

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain uneven numbered pages as the other language is printed on even numbered pages.



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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CAPE TOWN, 13 JULY 1988

No. 11409

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1392.

13 Julie 1988

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

. 87 van 1988: Wysigingswet op Belastingwette, 1988.

No. 1392.

13 July 1988

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

No. 87 of 1988: Taxation Laws Amendent Act, 1988.

## TAXATION LAWS AMENDMENT ACT, 1988

Act No. 87, 1988

## GENERAL EXPLANATORY NOTE:

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

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

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## ACT

To amend the Marketable Securities Tax Act, 1948, so as to effect a textual alteration; to amend the Transfer Duty Act, 1949, so as to delete references to the Territory of South West Africa; to effect certain textual alterations; to limit the exemption in respect of transfers of property by administrators of trusts; and to provide an exemption in respect of the registration of property in the name of a trustee as required by section 11 (2) of the Trust Property Control Act, 1988; to amend the Estate Duty Act, 1955, so as to further define the expression "fair market value"; to exclude certain donations from the property of an estate; to provide for a deduction in respect of bequests to a company, society or association providing residential accommodation to aged or retired persons; to withdraw the deductions in respect of the proceeds of certain insurance policies, benefits payable by funds, public stock and bonds and debentures or stock issued by the Land and Agricultural Bank of South Africa; to effect textual alterations to section 4 (*h*) and (*m*); to reduce the qualifying loan period relating to the deduction in respect of the value of books, pictures, statuary or other objects of art; to provide for the substitution for the deductions made in determining the dutiable value of an estate of a single deduction; and to provide a single rate of estate duty; to amend the Stamp Duties Act, 1968, so as to delete references to the Territory of South West Africa; to increase the maximum penalties imposable in certain circumstances; to alter the provisions of section 23 relating to the imposition of the duty imposed under Item 15 (4) of Schedule 1; to extend the definition of "debit entry" in Item 6 of the said Schedule; to effect certain textual alterations; to delete an obsolete exemption from the duty under Item 15 (3); to provide an exemption from the last-mentioned duty in respect of the registration of transfer of a marketable security into the name of a trustee as required by section 11 (2) of the Trust Property Control Act, 1988; and to provide for an exemption in respect of the registration of transfer of a marketable security in the name of an heir or legatee; to amend the Sales Tax Act, 1978, so as to further define the word "exported"; to make new provision for the phasing out of the allowance in respect of outstanding debts where a registered vendor has granted credit to a purchaser; to further regulate the use of sales tax registration certificates; to make new provision for relief to vendors in a specified country who may be placed at a disadvantage by reason of certain regulations; to further regulate the granting of exemptions from sales tax contained in other laws; to amend Schedules 1, 5 and 7 to the said Act; to repeal the amendment to section 14 (2) of the said Act effected by section 4 of the Sales Tax Amendment Act, 1985; to provide for the registration of persons carrying on business as suppliers of goods or services as a preliminary step towards the introduction of a value-added tax; to enact a provision for a temporary exemption from stamp duty and transfer duty in respect of certain acquisitions of marketable securities or property consequent upon the rationalization of a group of companies and for the assessment of companies in any such group for

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income tax purposes in certain circumstances; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)  
(Assented to 6 July 1988.)*

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

5 Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982, section 1 of Act 92 of 1983, section 1 of Act 118 of 1984 and section 1 of Act 81 of 1985

1. Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the  
10 substitution in the Afrikaans version of subparagraph (xv) of paragraph (c) for the word "Leningsfonds" where it first occurs of the words "Raad van die Leningsfonds".

Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959,  
15 section 1 of Act 77 of 1964, section 5 of Act 103 of 1969, section 4 of Act 106 of 1980 and section 1 of Act 86 of 1987

2. Section 1 of the Transfer Duty Act, 1949, is hereby amended by the deletion of the definition of "Republic".

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

3. Section 2 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (6) for the expression "Sectional Titles Act, 1971 (Act No. 66 of 1971)" of the expression "Sectional Titles Act, 1986 (Act No. 95 of 1986)".

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

30 4. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—

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

35 "(a) the Government, including the [railway administration] South African Transport Services [the administration of the territory of South-West Africa] and a provincial administration;"

(b) by the substitution in the Afrikaans version of paragraph (b) of subsection (1) for the word "Leningsfonds" where it first occurs of the words "Raad van die Leningsfonds";

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

45 "(c) [an ecclesiastical] a religious, charitable or educational institution of a public character in respect of property acquired for [ecclesiastical] religious, charitable or educational purposes exclusively: Provided that if any such property or any portion thereof is subsequently to the acquisition thereof used for some purpose other than exclusively for [ecclesiastical] religious, charitable or educational purposes, duty shall become payable in respect of the acquisition of that property or that portion thereof, and the date upon which that property or that portion thereof was first used for that other purpose shall for the purposes of section 3 (1) and section 4 be deemed to be the date of acquisition thereof;"

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- (d) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- “(b) where trust property is transferred by the administrator of a trust in pursuance of the will or other written instrument in pursuance of which the administrator was appointed—
- 5 (i) to the persons entitled thereto under [the] such will [or other written instrument in pursuance of which such administrator was appointed]; or
- 10 (ii) to a relative as contemplated in the definition of ‘relative’ in section 1 of the Estate Duty Act, 1955 (Act No. 45 of 1955), where the trust was founded in terms of such other written instrument by a natural person for the benefit of such relative: Provided that no consideration is paid directly or indirectly by such relative in respect of the acquisition of such trust property; or”;
- 15 (e) by the insertion at the end of paragraph (c) of subsection (4) of the word “or”;
- (f) by the insertion after paragraph (c) of subsection (4) of the following paragraph:
- 20 “(d) in respect of the registration of trust property in the name of a trustee in his capacity as trustee if such trust property is held by such trustee as trust property at the date of commencement of the Trust Property Control Act, 1988, and such registration is required in terms of section 11 (2) of the said Act.”;
- (g) by the deletion of paragraph (c) of subsection (5);
- 25 (h) by the substitution for subsection (9) of the following subsection:
- “ (9) If any property has by expropriation or compulsory sale under any law been acquired by the State (including the [railway administration] South African Transport Services [the administration of the territory of South-West Africa] and a provincial administration) or any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board, health committee or other committee of a similar nature, or any district council or any local or general council established or deemed to have been established under the Black Affairs Act, 1959 (Act No. 55 of 1959), or any board, body or institution of a public character established by law, and such property is, upon the cancellation or variation on or after 1 January 1964, of such expropriation or sale, re-acquired by the person from whom such property was expropriated or by whom such property was sold under such sale, no duty shall be payable in respect of such re-acquisition.”;
- 30 (i) by the deletion of subsection (10);
- (j) by the substitution in paragraph (a) of subsection (11) for the expression “Sectional Titles Act, 1971 (Act No. 66 of 1971)” of the expression “Sectional Titles Act, 1986 (Act No. 95 of 1986)”; and
- 35 (k) by the substitution in paragraph (a) of subsection (12) for the expression “Sectional Titles Act, 1971” of the expression “Sectional Titles Act, 1986”.
- 40 (2) Subsection (1) (f) shall come into operation on the date of commencement of the Trust Property Control Act, 1988.

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

- 50 5. Section 9A of the Transfer Duty Act, 1949, is hereby amended by the substitution in paragraph (c) for the expression “section 8 of the Sectional Titles Act, 1971” of the expression “section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986)”.

**Repeal of section 21A of Act 40 of 1949, as inserted by section 9 of Act 103 of 1969**

- 55 6. Section 21A of the Transfer Duty Act, 1949, is hereby repealed.

**Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957, section 1 of Act 65 of 1960, section 7 of Act 77 of 1964, section 3 of Act 92 of 1971, section 9 of Act 106 of 1980 and section 5 of Act 86 of 1987**

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7. (1) Section 1 of the Estate Duty Act, 1955, is hereby amended by the substitution in the definition of "fair market value" in subsection (1) for the words preceding paragraph (a) of the following words:

5 "fair market value', in relation to immovable property on which a *bona fide* farming [operations are] undertaking is being carried on in the Republic, means at the option of the executor either—".

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

## Amendment of section 2 of Act 45 of 1955

10 8. (1) Section 2 of the Estate Duty Act, 1955, is hereby amended by the substitution in subsection (2) for the word "rates" of the word "rate".

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

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

9. (1) Section 3 of the Estate Duty Act, 1955, is hereby amended—

(a) by the deletion of paragraph (c) of subsection (3);  
20 (b) by the insertion after paragraph (cA) of subsection (3) of the following paragraph:

"(cB) any consideration referred to in subsection (4) to the extent that it is deemed to be property donated by the deceased;"; and

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

25 "(4) For the purposes of paragraph [(c)] (cB) of subsection (3) [—

(a) any disposition whereby any person becomes entitled to receive or acquire any property, for a consideration which, in the opinion of the Commissioner, is not a full consideration for that property, shall, to the extent to which the fair market value of the property exceeds the said  
30 consideration, be deemed to be a donation;

(b) any disposition of property to a trustee to be administered by him for the benefit of any beneficiary mentioned in the trust deed, shall be deemed to be a donation of that property to the trustee;

(c) a donation shall be deemed to take effect upon the date upon which the donee becomes entitled to the property donated or, where delivery of property has been made under a donation which has not been registered or notarially executed, the date upon which the right of recovery of the excess in value over five hundred pounds, becomes prescribed or, if the deceased has by the deed of donation or otherwise retained the right to  
40 revoke or to vary any rights conferred by the donation, the date upon which such right is terminated;

(d) any consideration, whether in cash or otherwise and whether or not described as a premium, paid or given by the deceased in respect of shares allotted or issued to him by any company which immediately  
45 prior to or at the time of the allotment or issue of such shares, or at any time thereafter, was or became a family company in relation to the deceased, shall to the extent that such consideration exceeds the nominal value of such shares, be deemed to be property donated by the deceased to such company."

50 (2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

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

10. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended—

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- (a) by the substitution for paragraph (h) of the following paragraph:  
 “(h) the value of any property included in the estate which has not been allowed as a deduction under any other provision of this section which accrues or accrued to—
- 5 (i) any charitable, educational or **[ecclesiastical]** religious institution of a public character, which is exempt from tax in terms of section 10 (1) (f) of the Income Tax Act, 1962 (Act No. 58 of 1962), and any fund which has been approved by the Commissioner under the provisions of the said section **[10 (1) (f) of the Income Tax Act, 1962 (Act No. 58 of 1962)]**; or
- 10 (ii) any institution of a public character within the Republic which is exempt from tax in terms of section 10 (1) (cB) (i) (aa), (bb); (cc) or (dd) of the said Act; or
- 15 (iii) the State or any local authority within the Republic; or  
 (iv) any company, society or association within the Republic which is exempt from tax in terms of section 10 (1) (cF) of the said Act;”;
- (b) by the deletion of paragraph (k);  
 (c) by the deletion of paragraph (l);  
 (d) by the substitution for paragraph (m) of the following paragraph:
- 20 “(m) the value of any usufructuary or other like interest in property and of any right to an annuity charged upon property, included as property of the deceased under section 3 (2) (a), if such interest or right was created by a predeceased spouse of the deceased and—
- 25 (i) the property over which the deceased enjoyed such interest or right **[(i)]** formed part of the estate of such predeceased spouse; and
- (ii) **[was not allowed as a] no deduction in respect of the value of such interest or right was allowed in the determination of the net value of the estate of the predeceased spouse under the provisions of paragraph (q) of this section;**”;
- 30 (e) by the deletion of paragraph (n); and  
 (f) by the substitution in paragraph (o) for the word “fifty” of the word “thirty”.
- (2) (a) Paragraph (a) of subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 March 1982.
- 35 (b) Paragraphs (b) to (f) of subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

Substitution of section 4A of Act 45 of 1955, as inserted by section 6 of Act 92 of 1971 and amended by section 3 of Act 95 of 1978, section 5 of Act 102 of 1979, section 12 of Act 106 of 1980, section 4 of Act 99 of 1981, section 6 of Act 81 of 1985 and section 2 of Act 71 of 1986

11. (1) The following section is hereby substituted for section 4A of the Estate Duty Act, 1955:

“Dutiable amount of an estate

- 45 4A. The dutiable amount of any estate shall be determined by deducting from the net value of the estate, as determined in accordance with section 4, an amount of R1 million.”
- (2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

50 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 and section 7 of Act 81 of 1985

12. (1) Section 5 of the Estate Duty Act, 1955, is hereby amended—

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

5 “(e) in the case of any property referred to in section 3 (3) (b) or [(c)] (cB),  
an amount determined in the manner prescribed in section 62 of the  
Income Tax Act, 1962 (Act No. 58 of 1962): Provided that the value of  
so much of any consideration as in terms [of paragraph (d)] of section  
3 (4) is deemed to be property donated by the deceased to a family  
company, shall be deemed to be not less than the amount required in  
10 terms of section [eighty-six *quat*] 76 of the Companies Act, [1926 (Act  
No. 46 of 1926)] 1973 (Act No. 61 of 1973), to be transferred by the  
family company concerned to its share premium account in respect of  
the shares issued by it to the deceased;” and

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

15 “(4) Whenever the value of any property included in the estate of a  
deceased is reduced as a result of the continuance after the death of that  
person of any right [in respect of which a deduction has been allowed under  
paragraph (n) of section four,] (other than a fiduciary, usufructuary or other  
like interest) to the use or occupation of property for no consideration or  
20 for a consideration which in the opinion of the Commissioner is not an  
adequate consideration, the value of such property shall for the purposes of  
subsection (1) be determined as though the said right had not been  
granted.”

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

## 25 Amendment of section 11 of Act 45 of 1955, as amended by section 3 of Act 56 of 1966

13. (1) Section 11 of the Estate Duty Act, 1955, is hereby amended by the substitution for subparagraph (ii) of paragraph (b) of the following subparagraph:

“(ii) as to any property referred to in paragraph (b) or [(c)] (cB) of that subsection, the donee;”

30 (2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

## Amendment of section 13 of Act 45 of 1955, as amended by section 7 of Act 92 of 1971

14. (1) Section 13 of the Estate Duty Act, 1955, is hereby amended by the substitution for subsection (3) of the following subsection:

35 “(3) Whenever duty is in terms of section 11 (b) (i) payable by more than one person on the value of any property referred to in section 3 (3) (a), the amount of duty payable by each such person shall be such proportion of the total duty attributable to the total value of the said property, as bears to the said total duty the same ratio as so much of the amount which such person is entitled to recover  
40 under any policy as is included in the estate under section 3 (3) (a), bears to the total value of the said property [plus the amount deducted in terms of paragraph (k) of section four].”

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

## 45 Amendment of section 16 of Act 45 of 1955, as amended by section 5 of Act 65 of 1960 and section 11 of Act 77 of 1964

15. (1) Section 16 of the Estate Duty Act, 1955, is hereby amended by the deletion of paragraph (b).

50 (2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

## Amendment of First Schedule to Act 45 of 1955, as substituted by section 9 of Act 92 of 1971 and amended by section 13 of Act 106 of 1980 and section 3 of Act 71 of 1986

16. (1) The First Schedule to the Estate Duty Act, 1955, is hereby amended by the

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substitution for the words and table of rates of estate duty preceding the proviso of the following words and rate of estate duty:

**“Rate of Estate Duty**

5 The rate of estate duty shall be 15 per cent of the dutiable amount of the estate:”.

(2) Subsection (1) shall apply in respect of the estate of any person who died or dies on or after 16 March 1988.

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, section 19 of Act 106 of 10 1980 and section 3 of Act 118 of 1984

17. Section 1 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution in the definition of “policy of life insurance” for the words “policy of funeral insurance” of the words “home service policy”;

15 (b) by the substitution for the definition of “public revenue” of the following definition:

“‘public revenue’ means the revenue of the State (including a provincial administration **[the administration of the territory]** and the **[railway administration] South African Transport Services**) received or accrued by way of any tax, fee, levy, duty or rate and includes any amount 20 received by or accrued to the State from an irrigation board established under section 79 of the Water Act, 1956 (Act No. 54 of 1956);”;

(c) by the deletion of the definition of “Republic”; and

(d) by the deletion of the definition of “territory”.

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

18. Section 4 of the Stamp Duties Act, 1968, is hereby amended by the deletion in paragraph (a) of subsection (1) of the words “the administration of the territory”.

30 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 and section 5 of Act 118 of 1984

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

(a) by the substitution in paragraph (a) of subsection (4) for the expression “section 11 (7) of the Sectional Titles Act, 1971 (Act No. 66 of 1971)” of the 35 expression “section 15 (7) of the Sectional Titles Act, 1986 (Act No. 95 of 1986)”; and

(b) by the deletion of paragraph (b) of the said subsection.

Amendment of section 6 of Act 77 of 1968, as amended by section 10 of Act 114 of 1977 and section 6 of Act 118 of 1984

40 20. Section 6 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (4) for the words “fifty rand” of the expression “R1 000”.

Amendment of section 9 of Act 77 of 1968

21. Section 9 of the Stamp Duties Act, 1968, is hereby amended—

45 (a) by the substitution in the proviso to paragraph (a) of subsection (1) for the words “fifty cents” of the expression “R1” and for the words “one hundred rand” of the expression “R2 000”; and



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- (b) by the substitution in paragraph (b) of subsection (1) for the words "two hundred rand" of the expression "R4 000".

**Amendment of section 17 of Act 77 of 1968**

22. Section 17 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (1) for the words "fifty rand" of the expression "R1 000".

**Amendment of section 18 of Act 77 of 1968**

23. Section 18 of the Stamp Duties Act, 1968, is hereby amended by the substitution in paragraph (b) of subsection (2) for the words "fifty rand" of the expression "R1 000".

- 10 **Amendment of section 22 of Act 77 of 1968, as amended by section 19 of Act 103 of 1969, section 11 of Act 114 of 1977, section 6 of Act 95 of 1978 and section 6 of Act 102 of 1979**

24. Section 22 of the Stamp Duties Act, 1968, is hereby amended by the deletion in paragraph (a) of subsection (4) of the words "or under any law of the territory" and the words "or any law of the territory".

**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 and section 5 of Act 92 of 1983**

- 20 25. Section 23 of the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion of subsection (1A);  
 (b) by the substitution in paragraph (c) of subsection (1B) for the words "one hundred rand" of the expression "R1 000";  
 25 (c) by the deletion of subparagraph (viii) of paragraph (b) of subsection (4);  
 (d) by the substitution in subsection (8) for the words "fifty rand" of the expression "R1 000";  
 (e) by the substitution in subsection (9) for the words "one hundred rand" of the expression "R4 000";  
 30 (f) by the substitution in subsection (10) for the words following paragraph (ii) of the following words:

35 "the said person shall, for the purposes of the duty under Item 15 (4) of Schedule 1, be deemed to have disposed of the shares cancelled or redeemed as aforesaid and to have disposed of such shares for a consideration equal in value to the market value of those shares immediately prior to their cancellation or redemption or, where paragraph (b) is applicable, the greater of the market value of those shares immediately prior to the conversion contemplated in that paragraph and the amount payable in respect of the redemption of those shares, including any premium so payable: Provided that [such value being] the said market value shall be determined as though such shares had not been and were not about to be cancelled or redeemed and as though the said scheme had not been put into operation.";

- (g) by the substitution for subsection (11) of the following subsection:

45 "(11) The duty payable under Item 15 (4) of Schedule 1 shall be denoted on a copy of any application to court, take-over offer or resolution, as the case may be, required in respect of any scheme referred to in subsection (10), and the company of which the shares in question are cancelled or redeemed shall endorse on such copy the market value of such shares and the amount payable in respect of the redemption of those shares, including any premium so payable, as determined in accordance with the said subsection and, in the case of any take-over offer, the date of the final acceptance of such offer and shall retain such copy, which shall at all

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reasonable times during a period of three years after the relevant date referred to in subsection (13) be open for inspection by any person acting under the authority of the Commissioner.”;

- 5 (h) by the substitution for paragraph (c) of subsection (12A) 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;”;
- 10
- 15 (i) by the substitution for paragraph (d) of subsection (12A) of the following paragraph:
- “*(d)* where shares, stock or debentures are cancelled in part as aforesaid, the consideration to be determined under subsection (10) in respect of such part-cancellation shall be deemed to be the full market value of such shares and the amount payable in respect of the redemption of those shares, including any premium so payable, stock or debentures as determined in accordance with that subsection, less such amount as the Commissioner may determine as the value of such shares, stock or debentures immediately after such part-cancellation.”; and
- 20
- 25 (j) by the substitution in subsection (19) for the words “one hundred rand” of the expression “R1 000”.

**Amendment of section 24 of Act 77 of 1968, as amended by section 21 of Act 103 of 1969, section 11 of Act 88 of 1974, section 4 of Act 70 of 1975, section 12 of Act 114 of 1977 and section 6 of Act 92 of 1983**

- 30 26. Section 24 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (2) for the words “one hundred rand” of the expression “R1 000”.

**Amendment of section 26 of Act 77 of 1968**

- 35 27. Section 26 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words “one hundred rand” of the expression “R2 000”.

**Amendment of section 27 of Act 77 of 1968**

28. Section 27 of the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution in subsection (1) for the words “one thousand rand” of the expression “R10 000”; and
- 40 (b) by the substitution in subsection (2) for the words “two hundred rand” of the expression “R4 000”.

**Amendment of section 28A of Act 77 of 1968, as inserted by section 12 of Act 88 of 1974**

- 45 29. Section 28A of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (1) for the words “two hundred rand” of the expression “R4 000”.

**Amendment of section 33 of Act 77 of 1968, as amended by section 46 of Act 97 of 1986**

- 50 30. Section 33 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (2) for the words “one hundred rand” of the expression “R2 000”.

**Repeal of section 37A of Act 77 of 1968, as inserted by section 22 of Act 103 of 1969**

31. Section 37A of the Stamp Duties Act, 1968, is hereby repealed.

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**Amendment of Item 6 of Schedule 1 to Act 77 of 1968, as inserted by section 10 of Act 118 of 1984 and amended by section 4 of Act 71 of 1986**

32. (1) Item 6 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- 5 (a) by the substitution in paragraph (b) for the expression “Limitation and Disclosure of Finance Charges Act, 1968 (Act No. 73 of 1968)” of the expression “Usury Act, 1968 (Act No. 73 of 1968)”;
- (b) by the insertion at the end of paragraph (b) of the word “or”; and
- (c) by the insertion after paragraph (b) of the following paragraph:
- 10 “(c) a transmission account as defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), at a mutual building society as defined in section 1 of that Act or a transmission account as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986), at a building society defined in section 1 of that Act or a transmission account as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), at a banking institution as defined in section 1 of that Act or a telebank account that is maintained at the Post Office Savings Bank and that has been computerised.”.
- 15 (2) Subsection (1) (b) and (c) shall come into operation on 1 October 1988.

20 **Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 25 108 of 1986 and section 11 of Act 86 of 1987**

33. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution in the Afrikaans version of subparagraph (xiv) for the word “Leningsfonds” where it first occurs of the words “Raad van die Leningsfonds”;
- 30 (b) by the deletion of paragraph (a) under the heading “Exemptions from the duty under paragraph (3)”;
- (c) by the substitution in paragraph (e) under the heading “Exemptions from the duty under paragraph (3)” for the words “juristic person” of the words “corporate body” wherever they occur;
- 35 (d) by the insertion after paragraph (p) under the heading “Exemptions from the duty under paragraph (3)” of the following paragraph:
- 40 “(q) Any registration of transfer of any marketable security into the name of a trustee in his capacity as trustee if such marketable security is held by such trustee as trust property at the date of commencement of the Trust Property Control Act, 1988, and such registration is required in terms of section 11 (2) of the said Act.”; and
- (e) by the insertion after paragraph (q) under the heading “Exemptions from the duty under paragraph (3)” of the following paragraph:
- 45 “(r) Any registration of transfer of any marketable security into the name of an heir or legatee if such registration of transfer is effected in consequence of the acquisition by such heir or legatee of such marketable security *ab intestato* or by testamentary succession or as a result of a redistribution of the assets of a deceased estate in the process of liquidation.”.
- 50 (2) Subsection (1) (d) shall come into operation on the date of commencement of the Trust Property Control Act, 1988.

**Amendment of Item 18 of Schedule 1 to Act 77 of 1968, as amended by section 26 of Act 103 of 1969 and section 18 of Act 66 of 1973**

34. Item 18 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- 55 (a) by the substitution in subparagraph (a) of paragraph (2A) for the words “funeral policy” of the words “home service policy”;
- (b) by the deletion of paragraph (3);

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- (c) by the substitution in paragraph (5) for the expression "Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957)" of the expression "Export Credit and Foreign Investments Re-insurance Act, 1957 (Act No. 78 of 1957)"; and
- 5 (d) by the substitution in paragraph (5) for the words "Minister of Economic Affairs" of the words "Minister of Economic Affairs and Technology".

**Amendment of Item 20 of Schedule 1 to Act 77 of 1968, as amended by section 27 of Act 103 of 1969, section 19 of Act 66 of 1973, section 24 of Act 88 of 1974 and section 17 of Act 92 of 1983**

- 10 35. Item 20 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution for paragraph (d) under the heading "Exemptions" of the following paragraph:
- 15 "(d) Indemnity in respect of loss or damage caused by or suffered in consequence of the death of or any personal injury to any person while being taken up or conveyed in or put down from any vehicle, aircraft, ship or boat owned, operated or hired by the Government (including any provincial administration [the administration of the territory] and the [railway administration] South African Transport Services) or in respect of the loss of or any damage to any property of such person arising from any accident or other cause while or as a result of being so taken up, conveyed or put down."; and
- 20 (b) by the substitution for paragraph (f) under the heading "Exemptions" of the following paragraph:
- 25 "(f) Indemnity given to the Government (including any provincial administration [the administration of the territory] and the [railway administration] South African Transport Services) in respect of loss or damage caused by or suffered in consequence of any act or omission of any officer or employee of the Government [(or of any such administration)] in carrying out the duties of his office or employment."

30 **Deletion of Item 21 of Schedule 1 to Act 77 of 1968, as substituted by section 28 of Act 103 of 1969, section 20 of Act 66 of 1973 and amended by section 25 of Act 88 of 1974**

36. Item 21 of Schedule 1 to the Stamp Duties Act, 1968, is hereby deleted.

35 **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 and section 12 of Act 86 of 1987**

37. Section 1 of the Sales Tax Act, 1978, is hereby amended—
- 40 (a) by the addition to subparagraph (ii) of paragraph (bA) of the definition of "exported" of the word "or"; and
- (b) by the insertion after subparagraph (ii) of paragraph (bA) of the said definition of the following subparagraph:
- 45 "(iii) as respects a seller under a sale of goods consisting of liquor for exportation to any place outside the common customs area as defined in section 1 of the said Act from any customs and excise warehouse licensed under the said Act and in respect of which the letters OS have been allocated,".

50 **Amendment of section 11 of Act 103 of 1978, as amended by section 7 of Act 111 of 1979, section 2 of Act 40 of 1982, section 6 of Act 95 of 1983, section 7 of Act 99 of 1984 and section 4 of Act 70 of 1986**

38. Section 11 of the Sales Tax Act, 1978, is hereby amended by the substitution

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for paragraph (aa) of the proviso to paragraph (iii) of subsection (2) of the following paragraph:

- 5 “(aa) the allowance shall not exceed 50 per cent of the said total amount owing at the end of any tax period which commences before 1 July 1988, and that such allowance shall not exceed 45 per cent, 40 per cent, 35 per cent, 30 per cent, 25 per cent, 20 per cent, 15 per cent, 10 per cent and 5 per cent, respectively, of the said total amount owing at the end of each of the next succeeding nine tax periods commencing on or after that date, after which such allowance shall cease to be claimable;”.

10 **Amendment of section 14 of Act 103 of 1978, as amended by section 9 of Act 111 of 1979 and section 4 of Act 102 of 1985**

39. Section 14 of the Sales Tax Act, 1978, is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- 15 “(a) the seller in relation to such sale, financial lease, rental consideration, taxable service, board and lodging or accommodation or, in the case of such importation, the Controller of Customs and Excise concerned or any person concerned who is an officer as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964), shall satisfy himself that the said purchaser or importer holds a valid registration certificate issued in terms of section 12; and”; and
- 20 (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- 25 “Where any purchaser or importer claims any exemption as contemplated in subsection (1), he shall satisfy the seller or Controller or officer referred to in paragraph (a) of that subsection, as the case may be, that he holds a valid registration certificate issued under section 12—”.

**Insertion of section 48A in Act 103 of 1978**

- 30 40. (1) The following section is hereby inserted in the Sales Tax Act, 1978, after section 48:

“Agreements for granting relief to certain vendors in specified countries arising out of certain regulations made by the Minister

- 35 **48A. (1)** Where the Minister has under section 48 (2) of this Act made any regulation in regard to the application of any exemption or to the payment or collection of any tax in a manner other than that provided in this Act and in consequence thereof any class of vendors carrying on any enterprise in any specified country as defined in section 1 in which a sales tax or a substantially similar tax is levied, is thereby placed at a disadvantage, the Government of the Republic may enter into an agreement with the Government of any such country with a view to granting relief to such class of vendors upon such terms and conditions as may be set forth in such agreement.
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- 45 (2) In any agreement contemplated in subsection (1), provision may be made for payments by the Government of the Republic to the Government of the specified country concerned of any tax borne in the Republic by such class of vendors who are so placed at a disadvantage in consequence of any regulation referred to in that subsection, and also for the establishment and constitution of a committee comprised of representatives of such Governments to perform functions relating to the implementation and monitoring of matters arising out of such agreement.”.
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**Substitution of section 52 of Act 103 of 1978**

41. (1) The following section is hereby substituted for section 52 of the Sales Tax Act, 1978:

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- “52. This Act shall bind the State and no provision contained in any other law promulgated [on or] before, [31 July 1978] on or after the commencement date providing for an exemption from any [taxes] tax or duty shall be [applicable to sales tax] construed as applying or referring, as the case may be, to the tax leviable under this Act unless such tax is specifically mentioned in such provision.”
- (2) Subsection (1) shall be deemed to have come into operation on 3 July 1978.

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

42. Schedule 1 to the Sales Tax Act, 1978, is hereby amended—
- (a) by the substitution for subitem (ee) of item (ii) of subparagraph (b) of paragraph 1 of the following subitem:
- 15 “(ee) any machinery or plant, [used directly for the generation of power] together with any footing, foundation or supporting structure specifically designed for such machinery or plant, used for the purposes of the operations of any power station, including the transformation of electric power by means of [a] any transformer having a unit capacity exceeding 3150 KVA,”; and
- 20 (b) by the substitution for paragraph 1A of the following paragraph:
- “1A. For the purposes of this Act, where any agreement provides for the rendering of a service which in terms of subparagraph (b) (ii) or (bA) of paragraph 1 is a taxable service and the consideration payable under such agreement to the person rendering such service is payable in respect of such service and any materials, [or] components or other goods supplied by such person which are required for the rendering of such service, the said agreement as a whole shall be treated as an agreement for the rendering of such taxable service and the said consideration shall be deemed to be payable in respect of such taxable service.”
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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 and section 23 of Act 86 of 1987

43. (1) Schedule 5 to the Sales Tax Act, 1978, is hereby amended—
- (a) by the substitution in paragraph 1 of Part A for the words preceding the headings “Item No.” and “Heading and Description” of the following words:
- 40 “Goods imported into the Republic which fall under any heading and description mentioned below, to the extent indicated, and in respect of which either no customs duty is payable or a rebate of customs duty is granted in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964);”
- 45 (b) by the substitution in subparagraph (v) of paragraph 2 of Part A for the expression “R100” of the expression “R200”; and
- (c) by the addition to paragraph 1 of Part B of the following subparagraph:
- 50 “(e) Any motor vehicle constituting an asset of any enterprise or of any other bona fide commercial, financial, industrial, mining, quarrying, farming, forestry or fishing concern or of any bona fide professional practice actively carried on in any specified country, and which is brought temporarily into the Republic from such country for the use during the course of his employment by any employee of such enterprise, concern or practice where such an employee is ordinarily resident in the Republic and does not have any direct or indirect financial interest or share in such enterprise, concern or practice.”
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(2) The amendment effected by—

- (a) paragraph (a) of subsection (1) shall be deemed to have come into operation on 1 August 1986; and  
 (b) paragraph (b) of subsection (1) shall be deemed to have come into operation on 14 October 1987.

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 and section 21 of Act 70 of 1986

44. Schedule 7 to the Sales Tax Act, 1978, is hereby amended by the substitution for subparagraph (b) of paragraph 9 of the following subparagraph:

“(b) Milk powder: unflavoured, being the powder obtained by the removal of water from milk and 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:

- 15           **[Whole milk powder**  
               **Low fat milk powder**  
               **Skim(med) milk powder]**  
               High-fat milk powder  
               Full-fat milk powder  
 20           Medium-fat milk powder  
               Low-fat milk powder  
               Fat-free milk powder,

provided the fat or protein content of such milk powder consists solely of milk fat or milk protein.”.

25 **Repeal of amendment effected by section 4 of Act 102 of 1985 in certain respects**

45. The amendment effected by section 4 of the Sales Tax Amendment Act, 1985, in so far as it relates to section 14 (2) of the Sales Tax Act, 1978 (Act No. 103 of 1978), is hereby repealed.

**Register of persons carrying on business as suppliers of goods or services**

30 46. (1) Where in consequence of the announcement made in Parliament on 5 February 1988 to the effect that the system of sales tax imposed under the Sales Tax Act, 1978, is to be replaced by a value-added tax, the Commissioner for Inland Revenue (hereinafter referred to as the Commissioner) is of the opinion that a register of persons carrying on business as suppliers of goods or services ought to be  
 35 compiled and maintained as a preliminary step towards the implementation of the contemplated change, the Commissioner may call upon such persons to furnish any information as may be required by him for the purposes of that register and the allocation of a registration number to any such person whose name appears on that register.

40 (2) Any request to furnish such information may be made by the Commissioner either by notice in writing addressed to any such person directly or generally by notice in the *Gazette* and such notice shall stipulate the period within which the information is to be furnished.

45 (3) Any person who fails to comply with any requirement of the Commissioner within the time stipulated by him in any notice contemplated in subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

**Withdrawal of Government Notice**

50 47. Government Notice No. R. 2884 of 31 December 1987 is hereby withdrawn.

**Exemption from stamp duty or transfer duty relating to the transfer of marketable securities or property or of rights or obligations under bonds under a scheme for the rationalization of a group of companies and the assessment of companies in any such group for income tax purposes in certain circumstances**

55 48. (1) For the purposes of this section—  
 “Commissioner” means the Commissioner for Inland Revenue;

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“controlled company” means a company in relation to which another company is at the date and time referred to in the definition of “controlling company” the controlling company;

5 “controlling company”, in relation to any other company, means a company which on 17 June 1988 and at the time of any agreement referred to in subsection (2) to which such other company is a party, holds for its own benefit, whether directly or indirectly through one or more companies in the group of companies of which all the companies in question are members, shares in such other company which, together with shares in  
10 that other company held by a trustee under a scheme referred to in section 38 (2) (b) of the Companies Act, 1973 (Act No. 61 of 1973), entitle the holders of such shares altogether to not less than 75 per cent of the voting rights of all the shareholders in the said other company;

15 “group of companies” means a controlling company and one or more other companies which are controlled companies in relation to the controlling company at the date and time referred to in the definition of “controlling company”;

“Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962);

20 “marketable security” means a marketable security the registration of transfer of which would, but for the exemption under this section, be subject to stamp duty;

“property” means property as defined in section 1 of the Transfer Duty Act;

“Stamp Duties Act” means the Stamp Duties Act, 1968 (Act No. 77 of 1968);

25 “stamp duty” means the stamp duty leviable under Item 15 (3) of Schedule 1 to the Stamp Duties Act in respect of the registration of transfer of any marketable security or the stamp duty leviable under Item 7 (3), (4) or (5) of the said Schedule in respect of the cession of a mortgage bond or the substitution of a debtor in respect of such bond;

“transfer duty” means the duty leviable under the Transfer Duty Act;

30 “Transfer Duty Act” means the Transfer Duty Act, 1949 (Act No. 40 of 1949).

(2) Where, under any written agreement concluded on or after 17 June 1988 and on or before 30 June 1989 by any company (hereinafter referred to as the transferor company) and any other company (hereinafter referred to as the transferee company), the transferor company sells or undertakes to sell or  
35 disposes of or undertakes to dispose of any marketable security or property to the transferee company or cedes or undertakes to cede any mortgage bond hypothecating property to the transferee company or the transferee company is or is to be substituted for the transferor company as the debtor under such a bond and both companies are at the time of such agreement and the implementation thereof  
40 members of one and the same group of companies, there shall be exempt from stamp duty the consequent registration of transfer to the transferee company of such marketable security or the cession of such bond or the substitution of the debtor in terms of the agreement or there shall be exempt from transfer duty the acquisition by the transferee company of the property in terms of the agreement,  
45 as the case may be, if—

(a) such agreement was concluded under a scheme for the rationalization of the activities of the said group;

(b) such scheme was devised solely or mainly in order to achieve within the said group substantial and enduring savings in operational expenditure or  
50 substantial and enduring operational or administrative advantages;

(c) under such scheme—

(i) a consideration became payable by the transferee company to the transferor company in respect of the transferee company’s acquisition of such marketable security, property or bond under the said agreement and the value of such consideration immediately prior to the  
55 conclusion of that agreement was equal to—

(aa) the fair market value of such marketable security, property or bond, as the case may be, at the time of the said agreement; or



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- (bb) such other value as may have been agreed upon by the controlling company and the Commissioner; or
- (ii) such marketable security, property or bond is to be disposed of by the transferor company to the transferee company by way of a distribution of a dividend *in specie*;
- 5 (d) the agreement and a written statement setting forth details of the scheme and any subsequent variation thereof, have been submitted by or on behalf of the controlling company of the said group to the Commissioner on or before 30 June 1989 together with a mandate from any controlled company in such group which is a party to the agreement to act on its behalf for the purposes of this section, supported by a resolution of the directors or shareholders of such controlled company; and
- 10 (e) the Commissioner has issued a certificate to the effect that the registration of transfer of such marketable security or the cession of such bond or the substitution of the debtor under such bond is exempt from stamp duty under this section or that the acquisition of such property is exempt from transfer duty under this section, as the case may be.
- (3) Any exemption under subsection (2) shall lapse unless registration of transfer of the relevant marketable security or the registration of the cession of the relevant bond or the substitution of the debtor under the relevant bond or the registration of transfer of the relevant property, as the case may be, is effected not later than six months after the date of the certificate referred to in paragraph (e) of that subsection or within such further period as the Commissioner, having regard to the circumstances of the case, may approve.
- 20 (4) Where the Commissioner is satisfied that a certificate issued by him under subsection (2) (e) was obtained by fraud or was issued in consequence of any misrepresentation or failure to disclose any material fact by the controlling company or any other person, he shall, if he is satisfied that in the light of the full facts the exemption in question should not have been granted, withdraw such certificate and the exemption from stamp duty or transfer duty conferred by such certificate shall be deemed to have been withdrawn as from the date of issue of such certificate.
- 25 (5) For the purposes of the taxation levied under the Income Tax Act and notwithstanding anything to the contrary in that Act—
- (a) where any marketable security, property or bond is sold, disposed of or ceded as contemplated in subsection (2) by a transferor company which is chargeable with normal tax under the said Act to a transferee company which is so chargeable for no consideration or for a consideration the value of which is less than the fair market value of such marketable security, property or bond and immediately prior to the conclusion of the relevant agreement such marketable security, property or bond constituted trading stock of the transferor company—
- 35 (i) such marketable security, property or bond shall be deemed to have been acquired by the transferee company as trading stock and, where such marketable security, property or bond has been acquired by the transferee company for no consideration, such marketable security, property or bond shall be deemed to have no value as trading stock in the hands of the transferee company; and
- 40 (ii) any amount (including the value of any benefit or advantage) which is received by or accrues to the transferee company on the sale or disposal by it of such marketable security or property or of a portion thereof shall be deemed to be income derived by that company in the course of a trade carried on by it separately from any other trade carried on by it;
- 45 (b) where any property sold or disposed of under an agreement contemplated in subsection (2) includes any building in respect of which any allowance has been granted to the transferor company under the said Act, the transferor company and the transferee company shall for the purposes of calculating any allowance under the said Act granted to the transferee
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- 5 company in respect of that building or for the purpose of determining whether any amount has been recouped in respect of the allowances granted to the two companies in respect of such building, be deemed to be one and the same company and any amount so recouped shall be deemed to be income derived by the company in the course of a trade carried on by it separately from any other trade carried on by it; and
- 10 (c) where on or after 17 June 1988 and on or before 30 June 1989 any business undertaking or part thereof is sold or disposed of by any company (hereinafter referred to as the seller) to any other company (hereinafter referred to as the purchaser) and both companies are at the time of such sale or disposal members of one and the same group of companies, such sale or disposal was concluded under a scheme of the nature referred to in subsection (2) (a) and (b), the controlling company involved in such scheme and the Commissioner may agree on such terms and conditions as they may see fit, that the seller and purchaser shall be deemed to be one and the same company: Provided that the provisions of this paragraph shall not be interpreted as permitting the purchaser to set off against its income any assessed loss or balance of assessed loss incurred by the seller.
- 15 (6) Any agreement under paragraph (c) of subsection (5) shall be binding on the seller, the purchaser referred to in that subsection and the Commissioner for the purposes of the taxation referred to in that subsection.
- 20

**Short title**

49. This Act shall be called the Taxation Laws Amendment Act, 1988.