II of the Income Tax Act, 1962, after section 37D:

**"Application of certain provisions where taxpayer carries on a beneficiation process**

**37E.(1) For the purposes of this section—**

'beneficiation process' means any process approved by the committee whereby any base mineral which has been mined in a local country or any intermediate product which in the opinion of the committee was wholly or mainly produced in a local country, is processed to yield any intermediate product or final product, if in the opinion of the committee such process—

(a) adds substantial value to the value of the base mineral or intermediate product processed;

(b) is carried on on a scale which makes it internationally competitive; and

(c) is carried on by the taxpayer with the intention of exporting at least 60 per cent (or such lesser percentage as the committee in any case determines) by value of the intermediate product or final product produced to a country other than a local country,

but excludes any process which is either a simple purification process in consequence of which the base mineral or intermediate product in question remains unchanged except for the removal of impurities or a

physical process resulting merely in a change of shape and any process which is a mining operation or any operation which is normally carried on in the course of mining operations;

'commencement date' means the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

'committee' means the committee appointed in terms of subsection (2);

'intermediate product' means any substance or material which is produced by the taxpayer concerned in order to be subjected to further processing by any other person;

'local country' means the Republic, Botswana, Lesotho, Namibia, Swaziland or any country the territory of which formerly formed part of the Republic.

(2) The Minister of Finance shall with the concurrence of the Minister of Trade and Industry and Tourism appoint a committee which shall have power to—

(a) approve any process as a beneficiation process for the purposes of this section, subject to such conditions as the committee considers necessary to ensure that the provisions of this section are applied in such a manner as to promote the carrying on of beneficiation processes;

(b) direct that where the provisions of this section are applicable to any taxpayer, the taxpayer shall be excluded from such further assistance from the State as the committee may determine; and

(c) perform such other functions as are assigned to it under the provisions of this section.

(3) Where any taxpayer incurs expenditure for the purpose of his trade on or in connection with—

(a) any new or unused machinery or plant referred to in section 12C(1)(a) which the committee is satisfied will—

(i) be brought into use by the taxpayer within a period determined by the committee; and

(ii) be used by the taxpayer directly in a beneficiation process carried on by him; or

(b) any building referred to in section 13(1)(b) which the committee is satisfied will—

(i) be brought into use by the taxpayer within a period determined by the committee; and

(ii) be used by the taxpayer for the purpose of carrying on therein any beneficiation process,

the provisions of sections 11(bA), 12C and 13(1) shall, notwithstanding the fact that such machinery, plant or building may not have been brought into use or used as contemplated in the said sections, be applied in accordance with the provisions of subsection (4), but subject to the provisions of subsection (6).

(4) Where any expenditure referred to in subsection (3)—

(a) constitutes an amount of interest or related finance charge referred to in section 11(bA) which has been incurred by the taxpayer in respect of the cost of any machinery or plant referred to in subsection (3)(a) or any building referred to in subsection (3)(b), the deduction under section 11(bA) shall be allowed in the year of assessment in which such expenditure is incurred;

(b) constitutes the whole or a portion of the cost to the taxpayer of any machinery or plant referred to in subsection (3)(a), the deduction under section 12C shall be calculated on an amount equal to the sum of such expenditure increased by such percentage as the committee in any case determines, and shall be allowed in the year of assessment in which such expenditure is incurred and in each of the four (or such lesser number as the committee in any case directs) succeeding years of assessment; or

(c) constitutes the whole or a portion of the cost to the taxpayer of any building referred to in subsection (3)(b), the deduction under section 13(1) shall be allowed in the year of assessment in which such expenditure is incurred and in each applicable succeeding year of assessment.

(5) Where the taxpayer has during any year of assessment recovered or recouped any amount of expenditure allowed to be deducted under the provisions of subsection (4)(b), whether in that year or in any previous year of assessment, he shall for the purposes of section 8(4) be deemed to have recovered or recouped an amount determined by increasing the amount actually recovered or recouped by him by such percentage as may in his case have been determined by the committee under the said subsection.

(6) The provisions of this section shall apply to any taxpayer who on the commencement date has not yet commenced the erection of a beneficiation plant, if the process to be carried on by the taxpayer is approved by the committee as a beneficiation process within two years (or such shorter period as the committee in any case determines) after the commencement date.

(7) For the purposes of subsection (6), a taxpayer shall be deemed to have commenced the erection of a beneficiation plant on the date upon which he concludes an agreement for the acquisition of any machinery or plant referred to in subsection (3)(a) or on the date upon which he concludes an agreement for the erection of a building referred to in subsection (3)(b), whichever date is the earlier.

(8) Where the sum of the deductions to which the taxpayer is entitled in any year of assessment under the provisions of sections 11(bA), 12C and 13(1), as applied in terms of the provisions of this section, in respect of expenditure referred to in subsection (3) exceeds the taxable income of the taxpayer for such year as determined before allowing the said deductions, the Commissioner may on application made to him by the taxpayer—

(a) disallow as a deduction in the determination of the taxpayer's taxable income for such year an amount equal to so much of such sum as would, had such amount been allowed as a deduction, have created or increased an assessed loss as defined in section 20(2); and

(b) issue to the taxpayer a negotiable tax credit certificate for such amount as, having regard to the rate of normal tax applicable to the taxpayer in such year, represents the amount of normal tax which would be payable in respect of a taxable income equal to the amount disallowed under the provisions of paragraph (a).

(9) A negotiable tax credit certificate issued to any taxpayer under the provisions of subsection (8) may be disposed of by such taxpayer to any other taxpayer, and may in such case be utilized by such other taxpayer in payment of any normal tax or provisional tax due by him."

(2) Subsection (1) shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

#### Substitution of Part VI of Chapter II of Act 58 of 1962

4. The following Part is hereby substituted for Part VI of Chapter II of the Income Tax Act, 1962:

#### "Part VI.

##### Levy on Financial Services

64A.(1) For the purposes of this section—

'financial service' means—

(a) the activity carried on by a deposit-taking institution within the meaning of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990); and

(b) any activity carried on by a person other than such a deposit-

taking institution which in the opinion of the Minister is similar to the activity carried on by such an institution and which is designated as a financial service by the Minister by notice in the *Gazette*;

'interest' includes any amount, however described, which in the opinion of the Minister is in nature similar to interest and which is designated by the Minister as interest by notice in the *Gazette*;

'levy' means the levy on financial services referred to in subsection (2);

'Minister' means the Minister of Finance.

(2) There shall be levied and paid for the benefit of the State Revenue Fund a levy, to be known as the levy on financial services, which is calculated at the rate of 0,75 per cent of the amount of any interest which on or after 30 September 1991 becomes due and payable to any person carrying on a financial service.

(3) The levy shall be calculated on the total amount of interest which becomes due and payable to a taxpayer—

(a) during the period ending 30 November 1991; and

(b) during every succeeding period of three months, and shall be paid within a period of 21 days after the end of each such period.

(4) Every payment of levy shall be accompanied by a return in such form as the Commissioner may require.

(5) If any taxpayer fails to pay in full any levy for which he is liable within the period prescribed by subsection (3), interest shall be paid by him on the balance of the levy outstanding at the prescribed rate reckoned from the end of the said period.

(6) Any levy payable in terms of this section shall be a debt due to the State, and may be recovered by the Commissioner by way of judicial process in a competent court.

(7) The Minister may by notice in the *Gazette*—

(a) exempt any class or category of persons from the payment of the levy;

(b) exempt any amount of interest, or interest derived from any transaction, from the levy;

(c) make such provision as he deems necessary regarding the manner in which the levy may be recovered by the taxpayer; and

(d) make such other provision as he deems necessary for the imposition and recovery of the levy.

(8) The levy shall for the purposes of this Act be deemed to be a tax on income."

**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, section 17 of Act 87 of 1988 and section 3 of Act 69 of 1989**

5.(1) Section 1 of the Stamp Duties Act, 1968, is hereby amended by the deletion of the definition of "policy or certificate of marine insurance".

(2) Subsection (1) shall come into operation on the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

**Amendment of section 5 of Act 77 of 1968, as amended by section 9 of Act 89 of 1972, section 7 of Act 66 of 1973, section 9 of Act 114 of 1977, section 5 of Act 118 of 1984 and section 19 of Act 87 of 1988**

6.(1) Section 5 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (1) for paragraph (iii) of the proviso of the following paragraph:

"(iii) where the Commissioner is satisfied that [—

(a) any person or class of persons cannot conveniently denote the duty in respect of fixed deposit receipts, instalment credit

agreements or the original issue of marketable securities by means of stamps affixed to such fixed deposit receipts, instalment credit agreements or marketable securities [; or  
 (b) any bank registered under the Banks Act, 1965 (Act No. 23 of 1965), cannot conveniently denote the duty in respect of hire-purchase agreements or contracts or financial leases chargeable with duty under Item 13A of Schedule 1 by means of stamps affixed to such hire-purchase agreements or contracts or financial leases],  
 he may, subject to such conditions as he may impose and subject to the exercise of such control as he considers necessary, agree that payment of such duty may be acknowledged by means of the issue of a special receipt, and any such fixed deposit receipt, instalment credit agreement or marketable security [hire-purchase agreement or contract or financial lease] which bears on its face the words 'duty paid', shall for the purposes of this Act be deemed to be duly stamped."

(2) Subsection (1) shall come into operation on the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

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, section 25 of Act 87 of 1988 and section 8 of Act 69 of 1989

7. Section 23 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (12A) for paragraph (c) of the following paragraph:

"(c) shares, stock or debentures issued by any company shall be deemed to be cancelled in part if any rights attaching to such shares, stock or debentures are altered or if the interests of the holders of such shares, stock or debentures are varied or altered [by the issue of shares, stock or debentures] so as to result in either case in a material diminution of the rights or interests of such holders of such [first-mentioned] shares, stock or debentures to participate in the profits or gains of such company or to receive any dividend or other distribution or any interest or other payment from such company;"

Substitution of Item 13A of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 92 of 1983 and amended by section 12 of Act 69 of 1989

8.(1) The following Item is hereby substituted for Item 13A of Schedule 1 to the Stamp Duties Act, 1968:

"13A [Hire-purchase agreement or contract or financial lease] Instalment credit agreement in respect of goods, wares or merchandise (other than livestock or agricultural produce): where the amount payable under such instrument in respect of such goods, wares or merchandise (including any interest and finance or other charges)—

does not exceed R2 000.....	1 00	
exceeds R 2 000 but does not exceed R 5 000.....	2 00	45
" R 5 000 " " " " R10 000 .....	4 00	
" R10 000 " " " " R15 000 .....	6 00	
" R15 000 " " " " R20 000 .....	8 00	
" R20 000 " " " " R25 000 .....	10 00	
" R25 000 " " " " R30 000 .....	12 00	50
" R30 000 " " " " R35 000 .....	14 00	
" R35 000 " " " " R40 000 .....	16 00	
" R40 000 " " " " R45 000 .....	18 00	
" R45 000 .....	20 00	

Notwithstanding anything to the contrary in this Act contained, an instrument which is signed by a person in connection with the sale [or], disposal or lease to him of any goods, wares or merchandise (other than

livestock or agricultural produce) and which, if signed by the other party to the transaction, would be [a hire-purchase agreement or contract] an instalment credit agreement in respect of such goods, wares or merchandise, shall for the purposes of this Item be regarded as [a hire-purchase agreement or contract] an instalment credit agreement executed on the date on which it was signed by such person. 5

For the purposes of this item—

['hire-purchase agreement or contract'] includes any agreement whereby goods, wares or merchandise are sold subject to the condition that the ownership therein shall not pass merely by the transfer of the possession thereof, and the purchase price is to be paid in instalments, two or more of which are payable after such transfer; and includes any other agreement which has or agreements which together have the same import, irrespective of the form of such agreement or agreements; 10

'financial lease' means a financial lease contemplated in paragraph 1 of Schedule 4 to the Sales Tax Act, 1978 (Act No. 103 of 1978) 15

'instalment credit agreement' means any instalment credit agreement as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).” 20

(2) Subsection (1) shall come into operation on the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

**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 and section 14 of Act 69 of 1989** 25

9.(1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended— 30

(a) by the insertion under the heading “Exemptions from the duty under paragraph (1) or (2):” after subparagraph (c) of the following subparagraph: 35

“(d) The issue of any share by any insurer registered under the Insurance Act, 1943 (Act No. 27 of 1943), if such issue is made in accordance with the transfer of insurance business as contemplated in section 25A of that Act.”; 35

(b) by the substitution in paragraph (3) for the words in subparagraph (e) preceding item (i) of the following words: 40

“[in any other case] if the marketable security was sold or disposed of after 31 March 1986 but not later than 31 March 1991 and the date of the sale or disposal is noted on the relevant instrument of transfer referred to in section 23 of this Act by the transferee or his agent and such note is signed by the transferee or his agent:”; 40

(c) by the addition to paragraph (3) of the following subparagraph: 45

“(f) in any other case:

(i) if transfer is registered before the expiry of a period of six months from the date of execution of the relevant instrument of transfer referred to in section 23 of this Act: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security transferred .....



- (ii) if transfer is registered after the expiry of the said period ..... Three times the duty which would have been payable under (f)(i) if transfer had been registered before the expiry of the said period of six months.”; 5
- (d) by the substitution in paragraph (4) in the column “Amount of Duty” for the amount “0 15” of the amount “0 10”; and 10
- (e) by the substitution in paragraph (5) for subparagraphs (iv) and (v) of the following subparagraphs: 15
  - “(iv) if the date of acquisition of such marketable security falls on or after 1 April 1986, but not later than 31 March 1991, and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security ..... 0 15 20
  - (v) if the date of acquisition of such marketable security falls on or after 1 April 1991 and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security ..... 0 10 30
- [(v)] (vi) if the relevant deed or declaration is not duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), [or] (iv) or (v), as the case may be..... 45
  - Three times the duty which would have been payable under (i), (ii), (iii), [or] (iv) or (v) (whichever is applicable), if the deed or declaration had been duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), [or] (iv) or (v), as the case may be.”. 50

(2) The amendments effected by paragraphs (b), (c), (d) and (e) of subsection (1) shall be deemed to have come into operation on 1 April 1991.

**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, section 37 of Act 87 of 1988, section 17 of Act 69 of 1989 and section 1 of Act 89 of 1990**

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

(a) by the substitution in the definition of “goods” for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) coins which [are Republican coins within the meaning of that expression as defined in section 1 of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), and any paper currency which under the South African Reserve Bank Act, 1944 (Act No. 29 of 1944), is a legal tender] the South African Reserve Bank has issued or caused to be issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section, and any paper currency which under the said Act is a legal tender;”;

(b) by the substitution in the definition of “goods” for subparagraph (iv) of paragraph (a) of the following subparagraph:

“(iv) any coin (other than a gold coin) or paper currency which is not a legal tender in the Republic, except when disposed of or imported as a collector’s piece of numismatic interest;”;

(c) by the substitution for the definition of “person” of the following definition:

“ ‘person’ includes the State, [and] the estate of a deceased or insolvent person and any trust fund;”.

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

(b) Subsection (1)(c) shall be deemed to have come into operation on 1 March 1986.

**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, section 14 of Act 86 of 1987 and section 2 of Act 89 of 1990**

11.(1) Section 6 of the Sales Tax Act, 1978, is hereby amended by the substitution in subsection (1) for paragraph (zB) of the following paragraph:

“(zB) the sale, importation or application in terms of section 5(1)(h) of this Act of any goods [specified in Taxation Proposal (P3-87) tabled in Parliament on 22 June 1987 under section 58(1)] being fuel levy goods as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);”.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1987.

**Amendment of section 16 of Act 103 of 1978, as amended by section 4 of Act 105 of 1983 and section 16 of Act 108 of 1986**

12. Section 16 of the Sales Tax Act, 1978, is hereby amended—

(a) by the deletion in subsection (1) at the end of paragraph (iv) of the proviso to paragraph (a) of the word “or”; and

(b) by the addition in subsection (1) to the proviso to paragraph (a) of the following paragraph:

“(v) there shall be a tax period ending on the day before the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991); or”.

**Amendment of section 19 of Act 103 of 1978**

13. Section 19 of the Sales Tax Act, 1978, is hereby amended by the substitution for the proviso to subsection (3) of the following proviso: 5

“Provided that where the Commissioner is satisfied that a failure by the person concerned or any other person under the control of that person to furnish an accurate return or declaration or to pay any amount of tax due was not due to an intent to avoid or postpone liability for the payment of tax or the Commissioner is partly so satisfied, he may in such assessment remit such penalty in whole or in part.” 10

**Insertion of section 27A in Act 103 of 1978**

14. The following section is hereby inserted in the Sales Tax Act, 1978, after section 27: 15

“Evidence as to assessments

27A. The production of any document issued by the Commissioner purporting to be a copy of or an extract from any notice of assessment shall be conclusive evidence of the making of such assessment and shall, except in the case of proceedings on appeal against the assessment, be conclusive evidence that the amount and all the particulars of such assessment appearing in such document are correct.” 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, section 23 of Act 69 of 1989 and section 7 of Act 89 of 1990** 25

15.(1) Schedule 1 to the Sales Tax Act, 1978, is hereby amended by the substitution in paragraph 1 for subitem (dd) of item (ii) of subparagraph (b) of the following subitem: 30

“(dd) any machinery or plant used directly in a process of manufacture or for the pumping of water or 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), 12C(1), 15(a) or 27(2)(d) or (e) of the said Act; or” 35

(2) Subsection (1) shall be deemed to have come into operation on 15 December 1989. 40

**Amendment of Schedule 2 to Act 103 of 1978, as amended by section 20 of Act 111 of 1979, section 8 of Act 105 of 1980, Government Notice R.2419 of 28 November 1980, section 9 of Act 97 of 1981, section 9 of Act 90 of 1982, section 9 of Act 95 of 1983, section 16 of Act 99 of 1984, section 8 of Act 102 of 1985, section 18 of Act 70 of 1986 and section 14 of Act 31 of 1987** 45

16. Schedule 2 to the Sales Tax Act, 1978, is hereby amended by the addition to paragraph 1 of Division I of the following proviso:

“Provided that the provisions of this paragraph shall not apply in respect of goods in the nature of containers so used or dealt with in the process of the brewing of beer or the maturation or blending of wine or spirits.”

**Amendment of Schedule 3 to Act 103 of 1978, as amended by Government Notice R.128 of 26 January 1979, section 21 of Act 111 of 1979, section 10 of Act 95 of 1983 and section 9 of Act 102 of 1985** 5

17. Schedule 3 to the Sales Tax Act, 1978, is hereby amended by the substitution in paragraph 1 for item (ii) of subparagraph (a) of the following item:

“(ii) the mixing of concrete, mortar or asphalt by any person for delivery on site by that person in order to be incorporated in any such building, other structure or work, as the case may be.” 10

**Amendment of Schedule 5 to Act 103 of 1978, as amended by Government Notice R.1725 of 15 August 1978, Government Notice R.1991 of 29 September 1978, section 23 of Act 111 of 1979, section 10 of Act 105 of 1980, Government Notice R.2419 of 28 November 1980, section 11 of Act 97 of 1981, section 12 of Act 95 of 1983, Government Notice R.2599 of 25 November 1983, section 18 of Act 99 of 1984, section 10 of Act 102 of 1985, section 20 of Act 70 of 1986, section 23 of Act 86 of 1987, section 43 of Act 87 of 1988 and Government Notice R.2166 of 7 September 1990** 15

18.(1) Schedule 5 to the Sales Tax Act, 1978, is hereby amended— 20

(a) by the insertion in Item No. 405.04 of paragraph 1 of Part A, before Heading No. 63.01 of the following heading:

“00.00/03.00 Goods approved by the Commissioner for Customs and Excise forwarded free to an organization or body approved by the said Commissioner which cares for the welfare of children, subject to the conditions imposed by that Commissioner in each case and to a permit issued by him.”; 25

(b) by the substitution in Item No. 405.04 of paragraph 1 of Part A for Heading No. “63.01” of Heading No. “63.09”; 30

(c) by the substitution in Part A for Item No. 407.02 of paragraph 1 of the following item:

“407.02 Goods imported as accompanied passengers’ baggage either by non-residents or residents of the Republic and cleared at the place where such persons disembark or enter the Republic: 35

[(1) Per person, the following consumable products:

- (a) Wine not exceeding 2 litres;
- (b) spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre;
- (c) manufactured tobacco, not exceeding 400 cigarettes and 50 cigars and 250 g of cigarette or pipe tobacco; and 40
- (d) perfumery not exceeding 50 ml and toilet water not exceeding 250 ml.

(2) Other new or used goods (excluding television receiving sets), of a total value not exceeding R200 per person. 45

(3) Additional goods, new or used, of a total value not exceeding R500 per person (excluding goods of a class or kind specified in item 407.02(1) and television receiving sets).] 50

22.00/01.00 Wine not exceeding 2 litres per person

22.00/02.00 Spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre per person

24.02/01.00 Cigarettes not exceeding 400 and cigars not exceeding 50 per person 55

24.03/01.00	Cigarette or pipe tobacco not exceeding 250 g per person	
33.03/01.00	Perfumery not exceeding 50 ml and toilet water not exceeding 250 ml per person	
00.00/01.00	Other new or used goods, of a total value not exceeding R500 per person	5
00.00/02.00	Additional goods, new or used, of a total value not exceeding R1 000 per person (excluding goods of a class or kind specified in Items Nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03)."	10

(d) by the substitution in paragraph 1 of Part A for Heading No. "49.11.60" of Heading No. "49.11/4911.10.20";

(e) by the substitution in paragraph 1 of Part A for Heading No. "72.01.20" of Heading No. "71.18/7118.90.10";

(f) by the substitution in paragraph 1 of Part A for Heading No. "87.11" of Heading No. "87.13"; and

(g) by the substitution in paragraph 1 of Part B for Headings Nos. "49.11.60", "72.01.20" and "87.11" of Headings Nos. "49.11/4911.10.20", "71.18/7118.90.10" and "87.13", respectively.

(2) Subsection (1)(d), (e), (f) and (g) shall be deemed to have come into operation on 1 January 1988.

**Amendment of Schedule 7 to Act 103 of 1978, as inserted by section 20 of Act 99 of 1984 and amended by Government Notice R.1642 of 19 July 1985, section 21 of Act 70 of 1986, section 44 of Act 87 of 1988 and Government Notice R.2015 of 24 August 1990**

19. Schedule 7 to the Sales Tax Act, 1978, is hereby amended by the addition to paragraph 9 of the following subparagraph:

"(c) Dairy powder blend, being any dairy powder blend which falls under the following classifications determined by the Minister of Agriculture under the Marketing Act, 1968 (Act No. 59 of 1968), or any regulation under that Act:

High-fat dairy powder blend

Full-fat dairy powder blend

Medium-fat dairy powder blend

Low-fat dairy powder blend

Fat-free dairy powder blend."

#### Withdrawal of certain Government Notices

20. Government Notice No. R.2015 of 24 August 1990 and Government Notice No. R.2166 of 7 September 1990 are hereby withdrawn.

#### Amendment of section 1 of Act 89 of 1991

21. Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution for the definition of "commencement date" of the following definition:

" 'commencement date' means [the date fixed by the Minister by notice in the *Gazette*] 30 September 1991;";

(b) by the substitution in the definition of "enterprise" for the words preceding the proviso of the following words:

" 'enterprise' means—

(a) in the case of any vendor other than a local authority, any enterprise or activity which is carried on continuously or regularly by any person in the Republic or partly in the Republic and in the course or furtherance of which goods or services are supplied to any other person for a consideration, whether or not for profit, including any enterprise or activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing or professional

- concern or any other concern of a continuing nature or in the form of an association or club;
- (b) without limiting the **[generality]** applicability of paragraph (a) in respect of any activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing or professional concern— 5
- (i) the making of supplies by any public authority of goods or services which the **[Treasury, after consultation with the Commissioner,]** Minister, having regard to the circumstances of the case, is satisfied are of the same kind or are similar to taxable supplies of goods or services which are or might be made by any person other than such public authority in the course or furtherance of any enterprise, if the **[Treasury] Commissioner, in pursuance of a decision of the Minister under this subparagraph,** has notified such public authority that its supplies of such goods or services are to be treated as supplies made in the course or furtherance of an enterprise; 10
- [(ii) the activities of any local authority;**
- (iii)] (ii)** the activities of any welfare organization as respects activities referred to in the definition of 'welfare organization' in this section; 15
- (c) in the case of a vendor which is a local authority, any activity in the course or furtherance of which any of the following supplies of goods or services are made: 20
- (i) The supply of electricity, gas or water; 25
- (ii) the supply of services consisting of the drainage, removal or disposal of sewage or garbage;
- (iii) the supply of goods or services incidental to or necessary for the supply of goods or services in respect of which the provisions of subparagraph (i) or (ii) apply; 30
- (iv) the making of supplies of goods or services in the course of any business carried on by such local authority, if—
- (aa) such supplies are of the same kind or are similar to taxable supplies of goods or services which are or might be made by any person other than such local authority in the course or furtherance of any enterprise; and 35
- (bb) the revenue normally derived by such local authority for its own benefit from making such supplies, together with any grant or subsidy paid to that local authority by the State or any person for the purposes of such business, is, or may reasonably be expected to be, sufficient to fund the expenditure (excluding expenditure of a capital nature but including a reasonable provision for depreciation in the value of the assets of the business by reason of wear and tear and obsolescence) incurred by that local authority in the production of such revenue; and 40
- (cc) (A) such business falls within a category of businesses which the Minister, having regard to the provisions of items (aa) and (bb) as generally applicable, has by notice in the *Gazette* determined to be a category of businesses in respect of which the provisions of this subparagraph shall be deemed to apply; or 45
- (B) such business (not being a business falling within a category referred to in subitem (A)) is determined by the Minister, having regard to the provisions of items (aa) and (bb) as applicable in the case of such 50
- 55

business, to be a business in respect of which the provisions of this subparagraph shall be deemed to apply and the Commissioner, in pursuance of the Minister's determination under this subitem, has notified such local authority accordingly,

and, in the case of a regional services council or a joint services board, any other activities of that council or board:";

(c) by the deletion of the definition of "prescribed tax rate";

(d) by the substitution for the definition of "trust fund" of the following definition:

"'trust fund' means any fund consisting of cash or other assets the administration and control of which is entrusted to any person acting in a fiduciary capacity by any person, whether under a deed of trust or by agreement, or by a deceased person under a will made by that person;"

(e) by the substitution for the definition of "welfare organization" of the following definition:

"'welfare organization' means any association not for gain which is registered as a welfare organization under the [National Welfare Act, 1978 (Act No. 100 of 1978)] Fund-raising Act, 1978 (Act No. 107 of 1978), if it carries on or intends to carry on activities consisting of the provision of food, meals, board, lodging, clothing or other necessities, comforts or amenities to aged or indigent persons, children or physically or mentally handicapped persons."

#### Amendment of section 2 of Act 89 of 1991

22. Section 2 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (2) for the definition of "life insurance policy" of the following definition:

"'life insurance policy' means a life policy as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), and includes a funeral policy, a home service policy and an industrial policy as respectively defined in the said section;"

(b) by the deletion of subsection (4).

#### Amendment of section 7 of Act 89 of 1991

23. Section 7 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (1) for the words "prescribed tax rate" of the words "rate of 12 per cent"; and

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

"(a) Where any goods manufactured in the Republic, being of a class or kind subject to excise duty under Part 2 of Schedule No. 1 to the Customs and Excise Act, have been supplied at a price which does not include such excise duty and tax has become payable in respect of the supply in terms of subsection (1)(a), value-added tax shall be levied and paid at the [prescribed tax] rate of 12 per cent for the benefit of the State Revenue Fund on an amount equal to the amount of such excise duty which [would], subject to any rebate of such excise duty under the said Act, [be payable] is paid."

#### Amendment of section 8 of Act 89 of 1991

24. Section 8 of the Value-Added Tax Act, 1991, is hereby amended—

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

"(6) For the purposes of this Act [a local authority shall be deemed to

supply services to any person where any amount of rates or levies is payable by that person to such local authority]—

- (a) where a local authority makes any supply to any person of goods or services contemplated in paragraph (c)(i), (ii) or (iii) of the definition of 'enterprise' in section 1 and no consideration relating specifically to such supply is payable to such local authority by such person, the local authority shall be deemed to make such supply to that person where any amount of rates on the value of fixed property is payable by that person to such local authority; and
- (b) a regional services council or joint services board shall be deemed to supply services to a person in respect of the other activities of that council referred to in paragraph (c) of the said definition where any amount of any levy is payable by that person to such council or board in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), as the case may be.”;
- (b) by the substitution for subsection (14) of the following subsection:  
“(14) For the purposes of this Act, where any goods are supplied by a vendor to a person [other 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 addition of the following subsection:  
“(16) The supply by a vendor—  
(a) of any goods (other than fixed property acquired prior to the commencement date by a vendor who is a natural person if such property was used by him mainly as his private residence and no deduction of any amount has been made under section 16(3) in respect of such property); or  
(b) of services,  
where such goods or services were acquired or imported by him partly for the purpose of consumption, use or supply in the course of making taxable supplies (including supplies which would have been taxable supplies if section 7 of this Act had been applicable prior to the commencement date) and were held or utilized by him partly for the said purpose immediately prior to the supply by him of such goods or services, shall be deemed to be made wholly in the course or furtherance of his enterprise.”.

#### Amendment of section 9 of Act 89 of 1991

25. Section 9 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (e) of the following paragraph:  
“(e) where the provisions of section 8(9) are applicable in respect of a transfer of goods or the provision of any service by a vendor to his branch, at the time the goods are [removed and] delivered to such branch or the service is [rendered] performed, as the case may be.”; and
- (b) by the substitution in subsection (3) for paragraph (c) of the following paragraph:  
“(c) where goods are supplied under an instalment credit agreement, that supply shall, subject to the provisions of subsection (2)(b), be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of that supply, whichever time is earlier.”.



## Amendment of section 10 of Act 89 of 1991

26. Section 10 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the addition in subsection (4) at the end of paragraph (a) of the word “and”;
- (b) by the substitution in subsection (8) for the words preceding the proviso of the following words: 5  
 “Where any repairs, maintenance or insurance [**or licence**] in respect of a motor vehicle is deemed to be supplied by a vendor by section 18(1), such supply shall be deemed to be made for a consideration in money equal to the cost (including tax) to such vendor of acquiring such repairs, maintenance or insurance [**or licence**].”; 10
- (c) by the substitution in subsection (9) for the paragraph defining the meaning of the symbol “C” of the following paragraph: 15  
 “‘C’ represents the percentage that, during the 12 month period during which the [**increase**] decrease in use or application of the goods or services is deemed to take place, the use or application of the goods or services for the purposes of making taxable supplies was of the total use or application of the goods: Provided that where the percentage contemplated in ‘B’ does not exceed the said percentage by more than 10 per cent of the total use or application, the said percentage shall be deemed to be the percentage determined in ‘B’.”; 20
- (d) by the substitution in subsection (13) in the proviso for the words following upon paragraph (ii) of the following words: 25  
 “the consideration in money for the supply shall be deemed to be the amount determined in the manner prescribed by the Minister in the *Gazette* for the category of motor car used in respect of repairs, maintenance and insurance.”; and
- (e) by the substitution for subsection (15) of the following subsection: 30  
 “(15) Where a supply of goods or services [**are**] is deemed by section 8(6) to be [**supplied**] made to any person by any local authority the consideration in money for such supply shall be deemed to be the amount of any payment (together with tax) made from time to time by such person in respect of the rates [**or levies**] referred to in section 8(6)(a) or in respect of the levy referred to in section 8(6)(b), as the case may be.”. 35

## Amendment of section 11 of Act 89 of 1991

27. Section 11 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 40  
 “(a) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and has exported the goods [**as contemplated in paragraph (a), (b) or (c) of the definition of ‘exported’ in section 1**]; or”;
- (b) by the substitution in subsection (1) for the words in paragraph (b) which precede subparagraph (i) of the following words: 45  
 “the goods have been supplied in the course of repairing, renovating, modifying or treating any goods to which subsection [(2)(f)(ii)] [(2)(g)(ii)] or (iv) refers and the goods supplied—”;
- (c) by the substitution in subsection (1) for paragraph (h) of the following paragraph: 50  
 “(h) the goods consist of [**petrol or distillate fuel oil which is subject to the fuel levy chargeable in terms of Part 5 of Schedule No. 1 to**] fuel levy goods as defined in section 1 of the Customs and Excise Act; or”; 55

- (d) by the insertion in subsection (1) after paragraph (h) of the following paragraph:  
 “(hA) the goods consist of petroleum oil and oils obtained from bituminous minerals, known as crude, when supplied for the purpose of being refined for the production of fuel levy goods as defined in section 1 of the Customs and Excise Act and any by-product; or”;
- (e) by the addition in subsection (1) at the end of paragraph (i) of the word “or”; and
- (f) by the insertion in subsection (1) after paragraph (i) of the following paragraph:  
 “(j) the goods consist of—  
 (i) brown bread as defined in Regulation 1 of the Regulations in terms of Government Notice No. R.577 published in *Government Gazette* No. 13074 of 15 March 1991; or  
 (ii) maize meal graded as super maize meal, special maize meal, sifted maize meal or unsifted maize meal.”

#### Amendment of section 12 of Act 89 of 1991

28. Section 12 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (g) of the following paragraph:  
 “(g) the supply by any person in the course of a transport business of any service comprising the transport by [any] that person in a vehicle operated by him of fare-paying passengers and their personal effects by road or railway, not being a supply of any such service which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11(2)(a);”.

#### Amendment of section 13 of Act 89 of 1991

29. Section 13 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (6) of the following subsection:  
 “(6) Subject to the provisions of this Act, the provisions of the Customs and Excise Act relating to the importation, transit, coastwise carriage and clearance of goods and the payment and recovery of [goods] duty shall *mutatis mutandis* apply as if enacted in this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs and Excise Act.”.

#### Amendment of section 16 of Act 89 of 1991

30. Section 16 of the Value-Added Tax Act, 1991, is hereby amended—  
 (a) by the substitution in subsection (3) for subparagraph (v) of paragraph (a) of the following subparagraph:  
 “(v) calculated in accordance with section 21(2)(b) or 21(7) or section 22(1), as applicable to the vendor;”; and  
 (b) by the substitution in subsection (3) for subparagraph (v) of paragraph (b) of the following subparagraph:  
 “(v) calculated in accordance with section 22(1), as applicable to the vendor;”.

#### Amendment of section 17 of Act 89 of 1991

31. Section 17 of the Value-Added Tax Act, 1991, is hereby amended—  
 (a) by the substitution in the Afrikaans text of subsection (1) for paragraph (i) of the proviso of the following paragraph:  
 “(i) waar die voorgename gebruik van goed of dienste in die loop van die maak van belasbare [dienste] lewerings gelyk is aan minstens 90 persent van die totale voorgename gebruik van daardie goed

- of dienste, die betrokke goed of dienste geag word by die toepassing van hierdie Wet verkry te gewees het uitsluitlik vir die doel om belasbare lewerings te doen; en”;
- (b) by the substitution in subsection (2) for paragraph (i) of the proviso of the following paragraph: 5
- “(i) such goods or services are acquired by the vendor wholly or **[partly] mainly** for making taxable supplies in the ordinary course of an enterprise which continuously or regularly supplies entertainment for a consideration and for which supply of entertainment a charge which covers the cost of such entertainment is made by such vendor to the recipient;” 10
- (c) by the deletion in subsection (2) at the end of paragraph (v) of the proviso of the word “or”; and
- (d) by the addition in subsection (2) to the proviso to paragraph (a) of the following paragraph: 15
- “(vi) such goods or services are acquired by a welfare organization, for the purpose of making supplies in the furtherance of its aims and objects; or”.

#### Amendment of section 18 of Act 89 of 1991

32. Section 18 of the Value-Added Tax Act, 1991, is hereby amended— 20
- (a) by the substitution in subsection (1) for the words following upon paragraph (c) of the following words: 25
- “(not being goods or services in respect of the acquisition of which by the vendor a deduction of input tax was denied by section 17(2) or would have been denied if **[this Act] that section** had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall, if they are subsequently applied by him (otherwise than in the circumstances contemplated in section 8(9)) wholly for a purpose other than the said purpose be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise.”; 30
- (b) by the substitution in subsection (2) for the words following upon paragraph (c) of the following words: 35
- “(not being goods or services in respect of the acquisition of which by the vendor a deduction of input tax was denied by section 17(2) or would have been denied if **[this Act] that section** had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall, if the extent of the application or use of such goods or services in the course of making taxable supplies is subsequently reduced in relation to their total application or use, be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise at the time at which such reduction is deemed by subsection (6) to take place: Provided that this subsection shall not apply to any capital goods or services which cost less than R40 000 (excluding tax) or where such goods or services were deemed to be supplied to the vendor by subsection (4) if the amount which was represented by ‘B’ in the formula contemplated in that subsection was less than R40 000 when such goods or services were deemed to be supplied to such vendor.”; 45
- (c) by the substitution for subsection (3) of the following subsection: 50
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“(3) Notwithstanding anything in this section, to the extent that any vendor has or is deemed to have granted a benefit or advantage to an employee or the holder of any office as contemplated in paragraph (i) of the definition of ‘gross income’ in section 1 of the Income Tax Act, read with the Seventh Schedule to that Act, and such benefit or advantage consists of a supply of goods or services, the granting of that benefit or advantage shall be deemed to be a supply of goods or services made by the vendor in the course of an enterprise carried on by the vendor: Provided that this subsection shall not apply to any such benefit or advantage to the extent that it has arisen by virtue of any supply of goods or services which is an exempt supply in terms of section 12 of this Act or is a supply which is charged with tax at the rate of zero per cent in terms of section 11 of this Act or [in so far as it consists of a subsidy in respect of any loan or interest thereon granted to the employee or the holder of an office or if it consists of a benefit or advantage referred to in paragraph 2(c) of the said Schedule] is a supply of entertainment: Provided further that this subsection shall not apply to any such benefit or advantage to the extent that it is granted by the vendor in the course of making exempt supplies.”;

(d) by the substitution in subsection (4) for the words preceding the formula of the following words:

“Where—

(a) goods or services have been supplied to or imported by a vendor; or

(b) goods have been manufactured, assembled, constructed or produced by him; or

(c) goods or services are deemed by subsection (1) or section 8(2) to have been supplied to him,

(not being goods or services in respect of the acquisition of which by a person a deduction of input tax was denied or would have been denied by section 17(2) if [this Act] that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such vendor wholly for purposes other than that of consumption, use or supply in the course of making taxable supplies and such goods or services are subsequent to the commencement date applied in any tax period by that person or, where he is a member of a partnership, by the partnership, wholly or partly for consumption, use or supply in the course of making taxable supplies, those goods or services shall be deemed to be supplied in that tax period to that person or the partnership, as the case may be, and the Commissioner shall allow that person or the partnership, as the case may be, to make a deduction in terms of section 16(3) of an amount determined in accordance with the formula”;

(e) by the substitution in subsection (5) for the words following upon paragraph (c) and preceding the formula of the following words:

“(not being goods or services in respect of the acquisition of which by the vendor a deduction of input tax was denied by section 17(2) or would have been denied if [this Act] that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such vendor partly for the purpose of consumption, use or supply in the course of making taxable supplies, such goods or services shall, if the extent of the application or use of such goods or services in the course of making taxable supplies is [subsequently] subsequent to the commencement date increased in relation to their total application or use, be deemed to be supplied to him, and the Commissioner shall allow the vendor to make a deduction in terms of section 16(3), in the tax period during

- which such increase is deemed by subsection (6) to take place, of an amount determined in accordance with the formula”;
- (f) by the substitution in subsection (5) for subparagraph (aa) of paragraph (i) of the following subparagraph:
- “(aa) the cost (including any tax charged in respect of those goods or services) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services; or”;
- (g) by the substitution in subsection (5) for the proviso to the paragraph defining the meaning of symbol “C” of the following proviso:
- “Provided that where the said percentage does not exceed the percentage contemplated in ‘D’ by more than 10 per cent of the total use or application, the said percentage shall be deemed to be the percentage determined in ‘D’;”;
- (h) by the substitution for the proviso to subsection (5) of the following proviso:
- “Provided that this subsection shall not apply to any capital goods or services which cost less than R40 000 (excluding tax) or where such goods or services were deemed to be supplied to the person by subsection (4) if the amount which was represented by ‘B’ in the formula contemplated in that subsection was less than R40 000 when such goods or services were deemed to be supplied to such person.”

#### Amendment of section 22 of Act 89 of 1991

33. Section 22 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the words preceding the first proviso of the following words:

“Where a vendor—

- (a) has made a taxable supply for consideration in money; and
- (b) has furnished a return in respect of the tax period for which the output tax on the supply was payable and has properly accounted for the output tax on that supply as required under this Act; and
- (c) has written off so much of the said consideration as has become irrecoverable,

the vendor may make a deduction in terms of section 16(3) of that portion of the amount of tax charged in relation to that supply as bears to the full amount of such tax the same ratio as the amount of consideration so written off as irrecoverable bears to the total consideration for the supply, the deduction so made being deemed for the purposes of the said section to be input tax.”

#### Amendment of section 27 of Act 89 of 1991

34. Section 27 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (3) for the words in paragraph (a) preceding subparagraph (i) of the following words:
- “the total value of the taxable supplies of the vendor (including the taxable supplies of any branches, divisions or separate enterprises of the vendor registered as separate vendors under section 50(2))—”;
- (b) by the substitution in the Afrikaans text of subsection (3) for subparagraph (ii) of paragraph (a) of the following subparagraph:
- “(ii) waarskynlik daardie bedrag sal oorskry in die tydperk van 12 maande wat op die [laaste] eerste dag van so ’n maand begin; of”;
- (c) by the substitution in subsection (4) in paragraph (a) for the expression “50(1)” of the expression “50(2)”; and

- (d) by the substitution in subsection (4) in paragraph (e) for the expression "50(1)" of the expression "50(2)".

#### Amendment of section 33 of Act 89 of 1991

35.(1) Section 33 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5  
 "(1) Subject to the provisions of section 33A, an appeal against any decision or assessment of the Commissioner, as notified in terms of section 32(4), shall lie to the special court for hearing income tax appeals constituted under the provisions of section 83 of the Income Tax Act for the area in which the appellant resides or carries on business or, if the appellant and the Commissioner agree, for any other area."; 10
- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:  
 "At the hearing by the special court of any appeal to [the special] that court—"; and 15
- (c) by the substitution for subsection (4) of the following subsection:  
 "(4) The provisions of sections 83(8), (9), (10), (11), (12), (14), (15), (16), (17), (18) and (19), 84 and 85 of the Income Tax Act and any regulations under that Act relating to any appeal to the special court shall *mutatis mutandis* apply with reference to any appeal under this section which is or is to be heard by that court." 20

(2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette* and shall apply in respect of any appeal lodged before, on or after that date.

#### Insertion of section 33A in Act 89 of 1991 25

36.(1) The following section is hereby inserted in the Value-Added Tax Act, 1991, after section 33:

##### "Appeals to specially constituted board

33A.(1) Any appeal referred to in section 33(1) of this Act shall in the first instance be heard by the Board established by section 83A(2) of the Income Tax Act, where— 30

- (a) the appeal is lodged against an assessment of the Commissioner, and the amount of the tax in dispute does not exceed R20 000 (or any other amount which the Minister of Finance may from time to time fix by notice in the *Gazette*); or 35
- (b) the appeal is lodged against the Commissioner's disallowance of an objection against a decision of the Commissioner referred to in section 32(1)(a) of this Act; or
- (c) the Commissioner and the appellant agree to the hearing of the appeal by the Board; or 40
- (d) no objection to the jurisdiction of the Board to hear the appeal is made at or before the commencement of the hearing of the appeal: 45

Provided that where the Commissioner at any time prior to the hearing of such appeal, or the Chairman of the Board at any time prior to or during the hearing of such appeal, is of the opinion that on the ground of the disputes or legal principles arising or that may arise out of such appeal, such appeal should rather be heard by the special court referred to in section 33, such appeal shall be set down for hearing *de novo* before the special court. 50

(2) The provisions of section 83A(3) to (14) of the Income Tax Act shall *mutatis mutandis* apply for the purposes of this section: Provided that—

- (a) the references in section 83A(7)(b)(iii) and section 83A(9)(b)(iii) to a return of income shall be construed as references to a relevant return furnished under this Act;
- (b) the reference in section 83A(10)(e) to an assessment in respect of which an appeal has been lodged shall be construed as including a reference to a decision of the Commissioner in respect of which an appeal has been lodged under this Act." 5

(2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette* and shall apply in respect of any appeal lodged before, on or after that date. 10

#### Amendment of section 39 of Act 89 of 1991

37. Section 39 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsections (4) and (5) of the following subsections, respectively:

"(4) Where any importer of goods which are required to be entered under the Customs and Excise Act, fails to pay any amount of tax payable in respect of the importation of the goods on the date on which the goods are entered under the said Act for home consumption in the Republic or the date on which customs duty is payable in terms of the said Act in respect of the importation or, if such duty is not payable, the date on which it would be so payable if it had been payable, whichever date is later, he shall, in addition to such amount of tax, pay— 15

- (a) a penalty equal to 10 per cent of the said amount of tax; and
- (b) where payment of the said amount is made on or after the first day of the month following the month during which the **[said] relevant date fell,** interest on the said amount of tax, calculated at a rate fixed by the Minister by notice in the *Gazette*, for each month or part of a month in the period reckoned from the said first day. 25

(5) Where any person who is liable for the payment of tax and is required to make such payment in the manner prescribed in section 7(3)(c), fails to pay any amount of such tax on the date on which **[the goods are entered]** in terms of the Customs and Excise Act **[for home consumption in the Republic]** liability arises for the payment of the excise duty referred to in section 7(3)(a), he shall, in addition to such amount of tax, pay— 30

- (a) a penalty equal to 10 per cent of the said amount of tax; and
- (b) where payment of the said amount of tax is made on or after the first day of the month following the month during which the said date fell, interest on the said amount of tax, calculated at a rate fixed by the Minister by notice in the *Gazette*, for each month or part of a month in the period reckoned from the said first day." 35

#### Amendment of section 50 of Act 89 of 1991 40

38. Section 50 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) Notwithstanding the preceding provisions of this section, **[for the purposes of sections 15 and 27 of this Act this section shall be deemed not to have applied, and any determination or direction made under the said sections 15 and 27]** any direction or determination of the Commissioner made under section 15 or 27 in respect of the vendor referred to in subsection (1) of this section shall, for the purposes of this Act, apply equally to each separate enterprise, branch or division of the vendor which is separately registered under this section: Provided that where a direction or determination is made by the Commissioner under subsection (2) of section 27 which applies in respect of any such separate enterprise, branch or division, this 45 50

subsection shall not be construed as preventing the Commissioner from making a separate direction or determination under subsection (4) of the said section in the circumstances contemplated in that subsection in respect of any other separate enterprise; branch or division of the said vendor.”.

#### Substitution of section 52 of Act 89 of 1991

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39. The following section is hereby substituted for section 52 of the Value-Added Tax Act, 1991:

#### “Pooling arrangements

52.(1) Any pool managed by any board or body for the sale of agricultural, pastoral or other farming products, being a pool contemplated in section 57 of the Marketing Act, 1968 (Act No. 59 of 1968), [shall] may, on written application by such board or body, for the purposes of this Act be deemed to be an enterprise or part of an enterprise carried on by that board or body separately from the members of such board or body: [unless that] Provided that such board or body [elects] may elect in writing that the pool be treated as a separate enterprise for the purposes of this Act and [applies] may apply for such pool to be registered separately in terms of section 50: Provided further that such board or body may, notwithstanding the provisions of section 54(1) and (2), if it makes an election in writing, be treated for the purposes of this Act as a principal and not as an agent of its members.

(2) Notwithstanding the provisions of section 54, any rental pool scheme operated and managed by any person for the benefit of some or all of the owners of time-sharing interests in a property time-sharing scheme as defined in section 1 of the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), shall be deemed for the purposes of this Act to be a separate enterprise carried on by such person separately from the owners and shall be registered separately under section 50: Provided that such a rental pool scheme shall, notwithstanding the provisions of section 54(1) and (2), be treated for the purposes of this Act as a principal and not as an agent of the owners.”.

#### Amendment of section 54 of Act 89 of 1991

40. Section 54 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) For the purposes of subsection (5), the expression ‘auctioneer’ means a vendor carrying on an enterprise which comprises or includes the supply by him by auction or by sale on a national fresh produce market as defined in section 1 of the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970), of goods as an auctioneer or agent for or on behalf of another person (hereinafter in this section referred to as a principal).”.

#### Amendment of section 58 of Act 89 of 1991

41. Section 58 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph (e) of the following paragraph:

“(e) contravenes the provisions of section [64] 65; or”.

#### Amendment of section 60 of Act 89 of 1991

42. Section 60 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) in paragraph (b) for the expression “44(4)” of the expression “44(6)”.



**Amendment of section 67 of Act 89 of 1991**

43. Section 67 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following subsection:

“(3) Whenever the value-added tax is imposed or increased, or withdrawn or decreased, as the case may be, in respect of any supply of goods or services subject to any fee, charge or other amount (whether it is a fixed, maximum or minimum fee, charge or other amount) prescribed by, or determined pursuant to, any Act or by any regulation or measure having the force of law, that fee, charge or other amount may be increased or shall be decreased, as the case may be, by the amount of tax or additional tax charged or chargeable or the amount of tax no longer charged or chargeable, as the case may be: Provided that this subsection shall not apply to any fee, charge or other amount if such fee, charge or other amount has been altered in any Act, regulation or measure prescribing or determining such fee, charge or other amount to take account of any imposition, increase, decrease or withdrawal of such tax.”

**Amendment of section 69 of Act 89 of 1991**

44. Section 69 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Notwithstanding the provisions of section [67] 68, the Commissioner may, at the request of the Director-General: Foreign Affairs, register—”

**Amendment of section 75 of Act 89 of 1991**

45. Section 75 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) where a tax on value added is levied in each country which is a party to such agreement, for payments to be made, on a reciprocal basis, by the government of one of those countries (hereinafter referred to as the first country) to the government of the other country (hereinafter referred to as the second country) of so much of the tax on value added which is levied and collected in the first country and is borne by persons carrying on in the second country any business or occupation of a class specified in the agreement or by other persons who are resident in the second country as does not exceed an amount equal to the amount of tax on value added which would have been payable at the rate of the tax on value added levied in the second country, but excluding any tax levied in the first country on any supply if no tax on value added would be payable in the second country on a similar supply and on any supply of goods and services used or consumed in the first country; and”

**Amendment of section 76 of Act 89 of 1991**

46. Section 76 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the addition in the Afrikaans text of subsection (1) at the end of paragraph (c) of the word “of”; and  
 (b) by the substitution in subsection (1) for paragraph (d) of the following paragraph:

“(d) [amend the provisions of section 11 so as to provide that tax in respect of such supplies of basic foodstuffs as the Minister may determine be levied at the rate of zero per cent] prior to the commencement of the first session of Parliament commencing

after 1 January 1992, amend the provisions of this Act as he deems fit so as to overcome any transitional or other difficulties which may arise in regard to the application of any such provision or to make such further provision as the Minister considers to be fair and reasonable."

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#### Amendment of section 78 of Act 89 of 1991

47. Section 78 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (1) for the definition of "Sales Tax Act" and the words following upon that definition of the following definition: 10  
 " 'Sales Tax Act' means the Sales Tax Act, 1978 (Act No. 103 of 1978), [and in this section, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in that Act bears the meaning so assigned thereto, prior to its repeal by this Act] as in force immediately prior to its repeal by this Act.";
- (b) by the substitution in subsection (2) for paragraph (b) of the following 15  
 paragraph:  
 "(b) Where any leased property has been leased by a vendor under the Sales Tax Act who is on the commencement date a vendor under this Act, to a lessee under a financial lease, as defined in section 1 of the Sales Tax Act, and such property is delivered to the lessee on or after that date, 20  
such property shall, notwithstanding the provisions of section 9 of this Act, be deemed for the purposes of this Act to have been supplied to the lessee under an instalment credit agreement at the time of delivery of such property.";
- (c) by the insertion after subsection (3) of the following subsection: 25  
 "(3A) This Act shall not be construed as imposing value-added tax under section 7(1)(a) in respect of—
- (a) a provision of goods under a rental agreement entered into before 30  
 the commencement date for a period which ended before that date where such goods did not constitute goods as defined in section 1 of the Sales Tax Act; or
- (b) a performance of services under an agreement entered into before 35  
 that date where the performance of such services is completed before that date or such services were performed during and in respect of a period which ended before that date, if in either case such services were not taxable services as contemplated in the definition of 'taxable service' in section 1 of the Sales Tax Act.";
- (d) by the substitution for subsection (4) of the following subsection: 40  
 "(4) Where the [consideration for] value of any supply of goods or services, as determined under section 10, includes any amount which has [before the commencement date, accrued to a vendor under this Act, such amount was] been taken into account by a vendor in the determination of a taxable value under the Sales Tax Act, and sales tax was chargeable in respect of such taxable value under section [5(1)(b), (c), (d) or (e)] 5 of that Act or would have been so chargeable but for the provisions of section 6 of that Act, the [consideration] value in respect of such supply shall for the purposes of the value-added tax be reduced by the said amount (but excluding so much of that amount as represents sales tax).";
- (e) by the substitution in subsection (5) for paragraphs (a), (b) and (c) of the 45  
 following paragraphs, respectively: 50  
 "(a) goods are [supplied] provided under a rental agreement for a period which commences before and ends on or after the commencement date; or

- (b) the **[supply]** performance of any services is commenced before and is completed on or after that date; or
- (c) domestic goods and services are **[supplied]** provided for a period which commences before and ends on or after that date;”;
- (f) by the substitution for subsection (6) of the following subsection: 5  
 “(6) Where any payment is made or an invoice is issued on or after **[25 March 1991]** the date of promulgation of this Act and before the commencement date in respect of consideration for the supply of any goods or services (not being a transaction in respect of which a taxable value is subject to sales tax), a supply of such goods or services shall be deemed to have been made on the commencement date to the extent to which such payment or invoice relates to **[a supply (or a portion thereof)]** the provision of goods or the performance of services **[to be made]** on or after the commencement date: Provided that this subsection shall not apply in respect of any payments customarily made or invoices customarily issued, when made or issued at regular intervals for the **[supply] provision of goods or performance of services still to be [made] provided or performed.**”;
- (g) by the substitution in the Afrikaans text of subsection (8) of the following subsection: 20  
 “(8) Waar, in die geval van ’n ondernemer wat vir die doeleindes van die Verkoopbelastingwet ’n drankhandelaar was soos omskryf in paragraaf 1 van die Bylae by Goewermenskennisgewing No. 339 gepubliseer in *Staatskoerant* No. 10615 op 20 Februarie 1987, ’n bedrag van ’n oorskot bedoel in paragraaf 4(2) van daardie Bylae, as dit nie vir die herroeping van die Verkoopbelastingwet was nie, oorgedra kon word vanaf die belastingtydperk ingevolge daardie Wet wat op die dag voor die aanvangsdatum eindig, word daardie bedrag, indien hy op daardie datum voortgegaan het om ’n drankverkoopbesigheid te bedryf, vir die doeleindes van artikel 16(3) van hierdie Wet geag insetbelasting te wees wat deur hom betaal is ten opsigte van ’n lewering van drank **[deur] aan hom gemaak op daardie datum.**”;
- (h) by the substitution in subsection (9) for paragraph (a) of the following paragraph: 30  
 “(a) Notwithstanding the provisions of subsection (6), where fixed property has been disposed of under an agreement for the sale of such property concluded before the commencement date, the disposal of such property under such sale shall **[subject to the provisions of subsection (6) not]** be deemed not to be a supply of goods for the purposes of this Act.”;
- (i) by the substitution in the Afrikaans text of subsection (9) in paragraph (b) for the words “vaste eiendom”, in both places where they occur, of the word “vasgoed” and for the word “eiendom” of the word “vasgoed”;
- (j) by the substitution for subsection (10) of the following subsection: 45  
 “(10) Where any vendor who is on or with effect from the commencement date registered under section 23 and on that date—  
 (a) **[any vendor carrying] carries** on a construction, civil engineering or similar enterprise and has on hand a stock of materials acquired by him prior to that date in order to be used by him for the purpose of incorporation in any building or other structure or work of a permanent nature to be erected, constructed, assembled, installed, extended or embellished by him in the course of such enterprise, and sales tax has been borne by him in respect of such materials; or 50  
 (b) **[any vendor]** has on hand a stock of consumable goods or maintenance spares acquired under sales concluded by him prior to that date for the purpose of consumption or use in the course of his enterprise, and sales tax has been borne by him in respect of such **[consumable goods or maintenance spares] sales,** 55

and on or after that date any item of such stock is withdrawn by him for the purpose referred to in paragraph (a) or the purpose referred to in paragraph (b), as the case may be, the vendor may, provided he has taken stock of such materials, consumable goods or maintenance spares, as the case may be, and he retains properly prepared stock lists in respect of such stocktaking, include in the amounts of input tax deducted by him under section 16(3) in respect of the tax period during which such item is withdrawn, the amount of sales tax borne by him in respect of that item: Provided that where the vendor does not maintain records which are adequate enough to determine when items are withdrawn from such stocks or the sales tax so borne thereon in respect of sales to him of such items, the Commissioner may, on application by the vendor, authorize him to deduct the actual sales tax borne by him in respect of such sales or an amount of sales tax which on the basis of a reasonable calculation represents the amount of sales tax so borne by him on the stocks in equal instalments by way of inclusions in the input tax deducted by the vendor in his tax returns over a period of two years or such shorter period as the Commissioner may allow.”

- (k) by the insertion after subsection (10) of the following subsection:  
 “(10A) Where sales tax has been borne by any vendor (being a person who is on or with effect from the commencement date registered under section 23) in respect of the acquisition of goods (other than fixed property or goods incorporated therein) under a sale or the importation of goods and such goods are held by him on the commencement date as trading stock as defined in section 1 of the Income Tax Act, whether or not the vendor is liable for normal tax under that Act, the vendor may, provided he has taken stock of such goods and he retains properly prepared stock lists in respect of such stocktaking, include the amount of that tax in the amounts of input tax deducted by him under section 16(3) in respect of the tax period during which such goods are supplied by him in the course or furtherance of his enterprise: Provided that where it appears to the Commissioner that the keeping of records for the purposes of the preceding provisions of this subsection can be dispensed with without prejudice to revenue collections, the Commissioner may, on application by the vendor, authorize him to deduct the sales tax on stocks of such goods so held by the vendor in equal instalments by way of inclusions in the input tax deducted by the vendor in his tax returns over a period of two years or such shorter period as the Commissioner may allow.”;
- (l) by the substitution in subsection (11) in paragraph (a) for the expression “paragraph (a)” of the expression “subparagraph (i)”; and
- (m) by the substitution in subsection (11) in paragraph (b) for the words “prescribed tax rate applicable under this Act” of the words “rate of 12 per cent”.

#### Amendment of Schedule 1 to Act 89 of 1991

48. Schedule 1 to the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the insertion in Item No. 405.04 of paragraph 1 of Part A, before heading No. 63.01 of the following heading:  
“00.00/03.00 Goods approved by the Commissioner for Customs and Excise forwarded free to an organization or body approved by the said Commissioner which cares for the welfare of children, subject to the conditions imposed by that Commissioner in each case and to a permit issued by him.”;

- (b) by the substitution in Item No. 405.04 of paragraph 1 of Part A for Heading No. "63.01" of Heading No. "63.09";
- (c) by the substitution in Part A for Item No. 407.02 of paragraph 1 of the following Item:
- "407.02 Goods imported as accompanied passengers' baggage either by non-residents or residents of the Republic and cleared at the place where such persons disembark or enter the Republic:
- (1) Per person, the following consumable products:
- (a) Wine not exceeding 2 litres; 5
- (b) spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre; 10
- (c) manufactured tobacco, not exceeding 400 cigarettes and 50 cigars and 250 g of cigarette or pipe tobacco; and
- (d) perfumery not exceeding 50 ml and toilet water not exceeding 250 ml. 15
- (2) Other new or used goods (excluding television receiving sets), of a total value not exceeding R200 per person.
- (3) Additional goods, new or used, of a total value not exceeding R500 per person (excluding goods of a class or kind specified in item 407.02(1) and television receiving sets).] 20
- 22.00/01.00 Wine not exceeding 2 litres per person
- 22.00/02.00 Spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre per person 25
- 24.02/01.00 Cigarettes not exceeding 400 and cigars not exceeding 50 per person
- 24.03/01.00 Cigarette or pipe tobacco not exceeding 250 g per person
- 33.03/01.00 Perfumery not exceeding 50 ml and toilet water not exceeding 250 ml per person 30
- 00.00/01.00 Other new or used goods, of a total value not exceeding R500 per person
- 00.00/02.00 Additional goods, new or used, of a total value not exceeding R1 000 per person (excluding goods of a class or kind specified in Item Nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03)."; 35
- (d) by the substitution in paragraph 1 of Part A for Heading No. "4911.10.20" of Heading No. "49.11/4911.10.20";
- (e) by the substitution in paragraph 1 of Part B for Heading No. "4911.10.20" of Heading No. "49.11/4911.10.20"; and 40
- (f) by the substitution in paragraph 1 of Part C for Heading No. "4911.10.20" of Heading No. "49.11/49.11.10.20".

#### Amendment of paragraph 1 of Schedule 2 to Act 89 of 1991

49. Paragraph 1 of Schedule 2 to the Value-Added Tax Act, 1991, is hereby amended— 45
- (a) by the substitution for Item 1 of the following Item:  
"Item 1 [Fodder] Stock feed";
- (b) by the substitution for Item 11 of the following Item:  
"Item 11 [vegetable] seed in a form used for cultivation"; and
- (c) by the deletion of Item 12. 50

#### Repeal of sections 10 to 20 of this Act

50. Subject to the provisions of section 85(2) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), sections 10 to 20, inclusive, of this Act are with effect from the commencement date as defined in section 1 of the first-mentioned Act hereby repealed. 55

#### Short title

51. This Act shall be called the Taxation Laws Amendment Act, 1991.