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No. 49947

THE PRESIDENCY

No. 4227 22 December 2023

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

Act No. 18 of 2023: Tax Administration Laws Amendment Act, 2023

DIE PRESIDENSIE

No. 4227 22 Desember 2023

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

Wet No. 18 van 2023: Wysigingswet op die Belastingadministrasiewette, 2023







AIDS HELPLINE: 0800-0123-22 Prevention is the cure

Tax Administration Laws Amendment Act, 2023

2

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.		

(English text signed by the President) (Assented to 19 December 2023)

ACT

To-

- amend the Income Tax Act, 1962, so as to make certain decisions subject to objection and appeal; to clarify an existing provision; to provide for the disqualification of certain persons from managing the collective interests common to the members of a particular association of persons; to clarify existing provisions and align the wording with other provisions of the Act; to provide for the disqualification of certain persons from accepting fiduciary responsibility for the management or control of the income and assets of any approved public benefit organisation; to provide for the disqualification of certain persons from accepting fiduciary responsibility for the management or control of the income and assets of any approved recreational club; to provide for the disqualification of certain persons from accepting fiduciary responsibility for the management or control of the income and assets of any approved association; to provide for the disqualification of certain persons from accepting fiduciary responsibility for the management of any small business funding entity; to provide for the entering into of advance pricing agreements with taxpayers and, where applicable, in consultation with double taxation agreement partners; to make a consequential amendment; to clarify an existing provision; to provide that non-resident employers that conduct business through a permanent establishment in the Republic must deduct employees' tax, to widen the deduction obligation to include all representative employers and to make a textual correction; to enable the Commissioner to vary the basis for determining the amount of employees' tax to be deducted or withheld from the employees' remuneration in certain instances and to make a consequential amendment;
- amend the Customs and Excise Act, 1964, so as to provide for changes relating to the submission of advance passenger information by operators, including the introduction of the concept of passenger data; to provide for the exemption of an operator as may be prescribed from the obligation of submitting passenger data to the Commissioner if submitted to another organ of state serving as a single window for the collection and sharing of such data, and such organ of state transmits the data to the Commissioner in terms of an agreement contemplated in terms of section 2(1A); to provide for the submission of a traveller declaration prior to or upon entering or leaving the Republic in accordance with requirements determined by rule by the Commissioner; to enable the Commissioner to determine, by rule, the conditions for deferment of payment of duties due in respect of bills of entry; to include in the refund process the return of provisional payments lodged as security; to effect changes to the general rule enabling provision so as to enable the Commissioner to make rules concerning various aspects relating to the

Wysigingswet op die Belastingadministrasiewette, 2023

Wet No. 18 van 2023

3

ALGEMENE VERDUIDELIKENDE NOTA:

[]	Woorde in vetdruk in vierkantige hakies dui skrappings uit bestaande verordenings aan.
		Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken) (Goedgekeur op 19 Desember 2023)

WET

Tot wysiging van-

- die Wet op Inkomstebelasting, 1962, ten einde sekere besluite onderhewig aan beswaar en appèl te maak; om 'n bestaande bepaling duideliker te maak; om voorsiening te maak dat sekere persone onbevoeg is om die gesamentlike belange wat gemeenskaplik is aan die lede van 'n spesifieke vereniging van persone te bestuur; om 'n bestaande bepaling duideliker te maak en die bewoording met ander bepalings van die Wet te belyn; om voorsiening te maak dat sekere persone onbevoeg is om fidusiêre verantwoordelikheid vir die bestuur en beheer van die inkomste of bates van enige goedgekeurde openbare weldaadsorganisasies, te aanvaar; om voorsiening te maak dat sekere persone onbevoeg is om fidusiêre verantwoordelikheid vir die bestuur of beheer van die inkomste en bates van enige goedgekeurde ontspanningsklub, te aanvaar; om voorsiening te maak dat sekere persone onbevoeg is om fidusiêre verantwoordelikheid vir die bestuur of beheer van die inkomste en bates van enige goedgekeurde vereniging, te aanvaar; om voorsiening te maak dat sekere persone onbevoeg is om fidusiêre verantwoordelikheid vir die bestuur van enige kleinsake befondsingsentiteit, te aanvaar; om vir die aangaan van voorafprysvastellingsooreenkomste met belastingpligtiges en, waar van toepassing, in konsultasie met dubbelbelastingooreenkomsvennote, voorsiening te maak; om 'n gevolglike wysiging aan te bring; om 'n bestaande bepaling duideliker te maak; om voorsiening te maak dat werkgewers wat nie inwoners is nie en besigheid deur 'n permanente saak in die Republiek bedryf, werknemersbelasting moet aftrek, om die verantwoordelikheid om af te trek uit te brei deur alle verteenwoordigende werkgewers in te sluit en om 'n tekstuele korreksie aan te bring; om die Kommissaris te bemagtig om die basis vir die bepaling van die bedrag werknemersbelasting wat afgetrek of teruggehou moet word van die werknemer se vergoeding in sekere gevalle te bepaal en om 'n gevolglike wysiging aan te bring;
- die Doeane- en Aksynswet, 1964, ten einde voorsiening te maak vir veranderinge wat op die voorlegging van vooraf-passasiersinligting deur operateurs betrekking het, met inbegrip van die instelling van 'n passasiersdata konsep; voorsiening te maak vir die vrystelling van 'n operateur soos voorgeskryf van die verpligting om passassiersdata aan die Kommissaris voor te lê, indien sodanige data aan 'n ander staatsorgaan wat as enigste indieningspunt vir die insameling en deel van sodanige data dien, voorgelê is, en sodanige staatsorgaan die data ingevolge 'n ooreenkoms in artikel 2(1A) beoog, aan die Kommissaris versend; voorsiening te maak vir die voorlegging van 'n reisigerverklaring, voor of by binnekoms of verlating van die Republiek en ooreekomstig vereistes by reël deur die Kommissaris bepaal; die Kommissaris te magtig om voorwaardes vir die uitstel van betaling van

Tax Administration Laws Amendment Act, 2023

4

traveller declaration, as well as various matters in relation to deferment, and to further enhance the current processes and procedures relating to the liquidation of provisional payments;

- amend the Value-Added Tax Act, 1991, so as to make a technical correction;
- amend the the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, so as to make a consequential amendment;
- amend the Tax Administration Act, 2011, so as to include a definition for beneficial ownership; to enable the Commissioner to disclose certain information of all entities with a section 18A approval; to provide for disclosure of taxpayer information to certain organs of state; to provide for a consequential amendment; to enable the Commissioner to extend the period within which the taxpayer is required to make their request to SARS for a reduced or additional assessment, by public notice; to provide for the disqualification of certain persons from being appointed or designated as a public officer of a company,

and to provide for matters connected therewith.

RE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 3 of Act 58 of 1962, as amended by section 3 of Act 141 of 1992, section 3 of Act 21 of 1994, section 3 of Act 21 of 1995, section 20 of Act 30 of 1998, section 3 of Act 59 of 2000, section 6 of Act 5 of 2001, section 4 of Act 19 of 2001, section 18 of Act 60 of 2001, section 7 of Act 74 of 2002, section 13 of Act 45 of 2003, section 4 of Act 16 of 2004, section 2 of Act 21 of 2006, section 1 of Act 9 of 2007, section 3 of Act 36 of 2007, section 1 of Act 4 of 2008, section 5 of Act 60 of 2008, section 2 of Act 61 of 2008, section 14 of Act 8 of 2010, section 271 of Act 28 of 2011, read with paragraph 25 of Schedule 1, section 2 of Act 39 of 2013, section 10 2 of Act 43 of 2014, section 2 of Act 44 of 2014, section 1 of Act 23 of 2015, section 1 of Act 16 of 2016, section 2 of Act 23 of 2018, section 1 of Act 33 of 2019 and section 3 of Act 24 of 2020

1. Section 3 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection 4 for paragraph (b) of the following paragraph:

"(b) section 6quat(5), section 8(5)(b) and (bA), section 10(1)(cA), (e)(i)(cc), (j)and (nB), section 10A(8), section 11(e), (f), (g), (gA), (j) and (l), section 11D(20)(b), section 12B(6), section 12C, section 12E, section 12J(6), (6A) and (7), section 13, section 15, section 18A(1)(a)(cc), (b), (bA)(dd) and (c), section 22(1) and (3), section 23H(2), section 23K, section 24(2), section 20 24A(6), section 24C, section 24D, section 24I(1) and (7), section 24J(9), section 24P, section 25A, section 27, section 28(9), section 30, section 30A, section 30B, section 30C, section 31, section 37A, section 38(2)(a) and (b)and (4), section 44(13)(a), section 47(6)(c)(i), section 62(1)(c)(iii) and (d) and (2)(a) and (4), section 80B and section 103(2);".

Amendment of section 6quat of Act 58 of 1962, as inserted by section 9 of Act 89 of 1969, repealed by section 5 of Act 94 of 1983, inserted by section 5 of Act 85 of 1987 and amended by section 5 of Act 28 of 1997, section 12 of Act 53 of 1999, section 16 of Act 30 of 2000, section 4 of Act 59 of 2000, section 8 of Act 5 of 2001, section 20 of Act 60 of 2001, section 8 of Act 5 of 2001, section 9 and section 125 of Act 74 of 30 2002, section 16 of Act 45 of 2003, section 4 of Act 32 of 2004, section 8 of Act 31 of 2005, section 7 of Act 35 of 2007, section 9 of Act 17 of 2009, section 7 of Act 18 of 2009, section 11 of Act 24 of 2011, section 3 of Act 22 of 2012, section 3 of Act 39 of

regte verskuldig ten opsigte van klaringsbriewe by reël te bepaal; die terugbesorging van voorlopige betalings wat as sekuriteit verskaf is by die proses vir terugbetalings in te sluit; wysigings aan die algemene reëlmagtigingsbepaling aan te bring ten einde die Kommissaris te bemagtig om reëls uit te vaardig rakende verskeie aspekte van die reisigersverklaring, asook verskeie aangeleentheide in verband met uitstel van reg, en ten einde die huidige werkswyses en prosedures wat verband hou met die likwidasie van voorlopige betalings verder uit te brei;

- die Wet op Belasting van Toegevoegde Waarde, 1991, ten einde 'n tegniese korreksie te maak;
- die Molao wa Royalithi (Tshepedišo) ya Methopo ya Diminerale le Petroliamo, 2008, ten einde 'n gevolglike wysiging te maak;
- die Wet op Belastingadministrasie, 2011, ten einde 'n omskrywing vir uiteindelik geregtigde in te voeg; om die Kommissaris te bemagtig om sekere inligting ten aansien van alle organisasies met 'n artikel 18A-goedkeuring het, openbaar te maak; om vir die openbaarmaking van belastingpligtige-inligting aan sekere staatsorgane voorsiening te maak; om vir 'n gevolglike wysiging voorsiening te maak; om die Kommissaris te bemagtig om deur openbare kennisgewing die tydperk te verleng waarbinne 'n belastingpligtige vereis word om 'n versoek aan die SAID vir 'n verminderde of addisionele aanslag te rig; om voorsiening te maak dat sekere persone onbevoeg is om aangestel of afgevaardig te word as openbare amptenaar van 'n maatskappy,

en vir aangeleenthede wat daarmee in verband staan, voorsiening te maak.

AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 3 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 141 van 1992, artikel 3 van Wet 21 van 1994, artikel 3 van Wet 21 van 1995, artikel 20 van Wet 30 van 1998, artikel 3 van Wet 59 van 2000, artikel 6 van Wet 5 van 2001, artikel 4 van Wet 19 van 2001, artikel 18 van Wet 60 van 2001, artikel 7 van Wet 74 van 2002, artikel 13 van Wet 45 van 2003, artikel 4 van Wet 16 van 2004, artikel 2 van Wet 21 van 2006, artikel 1 van Wet 9 van 2007, artikel 3 van Wet 36 van 2007, artikel 1 van Wet 4 van 2008, artikel 5 van Wet 60 van 2008, artikel 2 van Wet 61 van 2008, artikel 14 van Wet 8 van 2010, artikel 271 van Wet 28 van 2011, 10 saamgelees met paragraaf 25 van Bylae 1, artikel 2 van Wet 39 van 2013, artikel 2 van Wet 43 van 2014, artikel 2 van Wet 44 van 2014, artikel 1 van Wet 23 by 2015, artikel 1 van Wet 16 van 2016, artikel 2 van Wet 23 van 2018, artikel 1 van Wet 33 van 2019 en artikel 3 van Wet 24 van 2020

1. Artikel 3 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf 15 (b) in subartikel (4) deur die volgende paragraaf te vervang:

"(b) artikel 6auat(5), artikel 8(5)(b) en (bA), artikel 10(1)(cA), (e)(i)(cc), (j) en (nB), artikel 10A(8), artikel 11(e), (f), (g), (gA), (j) en (l), artikel 11D(20)(b), artikel 12B(6), artikel 12C, artikel 12E, artikel 12J(6), (6A) en (7), artikel 13, artikel 15, artikel 18A(1)(a)(cc), (b), (bA)(dd) en (c), artikel 22(1) en (3), artikel 23H(2), artikel 23K, artikel 24(2), artikel 24A(6), artikel 24C, artikel 24D, artikel 24I(1) en (7), artikel 24J(9), artikel 24P, artikel 25A, artikel 27, artikel 28(9), artikel 30, artikel 30A, artikel 30B, artikel 30C, artikel 31, artikel 37A, artikel 38(2)(a) en (b) en (4), artikel 44(13)(a), artikel 47(6)(c)(i), artikel 62(1)(c)(iii) en (d) en (2)(a) en (4), artikel 80B en artikel 103(2);". 2.5

Wysiging van artikel 6quat van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 89 van 1969, herroep deur artikel 5 van Wet 94 van 1983, ingevoeg deur artikel 5 van Wet 85 van 1987 en gewysig deur artikel 5 van Wet 28 van 1997, artikel 12 van Wet 53 van 1999, artikel 16 van Wet 30 van 2000, artikel 4 van Wet 59 van 2000, artikel 8 van Wet 5 van 2001, artikel 20 van Wet 60 van 2001, artikel 8 van Wet 5 30 van 2001, artikel 9 en artikel 125 van Wet 74 van 2002, artikel 16 van Wet 45 van 2003, artikel 4 van Wet 32 van 2004, artikel 8 van Wet 31 van 2005, artikel 7 van Wet 35 van 2007, artikel 9 van Wet 17 van 2009, artikel 7 van Wet 18 van 2009, artikel 11 van Wet 24 van 2011, artikel 3 van Wet 22 van 2012, artikel 3 van Wet 39 van 2013, artikel 6 van Wet 25 van 2015, artikel 10 van Wet 15 van 2016, artikel 4 35

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Tax Administration Laws Amendment Act, 2023

6

2013, section 6 of Act 25 of 2015, section 10 of Act 15 of 2016, section 4 of Act 17 of 2017, section 7 of Act 23 of 2018 and section 271 of Act 28 of 2011, read with paragraph 29 of Schedule 1

2. Section 6quat of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5) of the following subsection:

5

"(5) Notwithstanding [section] the provisions of sections 93, 99(1) [or] and 100 of the Tax Administration Act, an additional or reduced assessment in respect of a year of assessment to give effect to subsections (1) and (1A) may be made within a period that does not exceed six years from the date of the original assessment in respect of that year.".

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 20 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 1 of Act 49 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, sections 8 and 62 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, sections 10 and 101 30 of Act 20 of 2006, sections 2, 10, 88 and 97 of Act 8 of 2007, section 2 of Act 9 of 2007, section 16 of Act 35 of 2007, sections 1 and 9 of Act 3 of 2008, section 2 of Act 4 of 2008, section 16 of Act 60 of 2008, sections 13 and 95 of Act 17 of 2009, section 18 of Act 7 of 2010, sections 28 and 160 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 31 of Schedule 1, sections 19, 144, 157 and 166 of Act 22 of 2012, 35 section 23 of Act 31 of 2013, section 14 of Act 43 of 2014, section 16 of Act 25 of 2015, section 23 of Act 15 of 2016, section 16 of Act 17 of 2017, section 22 of Act 23 of 2018, section 13 of Act 34 of 2019, section 10 of Act 23 of 2020 and section 5 of Act 20 of 2022

3. Section 10 of the Income Tax Act, 1962, is hereby amended by the addition after 40 subsection (4) of the following subsection:

(5) (a) A person is disqualified from managing the collective interests common to all its members as mentioned in subsection (1)(e)(i)(cc)(A) if that person is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act.

(b) A person who manages the collective interests common to all its members, as mentioned in subsection (1)(e)(i)(cc)(A) in contravention of paragraph (a), shall be guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding 24 months.".

50

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006, and amended by sections 13 and 99 of Act 8 of 2007, section 3 of Act 9 of 2007, section 19 of Act 35 of 2007, section 11 of Act 3 of 2008, section 19 of Act 60 of 2008, section 16 of Act 17 of 2009, section 20 of Act 7 of 2010, section 32 of Act 24 of 2011, section 1 of Act 25 of 2011, section 271 of Act 28 of 2011, read with item 34 of 55

Wet No. 18 van 2023

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van Wet 17 van 2017, artikel 7 van Wet 23 van 2018 en artikel 271 van Wet 28 van 2011, saamgelees met paragraaf 29 van Bylae 1

2. Artikel 6quat van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Ondanks <u>die bepalings van</u> artikels <u>93</u>, <u>99(1) [of]en</u> 100 van die Wet op Belastingadministrasie, kan 'n addisionele of verminderde aanslag ten opsigte van 'n jaar van aanslag om aan subartikels (1) en (1A) uitvoering te gee, binne 'n tydperk wat nie <u>meer as</u> ses jaar vanaf die datum van die oorspronklike aanslag ten opsigte van daardie jaar oorskry nie, gemaak word."

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 10 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 of 1993, artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996, artikel 1 van Wet 49 van 1996, artikel 10 van Wet 28 van 1997, artikel 29 van Wet 30 van 1998, artikel 18 van Wet 53 van 1999, artikel 21 van Wet 30 van 2000, artikel 13 van Wet 59 van 2000, artikels 9 en 78 van Wet 19 van 2001, artikel 26 van Wet 60 van 2001, artikel 13 van Wet 30 van 2002, artikel 18 van Wet 74 van 2002, artikel 36 van Wet 12 van 2003, artikel 26 van Wet 45 van 2003, artikels 8 en 62 van Wet 16 van 2004, artikel 14 van Wet 32 van 2004, artikel 5 van Wet 9 van 2005, artikel 16 van Wet 31 van 2005, artikel 23 van Wet 9 van 2006, artikels 10 en 101 van Wet 20 van 2006, artikels 2, 10, 88 en 97 van Wet 8 van 2007, artikel 2 van Wet 9 van 2007, artikel 16 van Wet 35 van 2007, artikels 1 en 9 van Wet 3 van 2008, artikel 2 van Wet 4 van 2008, artikel 16 van Wet 60 van 2008, artikels 13 en 95 van Wet 17 van 2009, artikel 35 18 van Wet 7 van 2010, artikels 28 en 160 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met Bylae 1, artikels 19, 144, 157 en 166 van Wet 22 van 2012, artikel 23 van Wet 31 van 2013, artikel 14 van Wet 43 van 2014, artikel 16 van Wet 25 van 2015, artikel 23 van Wet 15 van 2016, artikel 16 van Wet 17 van 2017, artikel 22 van Wet 23 van 2018, artikel 13 van Wet 34 van 2019, artikel 10 van Wet 40 23 van 2020 en artikel 5 van Wet 20 van 2022

3. Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel na subartikel (4) by te voeg:

"(5) (a) 'n Persoon sal onbevoeg wees om die gesamentlike belange wat gemeenskaplik is aan al sy lede te bestuur, soos in subartikel (1)(e)(i)(cc)(A) na verwys, indien daardie persoon onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet.

(b) 'n Persoon wat die gesamentlike belange wat gemeenskaplik is aan al sy lede bestuur, soos in subartikel (1)(e)(i)(cc)(A) na verwys, in oortreding van paragraaf (a), sal aan 'n misdryf skuldig wees en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.''.

Wysiging van artikel 11D van Wet 58 van 1962, soos ingevoeg deur artikel 13 van Wet 20 van 2006, en gewysig deur artikels 13 en 99 van Wet 8 van 2007, artikel 3 5: van Wet 9 van 2007, artikel 19 van Wet 35 van 2007, artikel 11 van Wet 3 van 2008, artikel 19 van Wet 60 van 2008, artikel 16 van Wet 17 van 2009, artikel 20 van Wet 7 van 2010, artikel 32 van Wet 24 van 2011, artikel 1 van Wet 25 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 34 van Bylae 1, artikels 5 en 35 van

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Tax Administration Laws Amendment Act. 2023

15

8

Schedule 1, sections 5 and 35 of Act 21 of 2012, section 68 of Act 22 of 2012, section 29 of Act 31 of 2013, section 18 of Act 43 of 2014 and section 34 of Act 20 of 2022

- 4. Section 11D of the Income Tax Act, 1962, is hereby amended—
 - (a) by the substitution for subsection (19) of the following subsection:
 - "(19) The Commissioner may, notwithstanding the provisions of sections 99(1) and 100 of the Tax Administration Act, raise an additional assessment for any year of assessment with respect to a deduction in respect of research and development which has been allowed, where approval has been withdrawn in terms of subsection (10).";
 - (b) by the substitution in subsection (20) for the words in paragraph (a) that 10 precede subparagraph (i) of the following words:
 - "A taxpayer may, notwithstanding [Chapter 8] the provisions of sections 93, 99(1) and 100 of the Tax Administration Act, apply to the Commissioner to allow all deductions provided for under this section in respect of research and development if—"; and
 - (c) by the substitution in subsection (20) for paragraph (b) of the following paragraph:
 - "(b) The Commissioner may, notwithstanding the provisions of sections 93, 99(1) and 100 of the Tax Administration Act, make a reduced assessment for a year of assessment where expenditure 20 incurred during that year in respect of research and development would have been allowable as a deduction in terms of this section had the approval in terms of subsection (9) been granted during that year of assessment."

Amendment of section 12I of Act 58 of 1962, as inserted by section 26 of Act 60 of 25 2008 and amended by section 24 of Act 17 of 2009, section 26 of Act 7 of 2010, section 37 of Act 24 of 2011, section 28 of Act 22 of 2012, section 22 of Act 43 of 2014, section 22 of Act 25 of 2015, section 31 of Act 15 of 2016 and section 27 of Act 17 of 2017

5. Section 12I of the Income Tax Act, 1962, is hereby amended by the substitution in 30 subsection (14) for the words that precede paragraph (*a*) of the following words:

"The Commissioner may, notwithstanding the provisions of sections 99(1) and 100 of the Tax Administration Act, raise an additional assessment for any year of assessment where—".

Amendment of section 30 of Act 58 of 1962, as amended by section 26 of Act 113 of 1993, section 20 of Act 21 of 1994, section 35 of Act 30 of 2000, section 73 of Act 59 of 2000, section 16 of Act 19 of 2001, section 22 of Act 30 of 2002, section 31 of Act 74 of 2002, section 45 of Act 45 of 2003, section 28 of Act 32 of 2004, section 36 of Act 31 of 2005, section 24 of Act 20 of 2006, section 25 of Act 8 of 2007, section 43 of Act 35 of 2007, section 22 of Act 3 of 2008, section 41 of Act 60 of 2008, section 41 of Act 17 of 2009, section 53 of Act 7 of 2010, section 8 of Act 21 of 2012, section 79 of Act 31 of 2013, section 48 of Act 43 of 2014, section 4 of Act 44 of 2014, section 54 of Act 25 of 2015, section 51 of Act 15 of 2016 and section 35 of Act 34 of 2019

- 6. Section 30 of the Income Tax Act, 1962, is hereby amended—
 - (a) by the substitution in subsection (3)(b) for subparagraph (i) of the following 45 subparagraph:
 - "(i) required to have at least three <u>natural</u> persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of such organisation and no single person directly or indirectly controls the decision-making powers 50 relating to that organisation: Provided that the provisions of this

Wet No. 18 van 2023

35

9

Wet 21 van 2012, artikel 68 van Wet 22 van 2012, artikel 29 van Wet 31 van 2013, artikel 18 van Wet 43 van 2014 en artikel 34 van Wet 20 van 2022

- 4. Artikel 11D van die Inkomstebelastingwet, 1962, word hierby gewysig—
 - (a) deur subartikel (19) deur die volgende subartikel te vervang:
 - "(19) Die Kommissaris kan, [ongeag] ondanks die bepalings van artikels 99(1) en 100 van die Wet op Belastingadministrasie, 'n addisionele aanslag vir enige jaar van aanslag uitreik, met betrekking tot 'n aftrekking ten opsigte van navorsing en ontwikkeling wat toegelaat is, waar goedkeuring ingevolge subartikel (10) ingetrek is.";
 - (b) deur in subartikel (20) die woorde wat subparagraaf (i) in paragraaf (a) 10 voorafgaan deur die volgende woorde te vervang:
 - "'n Belastingbetaler kan, ondanks [Hoofstuk 8] die bepalings van artikels 93, 99(1) en 100 van die Wet op Belastingadministrasie, by die Kommissaris aansoek doen om al die aftrekkings toe te laat kragtens hierdie artikel voorsien ten opsigte van navorsing en ontwikkeling 15 indien—"; en
 - (c) deur paragraaf (b) in subartikel (20) deur die volgende paragraaf te vervang:

 "(b) Die Kommissaris kan, ondanks die bepalings van artikels 93, 99(1)
 en 100 van die Wet op Belastingadministrasie, 'n verminderde
 aanslag maak vir 'n jaar van aanslag waar uitgawes aangegaan 20
 tydens daardie jaar ten opsigte van navorsing en ontwikkeling
 toelaatbaar sou wees as 'n aftrekking ingevolge hierdie artikel
 indien die goedkeuring ingevolge subartikel (9) tydens daardie jaar
 van aanslag toegestaan sou wees.".

Wysiging van artikel 12I van Wet 58 van 1962, soos ingevoeg deur artikel 26 van 25 Wet 60 van 2008 en gewysig deur artikel 24 van Wet 17 van 2009, artikel 26 van Wet 7 van 2010, artikel 37 van Wet 24 van 2011, artikel 28 van Wet 22 van 2012, artikel 22 van Wet 43 van 2014, artikel 22 van Wet 25 van 2015, artikel 31 van Wet 15 van 2016 en artikel 27 van Wet 17 van 2017

5. Artikel 12I van die Inkomstebelastingwet, 1962, word hierby gewysig deur in 30 subartikel (14) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Die Kommissaris kan, ondanks die bepalings van artikels 99(1) en 100 van die Wet op Belastingadministrasie, 'n addisionele aanslag vir enige jaar van aanslag uitreik waar—".

Wysiging van artikel 30 van Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 113 van 1993, artikel 20 van Wet 21 van 1994, artikel 35 van Wet 30 van 2000, artikel 73 van Wet 59 van 2000, artikel 16 van Wet 19 van 2001, artikel 22 van Wet 30 van 2002, artikel 31 van Wet 74 van 2002, artikel 45 van Wet 45 van 2003, artikel 28 van Wet 32 van 2004, artikel 36 van Wet 31 van 2005, artikel 24 van Wet 20 van 2006, artikel 25 van Wet 8 van 2007, artikel 43 van Wet 35 van 2007, artikel 22 van Wet 3 van 2008, artikel 41 van Wet 60 van 2008, artikel 41 van Wet 17 van 2009, artikel 53 van Wet 7 van 2010, artikel 8 van Wet 21 van 2012, artikel 79 van Wet 31 van 2013, artikel 48 van Wet 43 van 2014, artikel 4 van Wet 44 van 2014, artikel 54 van Wet 25 van 2015, artikel 51 van Wet 15 van 2016 en artikel 35 van Wet 34 van 45 2019

- 6. Artikel 30 van die Inkomstebelastingwet, 1962, word hierby gewysig—
 - (a) deur subparagraaf (i) in subartikel (3)(b) deur die volgende subparagraaf te vervang:
 - verbonde persone met betrekking tot mekaar is nie, te hê om die fidusiêre verantwoordelikheid van bedoelde organisasie te aanvaar en geen enkele persoon regstreeks of onregstreeks die besluitnemingsbevoegdheid met betrekking tot daardie organisasie beheer nie: Met dien verstande dat die bepalings van hierdie subparagraaf nie van toepassing is nie met betrekking tot enige trust wat ingevolge die testament van 'n persoon opgerig is;";

Tax Administration Laws Amendment Act, 2023

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subparagraph shall not apply in respect of any trust established in terms of a will of any person;";

- (b) by the deletion in subsection (3) of the word "and" after paragraph (f);
- (c) by the deletion in subsection (3) of the full stop after paragraph (h), and the insertion of the expression "; and";

(d) by the addition in subsection (3) after paragraph (h) of the following paragraph:

"(i) the Commissioner is satisfied, does not have a person acting in a fiduciary capacity, who is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act."; and

(e) by the insertion after subsection (11) of the following subsections:

"(11A) A person may not act in a fiduciary capacity if that person is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act. (11B) A person who fails to comply with the provisions of subsection

(11A) shall be guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding 24 months.".

Amendment of section 30A of Act 58 of 1962, as inserted by section 25 of Act 20 of 2006, amended by section 26 of Act 8 of 2007, section 42 of Act 60 of 2008, section 42 of Act 17 of 2009, section 54 of Act 7 of 2010, section 9 of Act 21 of 2012, section 80 of Act 31 of 2013 and section 36 of Act 34 of 2019

7. Section 30A of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (2)(a) for subparagraph (i) of the following subparagraph:

"(i) it is required to have at least three <u>natural</u> persons, who are not connected persons in relation to <u>each</u> other, to accept the fiduciary responsibility of that club and no single person directly or indirectly controls the decision making powers relating to that club;";

(b) by the deletion in subsection (2) of the word "and" after paragraph (b);

(c) by the deletion in subsection (2) of the full stop after paragraph (c), and the insertion of the expression "; and";

(d) by the addition in subsection (2) after paragraph (c) of the following paragraph:

"(d) the Commissioner is satisfied that the club does not have a person acting in a fiduciary capacity, who is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act."; and

(e) by the insertion after subsection (9) of the following subsections:

"(10) A person may not act in a fiduciary capacity if that person is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act.

(11) A person who fails to comply with the provisions of subsection (9A) shall be guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding 24 months.".

- (b) deur in subartikel (3) die woord "en" aan die einde van paragraaf (f) te skrap;
- (c) deur in subartikel (3) die punt aan die einde van paragraaf (h) te skrap, en die uitdrukking "; en" in te voeg;
- (d) deur in subartikel (3) die volgende paragraaf na paragraaf (h) by te voeg:
 - "(i) die Kommissaris tevrede is, nie 'n persoon het wat in 'n fidusiêre hoedanigheid optree, wat onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie."; en

(e) deur die volgende subartikels na subartikel (11) in te voeg:

"(11A) 'n Persoon mag nie in 'n fidusiêre hoedanigheid optree indien daardie persoon onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie.

(11B) 'n Persoon wat versuim om die bepalings van subartikel (11A) na te kom, sal aan 'n misdryf skuldig wees en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.".

Wysiging van artikel 30A van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 20 van 2006, gewysig deur artikel 26 van Wet 8 van 2007, artikel 42 van Wet 60 van 2008, artikel 42 van Wet 17 van 2009, artikel 54 van Wet 7 van 2010, artikel 9 van Wet 21 van 2012, artikel 80 van Wet 31 van 2013 en artikel 36 van Wet 34 van 2019

7. Artikel 30A van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subparagraaf (i) in subartikel (2)(a) deur die volgende subparagraaf te vervang:
 - "(i) die klub verplig word om minstens drie <u>natuurlike</u> persone te hê, wat nie verbonde persone met betrekking tot mekaar is nie, om 30 die fidusiêre verantwoordelikheid van daardie klub te aanvaar en dat geen enkele persoon regstreeks of onregstreeks die besluitnemende bevoegdhede met betrekking tot daardie klub beheer nie;";
- (b) deur in subartikel (2) die woord "en" aan die einde van paragraaf (b) te skrap; 35
- (c) deur in subartikel (2) die punt aan die einde van paragraaf (c) te skrap, en die uitdrukking "; en" in te voeg;
- (d) deur in subartikel (2) na paragraaf (c) die volgende paragraaf by te voeg:
 - '(d) die Kommissaris tevrede is dat die klub nie 'n persoon het wat in 'n fidusiêre hoedanigheid optree, wat onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie.''; en
- (e) deur na subartikel (9) die volgende subartikels in te voeg:
 - "(10) 'n Persoon mag nie in 'n fidusiêre hoedanigheid optree indien daardie persoon onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie.
 - (11) 'n Persoon wat versuim om die bepalings van subartikel (10) na te kom, sal aan 'n misdryf skuldig wees en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.".

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45

Tax Administration Laws Amendment Act, 2023

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Amendment of section 30B of Act 58 of 1962, as inserted by section 55 of Act 7 of 2010 and amended by section 56 of Act 24 of 2011, section 10 of Act 21 of 2012 and section 81 of Act 31 of 2013

- 8. Section 30B of the Income Tax Act, 1962, is hereby amended—
 - (a) by the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:
 - "(i) the entity must have a committee, board of management or similar governing body consisting of at least three <u>natural</u> persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of that entity;";
 - (b) by the deletion in subsection (2) of the full stop after paragraph (b) and the insertion of the expression "; and";
 - (c) by the addition in subsection (2) after paragraph (b) of the following paragraph:
 - person acting in a fiduciary capacity, who is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act."; and
 - (d) by the insertion after subsection (10) of the following subsections:

 (11) A person may not act in a fiduciary capacity if that person is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act.
 - (12) A person who fails to comply with the provisions of subsection (11) shall be guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding 24 months.".

Amendment of section 30C of Act 58 of 1962, as inserted by section 49 of Act 43 of 2014 and amended by section 55 of Act 25 of 2015 and section 52 of Act 23 of 2018

- 9. Section 30C of the Income Tax Act, 1962, is hereby amended—
 (a) by the deletion in subsection (1) of the full step ofter pergraph (d) and the
 - (a) by the deletion in subsection (1) of the full stop after paragraph (d), and the insertion of the expression "; and";
 - (b) by the insertion in subsection (1) after paragraph (d) of the following paragraph:
 - "(e) the Commissioner is satisfied that the entity does not have a person acting in a fiduciary capacity, who is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act."; and
 - (c) by the insertion after subsection (7) of the following subsections: 40 "(8) A person may not act in a fiduciary capacity if that person is

disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act.

(9) A person who fails to comply with the provisions of subsection (8) shall be guilty of an offence and liable, upon conviction, to a fine or to imprisonment for a period not exceeding 24 months.".

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Wysiging van artikel 30B van Wet 58 van 1962, soos ingevoeg deur artikel 55 van Wet 7 van 2010 en gewysig deur artikel 56 van Wet 24 van 2011, artikel 10 van Wet 21 van 2012 en artikel 81 van Wet 31 van 2013

- 8. Artikel 30B van die Inkomstebelastingwet, 1962, word hierby gewysig—
 - (a) deur subparagraaf (i) in subartikel (2)(b) deur die volgende subparagraaf te vervang:
 - die entiteit 'n komitee, besturende raad of soortgelyke "(i) beheerliggaam moet hê wat bestaan uit minstens drie natuurlike persone, wat nie verbonde persone met betrekking tot mekaar is nie, om die fidusiêre verantwoordelikheid van daardie entiteit te 10
 - (b) deur in subartikel (2) die punt aan die einde van paragraaf (b) te skrap en die uitdrukking "; en" in te voeg;
 - deur die volgende paragraaf in subartikel (2) na paragraaf (b) in te voeg:
 - "(c) die Kommissaris tevrede is dat die vereniging nie 'n persoon het wat 15 in 'n fidusiêre hoedanigheid optree, wat onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie."; en
 - (d) deur die volgende subartikels na subartikel (10) in te voeg:
 - "(11) 'n Persoon mag nie in 'n fidusiêre hoedanigheid optree indien daardie persoon onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie.
 - (12) 'n Persoon wat versuim om die bepalings van subartikel (11) na te kom, sal aan 'n misdryf skuldig wees en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.". 30

Wysiging van artikel 30C van Wet 58 van 1962, soos ingevoeg deur artikel 49 van Wet 43 van 2014 en gewysig deur artikel 55 van Wet 25 van 2015 en artikel 52 van Wet 23 van 2018

- 9. Artikel 30C van die Inkomstebelastingwet, 1962, word hierby gewysig-
 - (a) deur in subartikel (1) die punt na paragraaf (d) te skrap, en die uitdrukking "; 35 en" in te voeg;
 - deur die volgende paragraaf in subartikel (1) na paragraaf (d) in te voeg:
 - "(e) die Kommissaris tevrede is dat die entiteit nie 'n persoon het wat in 'n fidusiêre hoedanigheid optree, wat onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie."; en
 - (c) deur die volgende subartikels na subartikel (7) in te voeg:
 - "(8) 'n Persoon mag nie in 'n fidusiêre hoedanigheid optree indien 45 daardie persoon onbevoeg is ingevolge artikel 6 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, nie.
 - (9) 'n Persoon wat versuim om die bepalings van subartikel (8) na te kom, sal aan 'n misdryf skuldig wees en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.".

Tax Administration Laws Amendment Act, 2023

14

Insertion of Part 1A in Chapter III of Act 58 of 1962

10. The Income Tax Act, 1962, is hereby amended by the insertion after Part I of Chapter III of the following Part:

"Part IA

ADVANCE PRICING AGREEMENTS

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Definitions

76A. In this Part, unless the context otherwise indicates—	
"advance pricing agreement" means—]
(a) a DTA advance pricing agreement; and	
(b) a unilateral advance pricing agreement;	10
"advance pricing agreement application" means an application by a	
person to the Commissioner under section 76F(1) to enter into an advance	
pricing agreement;	
"affected transaction" means an affected transaction, as defined in section	
31, excluding paragraph (b) of the definition;	15
"affected party" means a person that is a party to an affected transaction;	13
"agreement for the avoidance of double taxation" means an agreement	
under section 108 that contains Articles that are the same as, or similar to,	
Article 9(2) and Article 25(3), as amended from time to time, of the <i>Model</i>	
Tax Convention on Income and on Capital of the Organisation for	20
Economic Co-operation and Development;	20
"applicant" means a person who submits an advance pricing agreement	
application to SARS;	
"arm's length allocation" means an allocation of the profit in an affected	25
transaction that would have been the allocation of the profit if the affected	25
parties had been independent persons dealing at arm's length with each	
other;	
"arm's length transfer price" means a transfer price in an affected	
transaction that would have been the transfer price if the affected parties	
had been independent persons dealing at arm's length with each other;	30
"competent authority" is an official in a country who is authorised by the	
government of the country to administer an agreement for the avoidance of	
double taxation that the Republic is a party to, and includes a person duly	
delegated by that official to perform the role;	
"country of residence" is the country in which a person is considered to be	35
a resident, after the application of an agreement for the avoidance of double	
taxation;	
"DTA advance pricing agreement" means an agreement between an	
applicant and the competent authority of the Republic, in consultation with	
the competent authority of another country, which has an agreement for the	40
avoidance of double taxation with the Republic, regarding the application	
of section 31 to an affected transaction in which the applicant is an affected	
party;	
"transfer price" means the price at which persons trade a service, tangible	
property or intangible property with each other across international	45
borders;	
"transfer pricing method" means a transfer pricing method referred to in	
the OECD Transfer Pricing Guidelines for Multinational Enterprises and	
Tax Administrations, as amended from time to time;	
"unilateral advance pricing agreement" means an agreement between	50
an applicant and the Commissioner regarding the application of section 31	

to an affected transaction in which the applicant is an affected party.

Wet No. 18 van 2023

15

Invoeging van Deel 1A in Hoofstuk III in Wet 58 van 1962

10. Die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende Deel na Deel 1 van Hoofstuk III in te voeg:

"Deel IA

VOORAFPRYSOOREENKOMSTE

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Woordomskrywings

76A. In hierdie Deel, tensy uit die samehang anders blyk, beteken—

"aansoeker" 'n persoon wat 'n voorafprysooreenkomsaansoek by die SAID indien;

"armlengte allokasie" 'n allokasie van die wins in 'n geaffekteerde transaksie wat die allokasie van die wins sou wees indien die geaffekteerde partye onafhanklike persone was wat op uiterste voorwaardes met mekaar beding het;

"armlengte oordragprys" 'n oordragprys in 'n geaffekteerde transaksie wat die oordragprys sou wees indien die geaffekteerde partye onafhanklike persone was wat op uiterste voorwaardes met mekaar beding het;

"bevoegde gesag" 'n beampte in 'n land wat deur die regering van die land gemagtig is om 'n ooreenkoms vir die vermyding van dubbelbelasting, wat die Republiek 'n party tot is, te administreer, en sluit in 'n persoon behoorlik deur daardie beampte gedelegeer om die rol te vertolk;

"DBO voorafprysooreenkoms" 'n ooreenkoms tussen die aansoeker en die bevoegde gesag van die Republiek, in konsultasie met die bevoegde gesag van 'n ander land, wat 'n ooreenkoms vir die vermyding van dubbelbelasting met die Republiek het, aangaande die toepassing van artikel 31 op 'n geaffekteerde transaksie waarin die aansoeker 'n geaffekteerde party is;

"eensydige voorafprysooreenkoms" 'n ooreenkoms tussen 'n aansoeker en die Kommissaris aangaande die toepassing van artikel 31 op 'n geaffekteerde transaksie waarin die aansoeker 'n geaffekteerde party is.

"geaffekteerde party" 'n persoon wat 'n party tot 'n geaffekteerde transaksie is;

"geaffekteerde transaksie" beteken 'n geaffekteerde transaksie, soos omskryf in artikel 31, uitgesluit paragraaf (b) van die omskrywing;

"land woonagtig" die land waar die persoon geag word 'n inwoner te wees, na die toepassing van 'n ooreenkoms vir die vermyding van dubbelbelasting;

"oordragprys" die prys waarteen persone 'n diens, tasbare eiendom of ontasbare eiendom met mekaar oor internasionele grense verhandel;

"oordragprysmetode" 'n oordragprysmetode na verwys in die 'OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations', soos gewysig van tyd tot tyd;

"ooreenkoms vir die vermyding van dubbelbelasting" 'n ooreenkoms kragtens artikel 108 wat Artikels bevat wat dieselfde of soortgelyk is aan Artikel 9(2) en Artikel 25(3) van die "Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development", soos gewysig van tyd tot tyd;

"voorafprysooreenkoms"-

- (a) 'n DBO voorafprysooreenkoms; en
- (b) 'n eensydige voorafprysooreenkoms;

"voorafprysooreenkomsaansoek" 'n aansoek deur 'n persoon by die Kommissaris kragtens artikel 76F(1) om 'n voorafprysooreenkoms aan te gaan;

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Tax Administration Laws Amendment Act, 2023

16

Purpose

76B. The purpose of this Part is to promote tax certainty in respect of an affected transaction that will prevent or minimise double taxation and associated dispute resolution procedures.

Persons eligible to apply

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76C. The Commissioner may prescribe, by public notice, the persons eligible to apply to the Commissioner for an advance pricing agreement.

Fees for advance pricing agreements

- **76D.** (1) In order to defray the costs of administering the advance pricing agreement system, the Commissioner may, by public notice, prescribe fees 10 payable by an applicant, including-
- (a) a pre-application consultation fee;
- (b) an application fee;
- a cost recovery fee for processing an advance pricing agreement application; and
- (d) fees associated with the maintenance or extension of an existing agreement.
- (2) An applicant must pay the fees in subsection (1) based on an invoice issued by SARS.
- (3) SARS may retain the fees referred to in subsection (1), or a portion thereof, if it rejects an advance pricing agreement application or terminates the agreement.
- (4) The fees imposed under this section constitute fees imposed by SARS in terms of section 5(1)(h) of the SARS Act and constitute funds of SARS within the meaning of section 24 of that Act.

Pre-application consultation

- 76E. (1) A prospective applicant must request a pre-application consultation meeting, in the prescribed form and manner.
- (2) The Commissioner must arrange a pre-application consultation 30 meeting with the prospective applicant after receipt of a valid request under subsection (1).
 - (3) The pre-application consultation meeting must—
- identify the affected parties, the relationship between the parties, and (a) their countries of residence;
- (b) discuss the most recent annual financial statements of the prospective 35 applicant;
- (c) discuss the affected transaction that will form part of the advance pricing agreement;
- (d) discuss the most appropriate transfer pricing method to apply to the affected transaction:
- (e) in the case of a DTA advance pricing agreement, discuss if the prospective applicant or another affected party has consulted with the competent authority of the other country that will be party to an affected transaction;
- discuss the applicable fees in section 76D; and

(g) determine further information that may be required from the prospective applicant.

- (4) The Commissioner may notify the prospective applicant that the prospective applicant may submit an advance pricing agreement application after-
- (a) the pre-application consultation meeting; and
- (b) in the case of a potential DTA advance pricing agreement application, after consultation with the competent authority of the other country that will be party to an affected transaction.

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Wysigingswet op die Belastingadministrasiewette, 2023

Wet No. 18 van 2023

17

Doel

76B. Die doel van hierdie Deel is om belastingsekerheid ten opsigte van 'n geaffekteerde transaksie te bevorder, wat dubbelbelasting en verwante dispuutresolusieprosedures sal voorkom of beperk.

Persone wat kwalifiseer om aansoek te doen

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76C. Die Kommissaris kan deur openbare kennisgewing die persone wat kwalifiseer om by die Kommissaris aansoek te doen om 'n voorafprysooreenkoms, bepaal.

Fooie vir voorafprysooreenkomste

- **76D.** (1) Ten einde die koste van die administrasie van die voorafprysooreenkoms-stelsel te dek, kan die Kommissaris deur openbare kennisgewing, fooie betaalbaar deur 'n aansoeker bepaal, insluitend—
- (a) 'n voor-aansoek konsultasiefooi;
- (b) 'n aansoekfooi;
- (c) 'n kosteverhalingsfooi vir die prosessering van 'n 15 voorafprysooreenkomsaansoek; en
- (d) fooie wat met die instandhouding of verlenging van 'n bestaande ooreenkoms verband hou.
- (2) 'n Aansoeker moet die fooie in subartikel (1) betaal op sterkte van 'n faktuur deur die SAID uitgereik.
- (3) SAID kan die fooie in subartikel (1), of 'n gedeelte daarvan hou, indien dit 'n voorafprysooreenkomsaansoek verwerp of die ooreenkoms beëindig.
- (4) Die fooie kragtens hierdie artikel gehef maak fooie uit wat deur SAID opgelê word ooreenkomstig artikel 5(1)(h) van die SAID-wet, en maak deel 25 uit van fondse van SAID ooreenkomstig artikel 24 van daardie Wet.

Voor-aansoek konsultasie

- **76E.** (1) 'n Voornemende aansoeker moet 'n voor-aansoek konsultasie in die voorgeskrewe vorm en wyse, aanvra.
- (2) Die Kommissaris moet 'n voor-aansoek konsultasievergadering met die voornemende aansoeker opstel na ontvangs van 'n geldige versoek kragtens subartikel (1).
 - (3) Die voor-aansoek konsultasievergadering moet-
- (a) die geaffekteerde partye, die verhouding tussen die partye, en die lande waar hulle woonagtig is, identifiseer;
- (b) die mees onlangse jaarlikse finansiële state van die voornemende aansoeker bespreek;
- (c) die geaffekteerde transaksie wat deel sal uitmaak van die voorafprysooreenkoms, bespreek;
- (d) die mees toepaslike oordragsprysmetode wat van toepassing sal wees op die geaffekteerde transaksie, bespreek;
- (e) in die geval van 'n DBO voorafprysooreenkoms, bespreek of die voornemende aansoeker of 'n ander geaffekteerde party met die bevoegde gesag van die ander land wat 'n party tot die geaffekteerde transaksie sal wees, gekonsulteer het;
- (f) die tersaaklike fooie in artikel 76D, bespreek; en
- (g) verdere inligting vasstel wat van die voornemende aansoeker benodig mag word.
- (4) Die Kommissaris kan die voornemende aansoeker in kennis stel dat die voornemende aansoeker 'n voorafprysooreenkomsaansoek kan indien na—
- (a) die voor-aansoek konsultasievergadering; en
- (b) in die geval van 'n potensiele DBO voorafprysooreenkomsaansoek, na konsultasie met die bevoegde gesag van die ander land wat 'n party tot die geaffekteerde transaksie sal wees.

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Application for advance pricing agreement

- **76F.** (1) A prospective applicant may submit an advance pricing agreement application after receiving notification from the Commissioner under section 76E(4).
- (2) If there is more than one applicant in respect of an advance pricing agreement, the applicants must join their applications into a joint application and designate one representative for the applicants.
- (3) An advance pricing agreement application must be made in the prescribed form and manner.
- (4) After considering an application for a DTA advance pricing agreement, the competent authority of the Republic must enter into discussions with the competent authority of the other country, which will be party to an affected transaction, on the feasibility of entering into the agreement with the applicant.

Amendments to advance pricing agreement application

- **76G.** (1) An applicant may make a written request to the Commissioner for an amendment to an advance pricing agreement application submitted to the Commissioner.
- (2) The Commissioner may allow the amendment to the advance pricing agreement application if the amendment does not have the effect of materially altering the nature of the application that was originally submitted.
- (3) The amendment will be considered only if the applicant agrees to, and pays, an additional cost recovery fee in terms of section 76D(1)(c) that is invoiced in terms of section 76D(2).

Withdrawal of advance pricing agreement application

- **76H.** (1) An applicant may withdraw an advance pricing agreement application before the notification under section 76J(4) or 76J(7).
- (2) The withdrawal does not absolve an applicant from the liability for fees that are due and payable in terms of section 76D.

Rejection of advance pricing agreement application

- **761.** The Commissioner may reject an advance pricing agreement application if the application does not meet—
- (a) the requirements of this Part; and
- (b) such additional requirements as the Commissioner may prescribe by | 35 public notice.

Processing of advance pricing agreement application

- **76J.** (1) Once the Commissioner accepts the advance pricing agreement application, the Commissioner must process the application in accordance with the requirements as prescribed, by public notice, by the Commissioner.
- (2) The Commissioner must, in writing, inform the applicant at 90-day intervals, commencing on receipt of the advance pricing agreement application referred to in section 76F(1), of the progress made in processing the advance pricing agreement application, and must issue invoices for purposes of section 76D(2) with the progress reports.
- (3) Based on the information provided in the advance pricing agreement application, the Commissioner must prepare a preliminary advance pricing agreement containing such information as may be prescribed, by public notice, by the Commissioner.
- (4) In the case of a unilateral advance pricing agreement, the Commissioner must send the preliminary agreement to the applicant to accept or reject the agreement.

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Aansoek om voorafprysooreenkoms

- **76F.** (1) 'n Voornemende aansoeker kan 'n voorafprysooreenkomsaansoek indien na ontvangs van die kennisgewing van die Kommissaris kragtens artikel 76E(4).
- (2) Indien daar meer as een aansoeker ten opsigte van 'n voorafprysooreenkoms is, moet die aansoekers die aansoeke in 'n gesamentlike aansoek saamvoeg en een verteenwoordiger vir die aansoekers aanwys.
- (3) 'n Voorafprysooreenkomsaansoek moet in die voorgeskrewe vorm en wyse gemaak word.
- (4) Na oorweging van 'n aansoek vir 'n DBO voorafprysooreenkoms, moet die bevoegde gesag van die Republiek met die bevoegde gesag van die ander land, wat 'n party tot die geaffekteerde transaksie sal wees, in samesprekings tree aangaande die uitvoerbaarheid om 'n ooreenkoms met die aansoeker aan te gaan.

Wysigings tot voorafprysooreenkomsaansoek

- **76G.** (1) 'n Aansoeker kan 'n geskrewe versoek aan die Kommissaris rig vir 'n wysiging tot die voorafprysooreenkomsaansoek by die Kommissaris indien.
- (2) Die Kommissaris kan die wysiging tot die voorafprysooreenkomsaansoek toelaat indien die wysiging nie die effek het om die aard van die aansoek aanvanklik ingedien, wesenlik te verander nie.
- (3) Die wysiging sal alleenlik oorweeg word indien die aansoeker toestem tot, en enige addisionele kosteverhalingsfooi ingevolge artikel 76D(1)(c) wat ingevolge artikel 76D(2) gefaktureer is, betaal.

Terugtrekking van 'n voorafprysooreenkomsaansoek

- **76H.** (1) 'n Aansoeker kan 'n voorafprysooreenkomsaansoek terugtrek alvorens die kennisgewing kragtens artikel 76J(4) of 76J(7).
- (2) Die terugtrekking skeld nie 'n aansoeker vry van die aanspreeklikheid vir fooie verskuldig en betaalbaar ingevolge artikel 76D nie.

Verwerping van 'n voorafprysooreenkomsaansoek

- **76I.** Die Kommissaris kan 'n voorafprysooreenkomsaansoek verwerp indien die aansoek nie—
- (a) die vereistes ingevolge hierdie Deel; en
- (b) sodanige addisionele vereistes soos die Kommissaris deur openbare 35 kennisgewing mag bepaal, nakom nie.

Verwerking van voorafprysooreenkomsaansoek

- **76J.** (1) Sodra die Kommissaris die voorafprysooreenkomsaansoek aanvaar, moet die Kommissaris die aansoek verwerk in ooreenkoms met die vereistes deur die Kommissaris deur openbare publieke kennisgewing bepaal.
- (2) Die Kommissaris moet die aansoeker, skriftelik, in 90-dae intervalle, wat in aanvang neem by ontvangs van die voorafprysooreenkomsaansoek ingevolge artikel 76F(1), inlig aangaande die vordering gemaak in die verwerking van die voorafprysooreenkomsaansoek en fakture uitreik vir doeleindes van artikel 76D(2) tesame met die vorderingsverslae.
- (3) Gebasseer op die inligting verskaf in die voorafprysooreenkomsaansoek, moet die Kommissaris 'n voorlopige voorafprysooreekoms opstel, wat sodanige inligting bevat soos die Kommissaris by openbare kennisgewing mag bepaal.
- (4) In die geval van 'n eensydige voorafprysooreenkoms, moet die Kommissaris die voorlopige ooreenkoms na die aansoeker stuur om die ooreenkoms te aanvaar of te verwerp.

Act No. 18 of 2023

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- (5) In the case of a DTA advance pricing agreement, the Commissioner must send the preliminary agreement to the competent authority of the other country, which will be party to an affected transaction in the agreement, for the competent authority to consider if it is in agreement with the position adopted in the agreement, after taking into account the agreement for the avoidance of double taxation with that country.
- (6) The Commissioner must, in writing, notify the applicant once subsection (5) has been complied with.
- (7) If the competent authority in subsection (5) agrees, in writing, to the position adopted in the preliminary agreement, the Commissioner must send the preliminary agreement to the applicant to accept or reject the agreement.

Finalisation of advance pricing agreement

- **76K.** (1) If an applicant accepts the preliminary advance pricing agreement in terms of section 76J(4) or 76J(7), the applicant must sign the agreement and return it to the Commissioner.
- (2) At least two SARS officials delegated to do so, one of whom is the competent authority of the Republic in the case of a DTA advance pricing agreement, must sign the preliminary advance pricing agreement once subsection (1) has been complied with.
- (3) Once subsection (2) has been complied with, the Commissioner must send the advance pricing agreement to the applicant and, in the case of a DTA advance pricing agreement, also to the competent authority of the other country referred to in section 76J(5).
- (4) An advance pricing agreement will come into effect once subsections (1), (2) and (3) have been complied with.
- (5) The advance pricing agreement is applicable for up to a maximum of five consecutive years of assessment, commencing on the day after the end of the year of assessment in which the associated advance pricing agreement application is received by the Commissioner.
- (6) Based on a specific request by the applicant in an advance pricing agreement application, the Commissioner may allow the associated advance pricing agreement to be applicable for up to a maximum of three consecutive years of assessment, ending on the last day of the year of assessment in which the advance pricing agreement application is received by the Commissioner: Provided that the advance pricing agreement will not result in a cumulative decrease in taxable income or increase in assessed loss for the years of assessment.
- (7) The total duration in subsection (6) will be in addition to the total duration in subsection (5).

Compliance report

- **76L.** (1) An applicant that is party to an advance pricing agreement must submit a compliance report to the Commissioner for each of the years of assessment referred to in sections 76K(5) and 76M(3) by no later than the day by which the return for each year of assessment must be submitted.
- (2) The compliance report must be in the prescribed form and manner, and must include the following information:
- (a) Any changes to the information provided in the advance pricing agreement application subsequent to submitting the application;
- (b) details of an affected transaction in the advance pricing agreement that has been concluded or is in the process of being concluded; and
- (c) confirmation and a demonstration of compliance with the terms and conditions of the advance pricing agreement.

Wysigingswet op die Belastingadministrasiewette, 2023

Wet No. 18 van 2023

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- (5) In die geval van 'n DBO voorafprysooreenkoms, moet die Kommissaris die voorlopige ooreenkoms na die bevoegde gesag van die ander land, wat 'n party tot 'n geaffekteerde transaksie in die ooreenkoms sal wees, stuur, vir die bevoegde gesag om te oorweeg of dit in ooreenstemming is met die posisie ingeneem in die ooreenkoms na inagneming van die ooreenkoms vir die vermyding van dubbelbelasting met daardie land.
- (6) Die Kommissaris moet die aansoeker skriftelik in kennis stel sodra subartikel (5) nagekom is.
- (7) Indien die bevoegde gesag in subartikel (5) skriftelik toestem tot die posisie ingeneem in die voorlopige ooreenkoms, moet die Kommissaris die voorlopige ooreenkoms aan die aansoeker stuur om die ooreenkoms te aanvaar of te verwerp.

Finalisering van 'n voorafprysooreenkoms

- **76K.** (1) Indien 'n aansoeker die voorlopige voorafprysooreenkoms 15 ingevolge artikel 76J(4) of 76J(7) aanvaar, moet die aansoeker die ooreenkoms onderteken en dit aan die Kommissaris terug besorg.
- (2) Ten minste twee SAID-beamptes, wat gedelegeer is, waarvan een, in die geval van 'n DBO voorafprysooreenkoms, die bevoegde gesag van die Republiek is, moet die voorlopige voorafprysingsooreenkoms onderteken sodra subartikel (1) nagekom is.
- (3) Sodra subartikel (2) nagekom is, moet die Kommissaris die voorafprysooreenkoms aan die aansoeker stuur en, in die geval van 'n DBO voorafprysooreenkoms ook na die bevoegde gesag van die ander land in artikel 76J(5), na verwys.
- (4) 'n Voorafprysooreenkoms sal in werking tree sodra subartikels (1), (2) en (3) nagekom is.
- (5) Die voorafprysooreenkoms sal van toepassing wees tot 'n maksimum van vyf daaropeenvolgende jare van aanslag, wat in werking tree op die dag na die einde van die jaar van aanslag waarin die tersaaklike voorafprysooreenkomsaansoek deur die Kommissaris ontvang is.
- (6) Gebasseer op sterkte van 'n spesiale versoek deur die aansoeker in 'n voorafprysooreenkomsaansoek, mag die Kommissaris toelaat dat die tersaaklike voorafprysooreenkoms tot 'n maksimum van drie daaropeenvolgende jare van aanslag, wat eindig op die laaste dag van die jaar van aanslag waarin die voorafprysooreenkomsaansoek deur die Kommissaris ontvang is, van toepassing sal wees: Met dien verstande dat die voorafprysooreenkoms nie 'n kumulatiewe vermindering in belasbare inkomste of vermeerdering in aangeslane verlies vir die jare van aanslag tot gevolg sal hê nie.
- (7) Die totale duur in subartikel (6) sal bykomend wees tot die totale duur in subartikel (5).

Nakomingsverslag

- **76L.** (1) 'n Aansoeker wat 'n party tot 'n voorafprysooreenkoms is, moet 'n nakomingsverslag by die Kommissaris indien, vir elk van die jare van aanslag soos in artikels 76K(5) en 76M(3) na verwys, teen nie later nie as die dag waarop die opgawe vir elke jaar van aanslag ingedien moet word.
- (2) Die nakomingsverslag moet in die voorgeskrewe vorm en wyse wees en moet die volgende inligting insluit:
- (a) Enige veranderinge aan die inligting in die voorafprysooreenkomsaansoek voorsien, na indiening van die aansoek;
- (b) besonderhede van 'n geaffekteerde transaksie in die voorafprysooreenkoms wat afgehandel is of in die proses is om afgehandel te word: en
- (c) bevestiging en 'n demonstrasie van nakoming van die terme en 55 voorwaardes van die voorafprysooreenkoms.

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Tax Administration Laws Amendment Act, 2023

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22

Extension of advance pricing agreement

- **76M.** (1) The applicant that is party to an advance pricing agreement may, not less than 60 days before the end of the last of the years of assessment referred to in section 76K(5), request the Commissioner to extend the agreement.
- (2) The request under subsection (1) must be in the prescribed form and manner and must include the following information:
- (a) Any changes to the information provided in the advance pricing agreement application subsequent to submitting the application;
- (b) confirmation that all terms and conditions of the existing advance pricing agreement have been complied with; and
- (c) any changes that must be taken into account in the extended advance pricing agreement, such as economic, technical, product, industry or geographical developments.
- (3) The Commissioner may extend the advance pricing agreement, in writing, for a period that does not exceed three consecutive years of assessment, commencing on the day after the end of the last of the years of assessment referred to in section 76K(5).
- (4) Sections 76F, 76G, 76H, 76I, 76J and 76K apply with the necessary changes required for the extension of an advance pricing agreement.
- (5) The Commissioner may reject a request to extend an advance pricing agreement and may require the requestor to submit a new advance pricing agreement application.

Termination of advance pricing agreement

- **76N.** (1) A party to an advance pricing agreement may choose to 25 terminate the agreement prospectively by informing, in writing, the other parties to the agreement of the grounds for the termination.
- (2) The Commissioner may, in writing, terminate an advance pricing agreement prospectively if—
- (a) there is an amendment to the legislation on which the agreement is based, unless the general interpretation upon which the agreement was based is unaffected by the amendment;
- (b) there is a change to the agreement for the avoidance of double taxation on which the agreement is based, unless the general interpretation upon which the agreement was based is unaffected by the change; or
- (c) a court overturns or modifies an interpretation of the legislation on which the agreement is based, unless—
 - (i) the judgment is under appeal;
 - (ii) the judgment is fact-specific and the general interpretation upon which the agreement was based is unaffected; or
 - (iii) the reference to the interpretation upon which the agreement was based was *obiter dicta*; or
- (d) the applicant that is party to the agreement failed to comply with the terms and conditions of the agreement.
- (3) The Commissioner may, in writing, terminate an advance pricing agreement retrospectively if—
- (a) it was issued in error, and if—
 - the applicant that is party to the advance pricing agreement has not yet commenced an affected transaction in the agreement or has not yet incurred significant costs in respect of the affected transaction:
 - (ii) a person, other than the applicant that is party to the advance pricing agreement, will suffer a significant tax disadvantage if the agreement is not terminated; or
 - (iii) the effect of the agreement will materially erode the tax base of the Republic;
- (b) any of the critical assumptions is breached and the breach is not remedied within a period acceptable to the Commissioner;

Uitbreiding van voorafprysooreenkoms

- **76M.** (1) Die aansoeker wat 'n party is tot 'n voorafprysooreenkoms mag, nie minder nie as 60 dae voor die einde van die laaste jare van aanslag in artikel 76K(5) na verwys, die Kommissaris versoek om die ooreenkoms te verleng.
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- (2) Die versoek kragtens subartikel (1) moet in die voorgeskrewe vorm en wyse wees en die volgende inligting insluit:
- (a) Enige veranderinge aan die inligting in die voorafprysooreenkomsaansoek voorsien, na indiening van die aansoek;
- (b) bevestiging dat alle terme en voorwaardes van die bestaande voorafprysooreenoms nagekom is;
- (c) enige veranderinge wat in ag geneem moet word in die verlengde voorafprysooreenkoms, soos ekonomiese, tegniese, produk, industrie en geografiese ontwikkelings.
- (3) Die Kommissaris kan die voorafprysooreenkoms, skriftelik verleng vir 'n tydperk wat nie drie daaropeenvolgende jare van aanslag, wat in aanvang neem op die dag na die einde van die laaste jare van aanslag soos in artikel 76K(5) na verwys, oorskry nie.
- (4) Artikels 76F, 76G, 76H, 76I, 76J en 76K is met die nodige veranderinge soos vereis vir die uitstel van 'n voorafprysooreenkoms, van toepassing.
- (5) Die Kommissaris kan die versoek om 'n voorafprysooreenkoms te verleng, verwerp, en kan die versoeker vereis om 'n nuwe voorafprysooreenkomsaansoek in te dien.

Beëindiging van voorafprysooreenkoms

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- **76N.** (1) 'n Party tot 'n voorafprysooreenkoms kan kies om die ooreenkoms vooruitwerkend te beëindig deur die ander partye tot die ooreenkoms skriftelik van die gronde vir die beëindiging in te lig.
- (2) Die Kommissaris kan skriftelik die voorafprysooreenkoms vooruitwerkend beëindig indien—
- (a) daar 'n wysiging is tot die wetgewing waarop die ooreenkoms gebasseer is, tensy die algemene vertolking waarop die ooreenkoms gebasseer was nie deur die wysiging geraak word nie;
- (b) daar 'n verandering is tot die ooreenkoms vir die vermyding van dubbelbelasting waarop die ooreenkoms gebasseer is, tensy die algemene vertolking waarop die ooreenkoms gebasseer was nie deur die wysiging geraak word nie; of
- (c) 'n hof die vertolking van die wetgewing waarop die ooreenkoms gebasseer is, omkeer of wysig, tensy—
 - (i) die uitspraak onder appèl is;
 - (ii) die uitspraak feite-spesifiek is en die algemene vertolking waarop die ooreenkoms gebasseer is, onaangeraak bly; of
 - (iii) die verwysing na die vertolking waarop die ooreenkoms gebasseer is, *obiter dicta* is; of
- (d) die aansoeker wat 'n party tot die ooreenkoms is versuim het om die terme en voorwaardes van die ooreenkoms na te kom.
- (3) Die Kommissaris kan 'n voorafprysooreenkoms terugwerkend beëindig indien—
- (a) dit verkeerdelik uitgereik is en indien-
 - (i) die aansoeker wat 'n party tot die voorafprysooreenkom is, nog nie met die geaffekteerde transaksie in die ooreenkoms begin het nie, of nog nie noemenswaardige kostes ten opsigte van die affekteerde transaksie aangegaan het nie;
 - (ii) 'n persoon anders as die aansoeker wat 'n party tot die voorafprysooreenkoms is, 'n aansienlike belastingnadeel sal ervaar indien die ooreenkoms nie beëindig word nie; of
 - (iii) die uitwerking van die ooreenkoms die Republiek se belastingbasis wesenlik sal erodeer;
- (b) enige van die kritiese aannames verbreuk word en die breuk nie reggestel word binne 'n tydperk wat vir die Kommissaris aanvaarbaar is nie;

- (c) an affected transaction was carried out in a materially different manner from that disclosed in the advance pricing agreement application; or
- (d) there is fraud, misrepresentation or non-disclosure of a material fact by the applicant that is party to the advance pricing agreement.
- (4) A party to an advance pricing agreement must, in writing, inform other parties to the agreement within 30 days of becoming aware of a condition in subsection (2) or (3) that may result in the termination of the agreement.
- (5) A party that chooses to terminate an advance pricing agreement must first provide the other parties to the agreement with notice, in writing, of the proposed termination of the agreement, the grounds for the proposed termination and provide a reasonable opportunity to the other parties to make representations prior to the decision to terminate the agreement.
- (6) The Commissioner must, in writing, inform all parties to an advance pricing agreement of the effective date from which the agreement has been 15 terminated.

Record retention

760. In addition to the records required under a tax Act, the applicant that is party to an advance pricing agreement must maintain the records that will enable the Commissioner to determine if the applicant is complying with the agreement.

Procedures and guidelines

76P. The Commissioner may, by public notice, specify procedures and guidelines for the implementation and operation of the advance pricing agreement system.".

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Amendment of section 89bis of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963, amended by section 21 of Act 95 of 1967, substituted by section 28 of Act 88 of 1971, and amended by section 45 of Act 85 of 1974, section 26 of Act 91 of 1982, section 35 of Act 94 of 1983, section 32 of Act 121 of 1984, section 21 of Act 65 of 1986, section 48 of Act 59 of 2000 and section 271 of Act 28 of 2011, read with 30 paragraph 66 of Schedule 1

- **11.** Section 89*bis* of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:
 - "(2) If any amount of employees' tax is not paid in full within the period of seven days prescribed for payment of such amount by paragraph 2(1) of the Fourth 35 Schedule, or if any amount of provisional tax is not paid in full within the relevant period prescribed for payment of such amount by paragraph 21, [22,] 23, 23A or 25(1) of that Schedule, interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the person liable to pay the amount in question at the prescribed rate (but subject to the provisions of section 40 89quin) on so much of such amount as remains unpaid in respect of the period (reckoned from the end of the relevant period prescribed as aforesaid for payment of such amount) during which the amount underpaid remains unpaid."

Amendment of paragraph 13 of First Schedule to Act 58 of 1962, as amended by section 21 of Act 90 of 1972, section 17 of Act 101 of 1978, section 43 of Act 94 of 45 1983, section 79 of Act 25 of 2015, section 271 of Act 28 of 2011, read with paragraph 74 of Schedule 1, section 79 of Act 25 of 2015 and section 5 of Act 21 of 2021

- **12.** Paragraph 13 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (6) of the following subparagraph:
 - "(6) The Commissioner may, notwithstanding the provisions of sections <u>93</u>, 99(1) and 100 of the Tax Administration Act, raise an assessment for any year of

- (c) 'n geaffekteerde transaksie uitgevoer is op 'n wesenlik verskillende wyse as in die voorafprysooreenkomsaansoek geopenbaar; of
- daar bedrog, wanvoorstelling of nie-openbaring van 'n wesenlike feit deur die aansoeker wat 'n party tot die voorafprysooreenkoms is.
- (4) 'n Party tot 'n voorafprysooreenkoms moet ander partye tot die ooreenkoms skriftelik, binne 30 dae na bewuswording van 'n voorwaarde in subartikel (2) of (3) wat die beëindiging van die ooreenkoms tot gevolg kan hê, diensooreenkomstig inlig.
- (5) 'n Party wat kies om 'n voorafprysooreenkoms te beëindig, moet eerstens die ander partye tot die ooreenkoms skriftelik kennis gee van die voorgestelde beëindiging van die ooreenkoms, die gronde vir die voorgestelde beëindiging en 'n redelike geleentheid om voorleggings te maak alvorens die besluit om die ooreenkoms te beëindig.
- (6) Die Kommissaris moet alle partye tot 'n voorafprysooreenkoms skriftelik in kennis stel van die effektiewe datum vanaf wanneer die 15 ooreenkoms beëindig is.

Rekordhouding

760. Bykomend tot die rekords wat vereis word ingevolge 'n Belastingwet, moet die aansoeker wat 'n party tot 'n voorafprysooreenkoms is, die rekords in stand hou wat the Kommissaris in staat sal 20 stel om te bepaal of die aansoeker die ooreenkoms nakom.

Prosedures en riglyne

76P. Die Kommissaris kan, deur openbare kennisgewing, prosedures en riglyne vir die implementering en werking van die voorafprysooreenkomssisteem, bepaal.".

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Wysiging van artikel 89bis van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 6 van 1963, gewysig deur artikel 21 van Wet 95 van 1967, vervang deur artikel 28 van Wet 88 van 1971, en gewysig deur artikel 45 van Wet 85 van 1974, artikel 26 van Wet 91 van 1982, artikel 35 van Wet 94 van 1983, artikel 32 van Wet 121 van 1984, artikel 21 van Wet 65 van 1986, artikel 48 van Wet 59 van 2000 en artikel 271 30 van Wet 28 van 2011, saamgelees met paragraaf 66 van Bylae 1

- 11. Artikel 89bis van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
 - (2) Indien 'n bedrag aan werknemersbelasting nie binne die tydperk van sewe dae vir betaling daarvan soos voorgeskryf deur paragraaf 2(1) van die Vierde 35 Bylae, ten volle betaal word nie, of indien 'n bedrag aan voorlopige belasting nie binne die toepaslike tydperk vir betaling daarvan soos voorgeskryf deur paragraaf 21, [22,] 23, 23A of 25(1) van daardie Bylae, ten volle betaal word nie, word, tensy die Kommissaris met inagneming van die omstandighede van die geval anders gelas, rente deur die persoon aanspreeklik vir betaling van die betrokke bedrag 40 betaal teen die voorgeskrewe koers (maar behoudens die bepalings van artikel 89quin) op soveel van bedoelde bedrag as wat uitstaande is ten opsigte van die tydperk (gereken van die einde van die betrokke tydperk aldus voorgeskryf vir betaling van bedoelde bedrag) waartydens die bedrag te min betaal uitstaande bly.".

Wysiging van paragraaf 13 van Eerste Bylae by Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1972, artikel 17 van Wet 101 van 1978, artikel 43 van Wet 94 van 1983, artikel 79 van Wet 25 van 2015, artikel 271 van Wet 28 van 2011, saamgelees met paragraaf 74 van Bylae 1, artikel 79 van Wet 25 van 2015 en artikel 5 van Wet 21 van 2021

12. Paragraaf 13 van die Eerste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (6) deur die volgende subparagraaf te vervang:

'(6) Die Kommissaris kan, nieteenstaande die bepalings van artikels <u>93,</u> 99(1) en 100 van die Wet op Belastingadministrasie, 'n aanslag uitreik vir enige jaar van

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Tax Administration Laws Amendment Act, 2023

26

assessment with respect to which a deduction in terms of subparagraph (1) is allowed.".

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004, section 50 of Act 31 of 2005, section 40 of Act 20 of 2006, section 55 of Act 8 of 2007, section 65 of Act 35 of 2007, section 20 of Act 4 of 2008, section 67 of Act 60 of 2008, section 18 of Act 18 of 2009, section 94 of Act 24 of 2011, sections 19 and 92 of Act 21 of 2012, section 8 of Act 39 of 2013, section 13 of Act 26 of 2013, section 6 of Act 16 of 2016, section 9 of Act 13 of 2017, section 66 of Act 17 of 2017, section 67 of Act 23 of 2018, section 51 of Act 34 of 2019, section 79 of Act 23 of 2020 and section 37 of Act 20 of 2021

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- 13. Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended-
 - (a) by the substitution for subparagraph (1) of the following subparagraph:
 - "(1) Every-
 - (a) employer [who] that is a resident; [or]

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- (b) [representative employer in the case of any] employer [who] that is not a resident and conducts business through a permanent establishment in the Republic; or
- (c) representative employer,

(whether or not registered as an employer under paragraph 15) who 25 pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the Commissioner has granted authority to the contrary, deduct or withhold from that amount, or, where that amount constitutes any lump sum contemplated in paragraph 2(1)(b) of the Second Schedule, deduct from the 30 employee's benefit or minimum individual reserve as contemplated in that paragraph, by way of employees' tax an amount which shall be determined as provided in paragraph 9, 10 or 11 or section 95 of the Tax Administration Act, whichever is applicable, in respect of the liability for normal tax of that employee, or, if such remuneration is paid or payable to an employee who is married and such remuneration is under the provisions of section 7(2) of this Act deemed to be income of the employee's spouse, in respect of such liability of that spouse, and shall, subject to the Employment Tax Incentive Act, 2013, pay the amount so deducted or withheld to the 40 Commissioner within seven days after the end of the month during which the amount was deducted or withheld, or in the case of a person who ceases to be an employer before the end of such month, within seven days after the day on which that person ceased to be an employer, or in either case within such further period as the 45 Commissioner may approve."; and

- (b) by the substitution in subparagraph (5) for item (c) of the following item:
 - "(c) An employer shall not be required to deduct or withhold employees' tax from any remuneration paid or payable by [him] the employer to any person who produces to the employer a valid certificate 50 of exemption issued by the Commissioner under item (a).".

Wysigingswet op die Belastingadministrasiewette, 2023

Wet No. 18 van 2023

27

aanslag ten opsigte waarvan 'n aftrekking ingevolge subparagraaf (1) toegelaat word."

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 28 van Wet 113 van 1977, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995, artikel 45 van Wet 28 van 1997, artikel 53 van Wet 30 van 2000, artikel 54 van Wet 59 van 2000, artikel 20 van Wet 19 van 2001, artikel 21 van Wet 16 van 2004, artikel 50 van Wet 31 van 2005, artikel 40 van Wet 20 van 2006, artikel 55 van Wet 8 van 102007, artikel 65 van Wet 35 van 2007, artikel 20 van Wet 4 van 2008, artikel 67 van Wet 60 van 2008, artikel 18 van Wet 18 van 2009, artikel 94 van Wet 24 van 2011, artikels 19 en 92 van Wet 21 van 2012, artikel 8 van Wet 39 van 2013, artikel 13 van Wet 26 van 2013, artikel 6 van Wet 16 van 2016, artikel 9 van Wet 13 van 2017, artikel 66 van Wet 17 van 2017, artikel 67 van Wet 23 van 2018, artikel 51 van Wet 34 van 2019, artikel 79 van Wet 23 van 2020 en artikel 37 van Wet 20 van 2021

13. Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (1) deur die volgende subparagraaf te vervang:

"(1) Elke—

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(a) werkgewer wat 'n inwoner is; [of]

(b) [verteenwoordigende werkgewer in die geval van enige] werkgewer wat nie 'n inwoner is nie en besigheid deur 'n permanente saak in die Republiek, bedryf; of

(c) verteenwoordigende werkgewer,

(ongeag of hy ingevolge paragraaf 15 as 'n werkgewer geregistreer is, al dan nie) wat aan 'n werknemer 'n bedrag by wyse van besoldiging betaal of verskuldig word, moet, tensy die Kommissaris andersins gemagtig het, van daardie bedrag 'n bedrag aftrek of terughou, of waar daardie bedrag 'n enkelbedragvoordeel in 30 paragraaf 2(1)(b) van die Tweede Bylae beoog, uitmaak, van die werknemer se voordeel of minimum individuele reserve soos in daardie paragraaf bedoel, aftrek, by wyse van werknemersbelasting wat volgens die bepalings van paragraaf 9, 10 of 11 of artikel 95 van die Wet op Belastingadministrasie, watter bepaling ook al van 35 toepassing is, vasgestel word, ten opsigte van die aanspreeklikheid van daardie werknemer vir normale belasting, of indien bedoelde besoldiging betaal of verskuldig is aan 'n werknemer wat getroud is en daardie besoldiging ingevolge die bepalings van artikel 7(2) van hierdie Wet geag word inkomste van die werknemer se gade te 40 wees, ten opsigte van bedoelde aanspreeklikheid van daardie gade, en moet, behoudens die 'Employment Tax Incentive Act, 2013', die bedrag aldus afgetrek of teruggehou aan die Kommissaris betaal binne sewe dae na die end van die maand waartydens die bedrag afgetrek of teruggehou is, of, in die geval van 'n persoon wat voor die end van daardie maand ophou om 'n werkgewer te wees, binne sewe dae na die dag waarop daardie persoon ophou om 'n werkgewer te wees, of, in die een of die ander geval, binne die verdere tydperk wat die Kommissaris goedkeur."; en

(b) deur item (c) in subparagraaf (5) deur die volgende item te vervang:

"(c) 'n Werkgewer is nie verplig om werknemersbelasting af te trek of
te weerhou nie van enige besoldiging wat deur [hom] die werkgewer
betaal of verskuldig word aan 'n persoon wat aan die werkgewer 'n
geldige vrystellingsertifikaat toon wat ingevolge item (a) deur die
Kommissaris uitgereik is.".

Amendment of paragraph 9 of Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001, section 41 of Act 20 of 2006, section 116 of Act 35 of 2007, section 66 of Act 35 of 2007, section 68 of Act 60 of 2008, section 20 of Act 18 of 2009, section 95 of Act 24 of 2011, section 8 of Act 23 of 2015 and section 7 of Act 16 of 2016

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- **14.** Paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:
 - "(1) The Commissioner may from time to time, having regard to the rates of 10 normal tax as fixed by Parliament or foreshadowed by the Minister in his budget statement and to any other factors having a bearing upon the probable liability of taxpayers for normal tax, prescribe—
 - (a) deduction tables applicable to such classes of employees as the Commissioner may determine, taking into account the rebates applicable 15 in terms of section 6; and
 - (b) the manner in which such tables shall be applied, and the amount of employees' tax to be deducted from any amount of remuneration shall, subject to the provisions of subparagraphs (3) and (4) of this paragraph and paragraphs 10, [and] 11, 11A(4) and section 95 of the Tax Administration Act, be 20 determined in accordance with such tables or where subparagraph (3) or (4) is applicable, in accordance with that subparagraph.".

Amendment of paragraph 10 of Fourth Schedule to Act 58 of 1962, as substituted by section 8 of Act 16 of 2016

- **15.** Paragraph 10 of the Fourth Schedule to the Income Tax Act, 1962, is hereby 25 amended by the substitution for subparagraph (1) of the following subparagraph:
 - "(1) If the Commissioner is satisfied that the circumstances warrant a variation of the basis provided in paragraph 9 or 11A(4) for the determination of amounts of employees' tax to be deducted or withheld from remuneration of employees in the case of any employer, the Commissioner may agree with such employer as to the basis of determination of the said amounts to be applied by that employer, and the amounts to be deducted or withheld by that employer in terms of paragraph 2 shall, subject to the provisions of paragraph 11 and section 95 of the Tax Administration Act, be determined accordingly."

Amendment of paragraph 20 of Fourth Schedule to Act 58 of 1962, as amended by section 25 of Act 72 of 1963, section 29 of Act 88 of 1965, section 47 of Act 89 of 1969, section 44 of Act 88 of 1971, section 51 of Act 85 of 1974, section 36 of Act 69 of 1975, section 50 of Act 94 of 1983, section 39 of Act 121 of 1984, section 19 of Act 61 of 2008, section 24 of Act 18 of 2009, section 271 of Act 28 of 2011, read with paragraph 91 of Schedule 1, section 23 of Act 21 of 2012, section 10 of Act 44 of 40 2014, section 17 of Act 23 of 2015 and section 13 of Act 16 of 2016

- **16.** Paragraph 20 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2B) of the following subparagraph:
 - "(2B) Any penalty imposed under subparagraph (1) in respect of a year of assessment must be reduced by any penalty imposed under paragraph 27(1) in 45 respect of payment referred to in paragraph 21(1)(b) or 23(1)(b)."

Amendment of section 7A of Act 91 of 1964, as inserted by section 27 of Act 61 of 2008 and repealed by section 4 of Act 32 of 2014

17. (1) Section 7A of the Customs and Excise Act, 1964, pending its repeal by the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), is hereby substituted 50 for the following section:

Wysiging van paragraaf 9 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 39 van Wet 88 van 1971, artikel 32 van Wet 103 van 1976, artikel 29 van Wet 104 van 1980, artikel 46 van Wet 101 van 1990, artikel 46 van Wet 28 van 1997, artikel 55 van Wet 59 van 2000, artikel 21 van Wet 19 van 2001, artikel 41 van Wet 20 van 2006, artikel 116 van Wet 35 van 2007, artikel 66 van Wet 35 van 2007, artikel 68 van Wet 60 van 2008, artikel 20 van Wet 18 van 2009, artikel 95 van Wet 24 van 2011, artikel 8 van Wet 23 van 2015 en artikel 7 van Wet 16 van 2016

14. Paragraaf 9 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:

- "(1) Die Kommissaris kan, met inagneming van die skale van normale belasting 10 soos deur die Parlement vasgestel of deur die Minister in sy begrotingsrede in die vooruitsig gestel, en enige ander faktore wat met die waarskynlike aanspreeklikheid van belastingpligtiges vir normale belasting in verband staan, van tyd tot tyd—
- (a) aftrekkingstabelle voorskryf wat geld vir die kategorieë van werknemers wat 15 die Kommissaris bepaal, met inagneming van die kortings wat ingevolge artikel 6 van toepassing is; en
- (b) die wyse voorskryf waarop sodanige tabelle toegepas moet word, en die bedrag wat by wyse van werknemersbelasting van 'n bedrag aan besoldiging afgetrek moet word, word, behoudens die bepalings van subparagrawe (3) en (4) 20 van hierdie paragraaf en paragrawe 10, [en] 11, 11A(4) en artikel 95 van die Wet op Belastingadministrasie in ooreenstemming met sodanige tabelle, of waar subparagraaf (3) of (4) van toepassing is, in ooreenstemming met daardie subparagraaf bepaal."

Wysiging van paragraaf 10 van Vierde Bylae by Wet 58 van 1962, soos vervang 25 deur artikel 8 van Wet 16 van 2016

15. Paragraaf 10 van die Vierde Bylae by die Inkomstebelatingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:

"(1) Indien die Kommissaris oortuig is dat omstandighede 'n verandering regverdig van die grondslag in paragraaf 9 of 11A(4) bepaal vir die vasstelling van die bedrae wat in die geval van enige werkgewer by wyse van werknemersbelasting van die besoldiging van werknemers afgetrek of teruggehou moet word, kan die Kommissaris met die werkgewer ooreenkom omtrent die grondslag wat by die vasstelling van bedoelde bedrae deur daardie werkgewer toegepas moet word, en die bedrae wat ingevolge paragraaf 2 deur daardie 35 werkgewer afgetrek of teruggehou moet word, word, behoudens die bepalings van paragraaf 11 en artikel 95 van die Wet op Belastingadministrasie, dienooreenkomstig vasgestel."

Wysiging van paragraaf 20 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 72 van 1963, artikel 29 van Wet 88 van 1965, artikel 47 van 40 Wet 89 van 1969, artikel 44 van Wet 88 van 1971, artikel 51 van Wet 85 van 1974, artikel 36 van Wet 69 van 1975, artikel 50 van Wet 94 van 1983, artikel 39 van Wet 121 van 1984, artikel 19 van Wet 61 van 2008, artikel 24 van Wet 18 van 2009, artikel 271 van Wet 28 van 2011, saamgelees met paragraaf 91 van Bylae 1, artikel 23 van Wet 21 van 2012, artikel 10 van Wet 44 van 2014, artikel 17 van Wet 23 van 45 2015 en artikel 13 van Wet 16 van 2016

16. Paragraaf 20 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2B) deur die volgende subparagraaf te vervang:

"(2B) Enige boete opgelê kragtens subparagraaf (1) ten opsigte van 'n jaar van aanslag moet verminder word deur enige boete kragtens paragraaf 27(1) opgelê ten opsigte van betaling in paragraaf 21(1)(b) of 23(1)(b) bedoel."

Wysiging van artikel 7A van Wet 91 van 1964, soos ingevoeg deur artikel 27 van Wet 61 van 2008 en herroep deur artikel 4 van Wet 32 van 2014

17. (1) Artikel 7A van die Doeane- en Aksynswet, 1964, hangende die herroeping daarvan deur die Wysigingswet op Doeane en Aksyns, 2014 (Wet No. 32 van 2014), 55 word hierby deur die volgende artikel vervang:

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"Special provisions relating to [Advance Passenger Information] passenger data

7A. (1) In this section and the rules thereto, unless the context indicates

["Advance Passenger Information" means an electronic message, including any updated or revised version thereof, transmitted to the Commissioner by an operator within the periods and containing the particulars the Commissioner may prescribe by rule;]

"Advance Passenger Information" or "API" means information, including personal information in relation to a passenger, recorded by 10 means of automated scanning of the machine readable zone of that passenger's travel document during the passenger check-in process at the place of entry or exit, contemplated in subsection (2)(b)(i);

["airline" means any air transport enterprise offering or operating an international air passenger service to and from the Republic;] 15

"conveyance" means a conveyance as may be prescribed by rule in terms of subsection (8)(aA);

"operator" means the person having the management of [an aircraft at any time, and includes any airline or the person who owns or hires such aircraft or in whose name the aircraft is registered in terms of the 20 regulations made under the Aviation Act, 1962 (Act No. 74 of 1962)] a conveyance, carrying on business by transporting goods or passengers to and from the Republic for reward;

["operator system information" means any information an operator keeps electronically relating to—

- (a) any flights scheduled by the operator (including information about schedules, aircraft arrival and departure terminals and routes):
- (b) persons taking, or proposing to take, any flights scheduled by the operator:
- (c) baggage, cargo or anything else carried, or proposed to be carried, on any flights scheduled by the operator and the tracking and handling of those things;]

"passenger" means a person arriving on [an aircraft] a conveyance from a place outside the Republic or departing on [an aircraft] a conveyance to 35 a place outside the Republic and includes, unless the context otherwise indicates, a crew member[.];

"passenger data" means an electronic message, including any updated or revised version thereof, in respect of Advance Passenger Information (API) or Passenger Name Record (PNR) information, transmitted to the Commissioner by an operator or an organ of state in circumstances contemplated in subsection (7A);

"Passenger Name Record" or "PNR" means information, including personal information, recorded by an operator in relation to a passenger, concerning each booking made by or on behalf of a passenger on the reservation system of the operator, contemplated in subsection (2)(b)(ii);

"personal information" has the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

(2) (a) The operator of any [aircraft referred to in section 7(1) or (3)] 50 conveyance arriving in or departing from the Republic shall, unless exempted in circumstances contemplated in subsection (7A), transmit electronically [Advance Passenger Information] passenger data to the Commissioner which may be used by the Commissioner for the purposes

[(a)](i) facilitating the processing of passengers arriving or departing on such [aircraft] conveyance;

[(b)](ii) preventing, detecting, investigating or punishing any offences committed under this Act or any other law by such passengers;

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"Spesiale bepalings met betrekking tot [Voorpassassiersinligting] passasiersdata

7A. (1) In hierdie artikel en die reëls daarby, tensy uit die samehang anders blyk, beteken—

["lugredery" 'n lugvervoeronderneming wat 'n internasionale 5 passassierslugdiens na en van die Republiek aanbied of onderneem;]
["ondernemer"] "operateur" die persoon wat [te enige tyd] die bestuur van 'n vervoermiddel [lugvaartuig] behartig[, en ook 'n lugredery of die persoon wat sodanige lugvoertuig besit of huur of in wie se naam die lugvaartuig ingevolge die regulasies uitgevaardig kragtens die 10 Lugvaartwet, 1962 (Wet No. 74 van 1962), geregistreer is], wat besigheid doen deur goedere of passasiers teen vergoeding na en vanaf die Republiek te vervoer:

["ondernemer-stelselinligting" enige inligting wat elektronies deur 'n ondernemer gehou word met betrekking tot—

- (a) enige vlugte geskeduleer deur die ondernemer (met inbegrip van inligting omtrent skedules, lugvaartuigaankoms- en -vertrekterminale en roetes);
- (b) persone wat vlugte deur die ondernemer geskeduleer neem of voornemens is om dit te neem;
- (c) bagasie, vrag of enigiets anders vervoer, of waarvan die voorneme is om dit te vervoer, op enige vlugte deur die ondernemer geskeduleer en die opsporing en hantering van daardie dinge;]

"passasier" 'n persoon wat aankom op 'n [lugvaartuig] vervoermiddel van 'n plek buite die Republiek of vertrek op 'n [lugvaartuig] vervoermiddel na 'n plek buite die Republiek en sluit, tensy uit die samehang anders blyk, 'n bemanningslid in;

"Passasier Naam Rekord" of "PNR" inligting beoog in subartikel (2)(b)(ii), met inbegrip van persoonlike inligting, wat deur 'n operateur met betrekking tot 'n passasier versamel word aangaande elke bespreking wat deur of namens die passasier op die besprekingstelsel van die operateur gedoen word: en

"passasiersdata" 'n elektroniese boodskap, met inbegrip van enige opgedateerde of hersiene weergawe daarvan, ten opsigte van Vooraf-Passasiersinligting (VPI) of Passasier Naam Rekord (PNR) inligting, aan die Kommissaris deur 'n operateur of 'n staatsorgaan in omstandighede bedoel in subartikel (7A), versend;

"persoonlike inligting" dieselfde as die betekenis in artikel 1 van die Wet op die Beskerming van Persoonlike Inligting, 2013 (Wet No. 4 van 2013), daaraan geheg;

"vervoermiddel" 'n vervoermiddel ingevolge subartikel (8)(aA) voorgeskryf; en

"Vooraf-Passasiersinligting" of "VPI" inligting beoog in subartikel (2)(b)(i), met inbegrip van persoonlike inligting ten opsigte van 'n passasier, wat deur middel van die geoutomatieseerde skandering van die masjien leesbare gedeelte van daardie passasier se reisdokument gedurende die passasiersinboekproses by die plek van toegang of uitgang versamel word.

["Voorpassassiersinligting" 'n elektroniese boodskap, met inbegrip van enige opgedateerde of hersiene weergawe daarvan, aan die 50 Kommissaris deur 'n ondernemer versend binne die tydperke en wat die besonderhede bevat wat die Kommissaris by reël voorskryf.]

(2) (a) Die [ondernemer] operateur van enige [lugvaartuig in artikel 7(1) of (3) bedoel] vervoermiddel wat aankom in of vertrek uit die Republiek moet, tensy daardie operateur in omstandighede bedoel in subartikel (7A), vrygestel is, elektronies [Voorpassassiersinligting] passasiersdata aan die Kommissaris versend wat deur die Kommissaris gebruik kan word vir die doel om—

[(a)](i) die prosesseer van passasiers wat op so 'n [lugvaartuig] vervoermiddel aankom of vertrek te fasiliteer;

[(b)](ii) die pleging van misdrywe kragtens hierdie Wet of enige ander wet deur sodanige passasiers te voorkom, op te spoor, te ondersoek en te straf;

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		cilitating any border security measures at [an international	
[(d)]	<u>(iv)</u> pı	rport] a place of entry or exit; or rotecting the health and safety of passengers and members of the	
/1		ıblic.	_
		purposes of paragraph (a), passenger data comprising—	5
(1)		nce Passenger Information, consists of information as may be mined by the Commissioner by rule and which relates to—the relevant passenger's personal details;	
	(bb)	that passenger's travel document;	
	(cc)	the relevant flight, voyage or journey as may be applicable; and	10
		any other relevant matter; and	
(ii)	Passe	nger Name Record information, consists of information as may	
	be de	termined by the Commissioner by rule and which relates to—	
	(aa)	the relevant passenger's personal details;	
	(bb)	the passenger's travel document;	15
	(cc)	the passenger's booking;	
	(dd)	the reservation date, travel dates and any amendment thereof;	
	(ee)	the travel agent used;	
	(ff)	the issuing of the ticket and details relating to the ticket booked;	
		the payment method;	20
	(hh)	the passenger's itinerary;	
	(ii)	check-in details;	
		baggage details; and	
		any other relevant matter.	
		[Advance Passenger Information] collection and processing of	25
		data comprising personal information shall be subject to	
		e with section 101B.	
		operator shall [communicate Advance Passenger Information]	
		assenger data within the periods the Commissioner may prescribe	20
by r		A	30
		An operator of an aircraft contemplated in subsection (2),	
	app		
ODII	~~4:~~	y to the Commissioner for an extension regarding the	
40 41		to communicate electronically Passenger Information data	
	he Co	to communicate electronically Passenger Information data mmissioner if—	35
to tl	he Coi such	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner—	35
	he Coi such	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section	35
	ne Con such (aa)	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section comes into operation; or	35
	he Coi such	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section comes into operation; or if the first flight to or from the Republic is after that date,	35
(i)	such (aa) (bb)	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section comes into operation; or if the first flight to or from the Republic is after that date, within one month from the date of such flight;	
	he Consuch (aa) (bb) the	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section comes into operation; or if the first flight to or from the Republic is after that date, within one month from the date of such flight; operator shows good cause as to why the extension is	
(i) (ii)	the Consuch (aa)	to communicate electronically Passenger Information data mmissioner if— an application is delivered to the Commissioner— within a period of one month from the date this section comes into operation; or if the first flight to or from the Republic is after that date, within one month from the date of such flight; operator shows good cause as to why the extension is issary;	
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- 33 [(c)](iii) [op 'n internasionale lughawe] by die plek van toegang of uitgang enige grens-sekuriteitsmaatreëls te fasiliteer; of [(d)](iv) die gesondheid en veiligheid van passasiers en lede van die publiek te beskerm. (b) Vir doeleindes van paragraaf (a)— 5 (i) bestaan Vooraf-passasiersinligting uit inligting, by reël deur die Kommissaris bepaal, betreffende— (aa) die betrokke passasier se persoonlike besonderhede; (bb) die passasier se reisdokument; (cc) die betrokke vlug, seereis of reis, na gelang van die geval; en 10 (dd) enige ander relevante aangeleentheid; en (ii) bestaan Passasier Naam Rekord-inligting uit inligting, by reël deur die Kommissaris bepaal, betreffende-(aa) die betrokke passasier se persoonlike besonderhede; (bb) die passasier se reisdokument; 15 die passasier se bespreking; (dd) die besprekingsdatum, reisdatums asook enige wysiging daarvan: (ee) die reisagentskap waarvan gebuik gemaak is; (ff)die uitreik van die kaartjie en besondehede betreffende die 20 bespreking; (gg) die betalingsmetode; (hh) die passasier se reisplan; (ii) inboek besonderhede; 25 (jj)bagasiebesonderhede; en enige ander relevante aangeleetheid. (3) Enige [Voorpassassiersinligting] versameling en prosessering van passasiersdata wat persoonlike inligting behels, is onderhewig aan die nakoming van artikel 101B. (4) Die [ondernemer] operateur moet [Voorpassassiersinligting 30 kommunikeer] passasiersdata versend binne die tydperke wat die Kommissaris by reël voorskryf. [(5) (a) 'n Ondernemer van 'n lugvaartuig in subartikel (2) beoog, kan by die Kommissaris aansoek doen om uitstel aangaande die verpligting om elektronies Voorpassassiersinligting aan die 35 Kommissaris te kommunikeer, indien-(i) sodanige aansoek aan die Kommissaris afgelewer wordbinne 'n tydperk van een maand vanaf die datum waarop hierdie artikel in werking tree; of indien die eerste vlug na of van die Republiek na daardie 40 datum is, binne een maand vanaf die datum van sodanige vlug; (ii) die ondernemer goeie gronde aantoon waarom die uitstel nodig is; die ondernemer demonstreer wanneer hy of sy in staat sal wees om 45 aan hierdie artikel te voldoen; en die ondernemer voldoen aan die voorwaardes en tussentydse maatreëls wat die Kommissaris stel. (b) 'n Ondernemer aan wie uitstel verleen is soos in paragraaf (a) beoog, moet beamptes met deurlopende toegang tot daardie ondernemer se stelselinligting vir die duur van die uitstel, voorsien.] (6) Niks in hierdie artikelhet enige uitwerking op enige bestaande verpligting kragtens hierdie Wet opgelê op 'n persoon om die aankoms of vertrek van 'n [lugvaartuig] vervoermiddel (hetsy geskeduleer of werklik) en enige goedere vervoer op, of passasiers wat reis op, sodanige [lugvaartuig] 55 vervoermiddel, te rapporteer of te verklaar nie; of beperk of wysig enige bevoegdheid wat aan beamptes kragtens hierdie Wet verleen word nie. (7) Enige persoon watdeur hierdie artikel verplig word om [Voorpassassiersinligting in te 60

dien] passasiersdata te versend en versuim om dit [in te dien] te doen ten opsigte van 'n vlug, vaart of reis, na gelang van die geval, of 'n

passasier op daardie vlug, vaart of reis;

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(b)	dishonestly or fraudulently prepares, transmits or alters any [Advance
	Passenger Information] passenger data; or

- (c) is a passenger and furnishes [passenger] information to be used as passenger data which he or she knows is false in a material respect, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (7A) An operator is exempt from transmitting passenger data to the Commissioner directly in circumstances where—
- (a) the operator has submitted the passenger data contemplated in subsection (2)(b) to an organ of state indicated in rules prescribed under subsection (8)(aB); and
- (b) that organ of state transmits such data to SARS in terms of an agreement contemplated in section 2(1A).
 - (8) The Commissioner may make rules as to—
- (a) [as to] all matters required or permitted by this section to be prescribed by rule; [and]
- (aA) the type of conveyances in respect of which transmission of passenger data is required as well as any particular requirements as may be necessary for different conveyances;
- (aB) the exemption of operators, as contemplated in subsection (7A), in circumstances where another organ of state serves as the single entry point for submission of passenger data required to fulfil regulatory requirements regarding the entry or exit of passengers in terms of legislation administered by various organs of state in order to avoid repeated submission of the same information; and
- (b) in respect of any other matter which the Commissioner may consider reasonably necessary and useful for the efficient and effective administration of the provisions contained in this section.".
- (2) Subsection (1) comes into effect on a date to be determined by the Minister by 30 notice in the Government *Gazette*.

Amendment of section 15 of Act 91 of 1964, as amended by section 2 of Act 98 of 1970, section 2 of Act 89 of 1984, section 4 of Act 101 of 1985, section 12 of Act 59 of 1990, section 20 of Act 34 of 2004 and section 29 of Act 61 of 2008 and repealed by section 4 of Act 32 of 2014

- **18.** (1) Section 15 of the Customs and Excise Act, 1964, pending its repeal by the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), is hereby amended by the substitution for subsection (1) of the following subsection:
 - "(1) Any person about to travel to or travelling to or from the Republic [entering or leaving], except a category of persons as may be excluded by rule, shall, prior to or upon entering or leaving the Republic [shall], make a traveller declaration in accordance with such requirements as prescribed by the Commissioner by rule [in such a manner as the Commissioner may determine], and shall unreservedly declare—
 - (a) [at the time of such entering,] all goods (including goods of another 45 person), which are upon his <u>or her</u> person or in his <u>or her</u> possession when entering the Republic, and which—
 - (i) were purchased or otherwise acquired abroad or on any ship, vehicle or in any shop selling goods on which duty has not been paid:
 - (ii) were remodelled, processed or repaired abroad;
 - (iii) are prohibited, restricted or controlled under any law; [or]
 - (iiiA) consist of foreign or local currency or bearer negotiable instruments in excess of a threshold prescribed in terms of section 30 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); or
 - (iv) were required to be declared before leaving the Republic as contemplated in paragraph (b)[.]; or

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- (b) oneerlik of bedrieglik enige [Voorpassassiersinligting] passasiersdata voorberei, versend of verander; of
- (c) 'n passasier is en [passassiers]inligting verskaf wat hy of sy weet in 'n wesenlike opsig vals is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf van hoogstens vyf jaar of met sowel 'n boete as sodanige gevangenisstraf.

- (7A) 'n Operateur is vrygestel van die regstreekse versending van passasiersdata aan die Kommissaris in omstandighede waar—
- (a) die operateur die passasiersdata in subartikel (2)(b) beoog aan 'n staatsorgaan in die reëls kragtens subartikel (8)(aB) aangedui, voorgelê het; en
- (b) daardie staatsorgaan sodanige data ingevolge 'n ooreenkoms in artikel 2(1A) bedoel, aan SAID versend het.
 - (8) Die Kommissaris kan reëls uitvaardig <u>aangaande</u>—
- (a) [aangaande] alle aangeleenthede wat ingevolge hierdie artikel by reël voorgeskryf moet of kan word;
- (aA) die tipe vervoermiddels ten opsigte waarvan die versending van passasiersdata vereis word, asook enige besondere vereistes wat nodig is vir verskillende vervoermiddels;
- (aB) die uitsluiting van operateurs in subartikel (7A) beoog in omstandighede waar 'n ander staatsorgaan wat, ten einde herhaalde voorlegging van dieselfde inligting te vermy, as die enigste indieningspunt dien vir passasiersdata wat vereis word vir nakoming van regulatoriese voorskrifte rakende die ingang of uitgang van passasiers ingevolge wetgewing wat deur ander betrokke staatsorgane toegepas word; en
- (b) ten opsigte van enige ander aangeleentheid wat die Kommissaris redelikerwys nodig of nuttig ag om die doeltreffende en effektiewe administrasie van die bepalings in hierdie artikel vervat, te 30 bewerkstellig.".
- (2) Subartikel (1) tree in werking op 'n datum deur die Minister deur kennisgewing in die *Staatskoerant* bepaal.

Wysiging van artikel 15 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 98 van 1970, artikel 2 van Wet 89 van 1984, artikel 4 van Wet 101 van 1985, artikel 35 12 van Wet 59 van 1990, artikel 20 van Wet 34 van 2004, artikel 29 van Wet 61 van 2008 en herroep deur artikel 4 van Wet 32 van 2014

- **18.** (1) Artikel 15 van die Doeane- en Aksynswet, 1964, hangende die herroeping daarvan deur die Wysigingswet op Doeane en Aksyns, 2014 (Wet No. 32 van 2014), word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
 - "(1) Iemand wat <u>na</u> of vanaf die Republiek <u>reis</u> of wat op die punt staan om dit te doen[**binnekom** of verlaat], behalwe 'n kategorie van persone wat by reël uitgesluit word, moet voor of by binnekoms of verlating van die Republiek op die wyse wat die Kommissaris by reël bepaal 'n reisigersverklaring voorlê wat aan die vereistes deur die Kommissaris by reël voorgeskryf, voldoen en moet sonder voorbehoud—
 - (a) **[ten tyde van sodanige binnekoms,]** alle goedere (met inbegrip van goedere van 'n ander persoon) by binnekoms van die Republiek aan sy of haar persoon of in sy of haar besit verklaar wat—
 - (i) in die buiteland aangekoop of andersins verkry is of op enige 50 skip, voertuig of in enige winkel wat goedere verkoop waarop reg nie betaal is nie;
 - (ii) in die buiteland hermodelleer, verwerk of herstel is;
 - (iii) kragtens enige wet verbied, beperk of beheer word; [of]
 - (iiiA) uit buitelandse of plaaslike valuta of toonder verhandelbare instrumente bestaan wat 'n drempelwaarde ingevolge artikel 30 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001) voorgeskyf, oorskry; of
 - (iv) wat voor vertrek uit die Republiek soos in paragraaf (b) bedoel, verklaar moes word[.]; of

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- (b) [before leaving,] all goods which he or she proposes taking with him or her beyond the borders of the Republic when leaving the Republic, including goods which [are]—
 - (i) are carried on behalf of another person;
 - (ii) are intended for remodel, process or repair abroad;
 - (iii) are prohibited, restricted or controlled under any law; [or]
 - (iiiA) consist of foreign or local currency or bearer negotiable instruments in excess of a threshold prescribed in terms of section 30 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); or
 - (iv) $\frac{\text{are goods}}{\text{was}}$ which a person who temporarily entered the Republic was required to declare upon entering the Republic as contemplated in paragraph (a)(iv)[.],

and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him <u>or her</u> by such officer and, if required by such officer to do so, produce and open such goods <u>in his or her possession</u> for inspection by the said officer, and shall pay the duty <u>that may be payable</u> [assessed] <u>on any goods</u> [by such officer, if any, to the Controller] <u>in the manner that may be prescribed by rule."

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(2) Subsection (1) comes into effect on a date to be determined by the Minister by notice in the Government *Gazette*.

Amendment of section 39 of Act 91 of 1964, as amended by section 1 of Act 85 of 1968, section 14 of Act 105 of 1969, section 1 of Act 93 of 1978, section 4 of Act 110 of 1979, sections 8 and 15 of Act 98 of 1980, section 10 of Act 84 of 1987, section 3 25 of Act 69 of 1988, section 19 of Act 59 of 1990, section 29 of Act 45 of 1995, section 27 of Act 32 of 2014 and section 10 of Act 16 of 2022

- **19.** (1) Section 39 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (1) for paragraph (*b*) of the following paragraph:
 - "(b) At the same time the said person shall deliver such duplicates of the bill of an entry as may be prescribed or as may be required by the Controller and shall pay all duties due on the goods: Provided that the Commissioner may, on such conditions, including conditions relating to security, as may be determined by [him] rule, allow the deferment of payment of duties due in respect of such relevant bills of entry and for such periods as [he] may [specify] be prescribed.".
- (2) Subsection (1) comes into effect on a date to be determined by the Minister by notice in the Government *Gazette*.

Amendment of section 76 of Act 91 of 1964, as amended by section 9 of Act 85 of 1968, section 5 of Act 98 of 1970, section 10 of Act 71 of 1975, section 11 of Act 110 of 1979, section 20 of Act 86 of 1982, section 5 of Act 89 of 1983, section 24 of Act 84 of 1987, section 14 of Act 68 of 1989, section 30 of Act 59 of 1990, section 5 of Act 105 of 1992, section 54 of Act 45 of 1995, section 28 of Act 34 of 2004, section 65 of Act 32 of 2014, section 17 of Act 33 of 2019, section 59 of Act 23 of 2020 and section 62 of Act 30 of 2020

- **20.** (1) Section 76 of the Customs and Excise Act, 1964, is hereby amended—
 - (a) by the insertion in subsection (2) after paragraph (e) of the following paragraph:
 - "(eA)the return of security contemplated in section 107(2)(a) lodged on a bill of entry by the applicant in the form of a provisional payment;"; and
 - (b) by the substitution in subsection (2) for paragraph (g) of the following paragraph:
 - "(g) the duty having been reduced or withdrawn as provided for in section 48(2), (2A) or (4), 56(2), 56A(2), [or] 57(2) or 57A(4) or (5); or".
- (2) Subsection (1) comes into effect on a date to be determined by the Minister by notice in the Government *Gazette*.

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- (b) [voor vertrek,] alle goedere wat hy of sy voornemens is om by verlating van die Republiek saam met hom of haar oor die grense van die Republiek te neem, verklaar, met inbegrip van goedere wat-
 - (i) ten behoewe van 'n ander persoon gedra word;
 - (ii) vir hermodelleer, verwerk of herstel in die buiteland bedoel is;
 - (iii) kragtens enige wet verbied, beperk of beheer word; [of]
 - (iiiA) uit buitelandse of plaaslike valuta of toonder verhandelbare instrumente bestaan wat 'n drempelwaarde ingevolge artikel 30 van die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001) voorgeskyf, oorskry; of
 - (iv) goedere is wat 'n persoon wat die Republiek tydelik binnegekom het by binnekoms in die Republiek moes verklaar het soos in paragraaf (a) (iv) beoog[.],

[sonder voorbehoud verklaar,] en moet volledige besonderhede daaromtrent aan 'n beampte verstrek, volledig en na waarheid antwoord op alle vrae deur die 15 beampte aan hom of haar gestel en, indien hy of sy deur die beampte versoek word om dit te doen, sodanige goedere in sy of haar besit vir ondersoek deur bedoelde beampte voorlê en oopmaak, en moet die reg wat op enige goedere betaalbaar mag wees[deur die beampte aangeslaan, as daar is], op die manier by reël voorgeskryf, aan die Kontroleur betaal.".

(2) Subartikel (1) tree in werking op 'n datum deur die Minister by kennisgewing in die Staatskoerant bepaal.

Wysiging van artikel 39 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 85 van 1968, artikel 14 van Wet 105 van 1969, artikel 1 van Wet 93 van 1978, artikel 4 van Wet 110 van 1979, artikels 8 and 15 van Wet 98 van 1980, artikel 10 van Wet 25 84 van 1987, artikel 3 van Wet 69 van 1988, artikel 19 van Wet 59 van 1990, artikel 29 van Wet 45 van 1995, artikel 27 van Wet 32 van 2014 en artikel 10 van Wet 16 van 2022

19. (1) Artikel 39 van die Doeane- en Aksynswet, 1964, word hierby gewysig deur paragraaf (b) van subartikel (1) van deur die volgende paragraaf te vervang:

"(b) Bedoelde persoon moet terselfdertyd die duplikate van die klaringsbrief wat voorgeskryf word of deur die Kontroleur vereis word, voorlê en alle verskuldigde regte op die goedere betaal: Met dien verstande dat die Kommissaris op sodanige voorwaardes, met inbegrip van voorwaardes met betrekking tot sekuriteit, [deur hom] by reël bepaal, uitstel van betaling van regte verskuldig, kan 35 toelaat met betrekking tot die tersaaklike klaringsbriewe en vir die tydperke wat [hy vermeld] voorgeskryf word.".

(2) Subartikel (1) tree in werking op 'n datum deur die Minister by kennisgewing in die Staatskoerant bepaal.

Wysiging van artikel 76 van Wet 91 van 1964, soos gewysig deur artikel 9 van Wet 40 85 van 1968, artikel 5 van Wet 98 van 1970, artikel 10 van Wet 71 van 1975, artikel 11 van Wet 110 van 1979, artikel 20 van Wet 86 van 1982, artikel 5 van Wet 89 van 1983, artikel 24 van Wet 84 van 1987, artikel 14 van Wet 68 van 1989, artikel 30 van Wet 59 van 1990, artikel 5 van Wet 105 van 1992, artikel 54 van Wet 45 van 1995, artikel 28 van Wet 34 van 2004, artikel 65 van Wet 32 van 2014, artikel 17 van Wet 45 33 van 2019, artikel 59 van Wet 23 van 2020 en artikel 62 van Wet 30 van 2020

- 20. (1) Artikel 76 van die Doeane- en Aksynswet, 1964, word hierby gewysig—
 - (a) deur in subartikel (2) die volgende paragraaf na paragraaf (e) in te voeg:
 - "(eA)die teruggawe van sekuriteit in artikel 107(2)(a) beoog wat deur die aansoeker in die vorm van 'n voorlopige betaling op 'n 50 klaringsbrief verskaf is;"; en
 - (b) deur in subartikel (2) paragraaf (g) deur die volgende paragraaf te vervang: "(g) dat die reg verminder of ingetrek is soos bepaal in artikel 48(2) of (2A), 56(2), 56A(2), **[of]** 57(2) of 57A(4) of (5); of".
- (2) Subartikel (1) tree in werking op 'n datum deur die Minister by kennisgewing in 55 die Staatskoerant bepaal.

Act No. 18 of 2023

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Amendment of section 101B of Act 91 of 1964, as inserted by section 38 of Act 61 of 2008, amended by section 17 of Act 44 of 2014 and repealed by section 77 of Act 32 of 2014

21. Section 101B of the Customs and Excise Act, 1964, pending its repeal by the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), is hereby amended by the substitution for the definition of "personal information" of the following definition: ""personal information" [means information relating to an identified or identifiable natural person and where it is applicable an identified or identifiable juristic person as determined by the Commissioner] has the meaning assigned to it in section 1 of the Protection of Personal Information Act,

2013 (Act No. 4 of 2013);".

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 35 of Act 84 of 1987, section 39 of Act 59 of 1990, section 11 of Act 19 of 1994, section 73 of Act 45 of 1995, section 74 of Act 30 of 1998, section 35 of Act 21 of 2006, section 24 of Act 36 of 2007, section 40 of Act 61 of 2008, section 86 15 of Act 32 of 2014, section 18 of Act 33 of 2019 and section 22 of Act 16 of 2022

22. (1) Section 120 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the insertion in subsection (1) after paragraph (c) of the following paragraph:

"(cA) as to matters relating to the traveller declaration contemplated in section 15, including rules relating to—

- (i) the information to be reflected in a traveller declaration, including information regarding personal details, travelling details, a disclosure of whether the traveller has goods contemplated in section 15(1)(a) or (b) upon his or her person or in his or her possession upon entering or leaving the Republic, and any other relevant information required;
- (ii) the requirements for submission of traveller declarations, including the manner, format and time of submission: Provided that different requirements may be prescribed in respect of different modes of transport by air, sea, rail or land:
- (iii) assistance to be provided to travellers in relation to the submission of traveller declarations at places of entry or exit and the circumstances in which such assistance will be provided;
- (iv) procedures, subsequent to the submission of traveller declarations, to inform travellers of how to proceed when entering the area where travellers are customs processed at the relevant place of entry or exit;
- (v) the information to be declared in relation to goods contemplated in section 15(1)(a) or (b) which were disclosed in a traveller declaration;
- (vi) the entry of the following goods in the accompanied or unaccompanied baggage of a traveller that are imported into or exported from the Republic:
 - (aa) Commercial goods for trade or other business purposes; and
 - (bb) goods exceeding the duty free allowance contemplated in rebate item 407.02 of Schedule No. 4;
- (vii) the payment of any duties payable, including the method of payment; and
- (viii) measures to assist in combating illicit financial activity amongst travellers to and from the Republic through the processing of traveller declarations, including the sharing of information as contemplated in paragraph (vii) of the proviso to section 4(3);";

Wysiging van artikel 101B van Wet 91 van 1964, soos ingevoeg deur artikel 38 van Wet 61 van 2008, gewysig deur artikel 17 van Wet 44 van 2014 en herroep deur artikel 77 van Wet 32 van 2014

21. Artikel 101B van die Doeane- en Aksysnwet, 1964, hangende die herroeping daarvan deur die Wysigingswet op Doeane en Aksyns, 2014 (Wet No. 32 van 2014), word hierby gewysig deur die woordomskrywing van "persoonlike inligting" deur die volgende woordomskrywing te vervang:

"' 'persoonlike inligting' [beteken inligting betreffende 'n geïdentifiseerde of identifiseerbare natuurlike persoon en waar dit toepaslik is 'n geïdentifiseerde of identifiseerbare regspersoon soos deur die Kommissaris bepaal] het die 10 betekenis wat in artikel 1 van die Wet op Beskerming van Persoonlike Inligting, 2013 (Wet No. 4 van 2013) daaraan geheg word;".

Wysiging van artikel 120 van Wet 91 van 1964, soos gewysig deur artikel 36 van Wet 105 van 1969, artikel 35 van Wet 84 van 1987, artikel 39 van Wet 59 van 1990, artikel 11 van Wet 19 van 1994, artikel 73 van Wet 45 van 1995, artikel 74 van Wet 30 van 1998, artikel 35 van Wet 21 van 2006, artikel 24 van Wet 36 van 2007, artikel 40 van Wet 61 van 2008, artikel 86 van Wet 32 van 2014, artikel 18 van Wet 33 van 2019 en artikel 22 van Wet 16 van 2022

22. (1) Artikel 120 van die Doeane- en Aksynswet, 1964, word hierby gewysig—

20 (a) deur in subartikel (1) die volgende paragraaf na paragraaf (c) in te voeg: "(cA) aangaande aangeleenthede wat betrekking het op die

reisigersverklaring in artikel 15 beoog, met inbegrip vandie inligting wat op 'n reisigersverklaring aangedui moet word, insluitend inligting rakende persoonlike besonderhede, reisbesondehede, 'n openbaarmaking van of die reisiger by binnekoms of verlating van die Republiek goedere in artikel 15(1)(a) of (b) bedoel aan sy of haar persoon of in sy of haar besit het, aldan nie, asook enige

ander tersaaklike inligting wat vereis word;

die vereistes vir die indiening van reisigersverklarings, met inbegrip van die wyse, formaat en tydstip van indiening: Met dien verstande dat verskillede vereistes voorgeskryf mag wod ten opsigte van verskillende wyses van vervoer per lug, see, spoor of land;

bystand wat by plekke van toegang of uitgang aan reisigers met betrekking tot die indiening van reisigersverklarings veleen staan te word, asook die omstandighede waarin sodanige bystand verleen sal word;

prosedures, wat op die indiening van reisigersverklarings volg, om reisigers in kennis te stel van verdere stappe by aankoms by die doeane-prosesseerarea vir reisigers by die betrokke plek van toegang of uitgang;

(v) die inligting wat verklaar moet word met betrekking tot goedere in artikel 15(1)(a) of (b) bedoel, wat in 'n reisigersverklaring openbaar is;

die klaring van die volgende goedere in die vergeselde of onvergeselde bagasie van 'n reisiger wat ingevoer word in, of uitgevoer word uit, die Republiek:

(aa) Kommersiële goedere handel vir of ander besigheidsdoeleindes; en

(bb) goedere wat die belastingvrye toelaes in kortingitem 407.02 van Bylae No. 4 oorskry;

die betaling van enige reg betaalbaar, met inbegrip van die (vii) wyse van betaling; en

(viii) maatreëls vir die verlening van bystand met die bestryding van onwettige finansiële aktiwiteite onder reisigers na en vanaf die Republiek deur die prosessering van reisigersverklarings, met insluiting van die deel van inligting soos beoog in paragraaf (vii) van die voorbehoudsbepaling tot atikel 4(3);";

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Act No. 18 of 2023

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- (b) by the insertion in subsection (1) after paragraph (e) of the following paragraph: "(eA)
- as to matters relating to the deferment of payment of duties contemplated in section 39(1)(b), including rules relating to—
 - (i) the circumstances in which application may be made for approval of deferment of duty as contemplated in section 39(1)(b);
 - (ii) the persons who may apply or submit such applications;
 - (iii) the requirements for such applications and the documents to be used in support of such applications;
 - (iv) the conditions on which a deferment of duty may be allowed, including security;
 - (v) requirements relating to deferment accounts and payment of such accounts, including deferment limits and payment dates:
 - (vi) the utilisation by a clearing agent of the deferment account of an importer;
 - (vii) requests for amendment in relation to security required, deferment limits or deferment payment dates; and
 - (viii) the suspension or cancellation of deferment."; and
- (c) by the substitution in subsection (1) for paragraph (mA) of the following paragraph:"(mA)
- as to matters relating to security, including rules relating to the 25 circumstances in which—
 - the liquidation of security in the form of a provisional payment may be initiated by the Commissioner, and the requirements and procedures for such initiation; and
 - (ii) security in the form of a provisional payment may accrue to the National Revenue Fund and the procedures for such accrual, which may include circumstances where the provisional payment remained unliquidated for a prescribed period;".
- (2) The respective amendments in subsection (1) come into effect as follows:
 - (a) Paragraph (a), on the date determined by the Minister in terms of section 18 of this Act:
 - (b) paragraph (b), on the date determined by the Minister in terms of section 19 of this Act; and
 - (c) paragraph (c), on the date determined by the Minister in terms of section 20 of 40

Amendment of section 45 of Act 89 of 1991, as amended by section 33 of Act 136 of 1992, section 4 of Act 61 of 1993, section 19 of Act 140 of 1993, section 24 of Act 20 of 1994, section 33 of Act 37 of 1996, section 43 of Act 27 of 1997, section 101 of Act 30 of 1998, section 169 of Act 60 of 2001 and section 44 of Act 61 of 2008

- 23. Section 45 of the Value-Added Tax Act, 1991, is hereby amended—
 - (a) by the substitution in subsection (1) for the words that precede the proviso of the following words:
 - "Where the Commissioner does not within the period of 21 business days after the date on which the vendor's return in respect of a tax period 50 is received by an office of the South African Revenue Service refund any amount refundable in terms of section 44[(1)], interest shall be paid on such amount at the prescribed rate (but subject to the provisions of section 45A) and calculated for the period commencing at the end of the first-mentioned period to the date of payment of the amount so 55 refundable:"; and

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- (b) deur in subartikel (1) die volgende paragraaf na paragraaf (e) in te voeg: "(eA) aangaande aangeleenthede wat betrekking het op die uitstel van
 - betaling van reg in artikel 39(1)(b) beoog, met inbegrip van reëls rakende—
 - (i) die omstandighede waarin aansoek gedoen kan word vir goedkeuring van die uitstel van reg in artikel 39(1)(b) beoog;
 - (ii) die persone wat aansoek kan doen of sodanige aansoeke kan indien:
 - (iii) die vereistes vir sodanige aansoeke en die dokumente wat gebruik word ter ondersteuning van sodanige aansoeke;
 - (iv) die voorwaardes waarop 'n uitstel van reg toeggestaan word, met inbegrip van sekuriteit;
 - (v) die vereistes met betrekking tot betalingsuitstelrekeninge en die betaling van sodanige rekeninge, met inbegrip van uitstellimiete en betalingsdatums;
 - (vi) die gebruik deur 'n klaringsagent van 'n invoerder se betalingsuitstelrekening;
 - (vii) versoeke om wysiging ten opsigte van sekuriteit wat vereis is, uitstellimiete of uitstel betalingsdatums; en
 - (viii) die opskorting of kansellering van uitstel van reg."; en
- (c) deur paragraaf (mA) in subartikel (1) deur die volgende paragraaf te vervang: "(mA)aangaande [alle] aangeleenthede met betrekking tot [sekerheid] sekuriteit, met inbegrip van reëls wat betrekking het op die omstandighede waarin—
 - die proses van likwidering van sekuriteit in die vorm van 'n voorlopige betaling deur die Kommissaris geïnisieer kan word, en die vereistes en prosedures vir sodanige inisiëring; en
 - (ii) sekuriteit in die vorm van 'n voorlopige betaling die Nasionale Inkomstefonds toeval en die prosedures vir sondanige toevalling, wat omstandighede kan insluit waar die voorlopige betaling vir 'n voorgeskrewe tydperk ongelikwideer bly;".
- (2) Die onderskeie wysigings in subartikel (1) tree as volg in werking:
 - (a) Paragraaf (a), op die datum ingevolge artikel 18 van hierdie Wet deur die Minister bepaal;
 - (b) paragraaf (b), op die datum ingevolge artikel 19 van hierdie Wet deur die Minister bepaal; en
 - (c) paragraaf (c), op die datum ingevolge artikel 20 van hierdie Wet deur die 40 Minister bepaal.

Wysiging van artikel 45 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1992, artikel 4 van Wet 61 van 1993, artikel 19 van Wet 140 van 1993, artikel 24 van Wet 20 van 1994, artikel 33 van Wet 37 van 1996, artikel 43 van Wet 27 van 1997, artikel 101 van Wet 30 van 1998, artikel 169 van Wet 60 van 2001 en 45 artikel 44 van Wet 61 van 2008

- **23.** Artikel 45 van die Wet op Belasting van Toegevoegde Waarde, 1991, word hierby gewysig—
 - (a) deur die woorde wat die voorbehoudsbepaling in subartikel (1) voorafgaan deur die volgende woorde te vervang:

"Waar die Kommissaris nie binne die tydperk van 21 besigheidsdae na die datum waarop 'n ondernemer se opgawe ten opsigte van 'n belastingtydperk deur 'n kantoor van die Suid-Afrikaanse Inkomstediens, ontvang word, 'n terugbetaling maak nie van 'n bedrag wat ingevolge artikel 44[(1)] terugbetaalbaar is, word rente teen die 55 voorgeskrewe koers (maar behoudens die bepalings van artikel 45A) op dié bedrag betaal ten opsigte van die tydperk wat begin onmiddellik na eersbedoelde tydperk tot die datum van betaling van die aldus terugbetaalbare bedrag:"; en

- (b) by the substitution in subsection (1) for paragraph (ii) of the proviso of the following paragraph:
 - "(ii) where the Commissioner is prevented from satisfying himself as to the amount refundable in terms of section 44[(1)] by reason of not being able to gain access to the books and records of the vendor concerned after having, within a reasonable time, made a request by registered post, facsimile transmission, electronic means or personal delivery, to the vendor for access to such books and records during the period of 21 business days contemplated in this subsection, the said period of 21 business 10 days shall be suspended from the date of despatch of such request by registered post, facsimile transmission, electronic means or the date of delivery of the personal delivery, until the date on which such access is granted."

Amendment of section 19 of Act 29 of 2008, as amended by section 38 of Act 8 of 15 2010, section 33 of Act 21 of 2012, section 29 of Act 39 of 2013 and section 46 of Act 16 of 2016

24. Section 19 of the Mineral and Petroleum Resources Royalty (Administration Act), 2008, is hereby amended by the substitution in subsection (1) for paragraph (*c*) of the following paragraph:

"(c) the percentage determined in terms of section 4(1), (1A) and (2) of the Royalty Act;".

Amendment of section 1 of Act 28 of 2011, as amended by section 36 of Act 21 of 2012, section 30 of Act 39 of 2013, section 37 of Act 44 of 2014, section 33 of Act 23 of 2015 and section 47 of Act 16 of 2016

25. Section 1 of the of the Tax Administration Act, 2011, is hereby amended by the insertion in section 1 after the definition of "asset" of the following definition:

" "beneficial owner"—

- (a) of a company, has the meaning assigned to it by section 1 of the Companies Act, 2008 (Act No. 71 of 2008);
- (b) of a partnership, means a natural person who, directly or indirectly, ultimately owns, or exercises effective control of, the partnership, and includes—
 - (i) every partner, including every member of a partnership *en commandite*, an anonymous partnership or any similar partnership;
 - (ii) if a partner in the partnership is a legal person or a natural person acting on behalf of a partnership or in pursuance of the provisions of a trust agreement, the beneficial owner of that legal person, partnership or trust;
 - (iii) the natural person who exercises executive control over the partnership; and
- (c) of a trust, has the meaning assigned to it by section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988).".

Amendment of section 69 of Act 28 of 2011, as amended by section 41 of Act 39 of 2013, section 48 of Act 44 of 2014, section 47 of Act 23 of 2015 and section 53 of Act 45 of 2016

- **26.** Section 69 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (8)(b) for subparagraph (ii) of the following subparagraph:
 - "(ii) [public benefit] organisations approved [for the purposes of] under sections 18A and 30 of the Income Tax Act and the type of approval;". 50

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- (b) deur in subartikel (1) paragraaf (ii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
 - die bedrag terugbetaalbaar ingevolge artikel 44[(1)] omrede hy nie in staat is om toegang te verkry tot die boeke en aantekeninge van die betrokke ondernemer nadat hy, binne 'n redelike tyd, die ondernemer by wyse van geregistreerde pos, faksimileeversending, elektroniese medium of persoonlike aflewering, versoek het om toegang tot daardie boeke en aantekeninge gedurende die tydperk van 21 besigheidsdae beoog in hierdie 10 subartikel, word die bedoelde tydperk van 21 besigheidsdae opgeskort vanaf die datum van versending van daardie versoek by wyse van geregistreerde pos, faksimileeversending, elektroniese medium of die datum van persoonlike aflewering daarvan, tot die datum waarop daardie toegang verleen word;". 15

Wysiging van artikel 19 van Wet 29 van 2008, soos gewysig deur artikel 38 van Wet 8 van 2010, artikel 33 van Wet 21 van 2012, artikel 29 van Wet 39 van 2013 en artikel 46 van Wet 16 van 2016

- **24.** Artikel 19 van die Molao wa Royalithi (Tshepedišo) ya Methopo ya Diminerale le Petroliamo, 2008, word hierby gewysig deur paragraaf (*c*) in subartikel (1) deur die 20 volgende paragraaf te vervang:
 - "(c) persente yeo e laolwago go latela karolo ya 4(1), (1A) le ya (2) tša Molao wa Royalithi;".

Wysiging van artikel 1 van Wet 28 van 2011, soos gewysig deur artikel 36 van Wet 21 van 2012, artikel 30 van Wet 39 van 2013, artikel 37 van Wet 44 van 2014, artikel 25 33 van Wet 23 van 2015 en artikel 47 van Wet 16 van 2016

25. Artikel 1 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die volgende omskrywing in artikel 1 na die omskrywing van "terughoudingsagent" in te voeg:

""uiteindelik geregtigde"—

- (a) van 'n Maatskappy, dra die betekenis aldus aan dit toegeken deur artikel 1 van die Maatskappyewet, 2008 (Wet No. 71 van 2008);
- (b) van 'n vennootskap, beteken 'n natuurlike persoon wat, direk of indirek, uiteindelike besit, of effektiewe beheer uitoefen oor die vennootskap, en sluit in....
 - (i) elke vennoot, ingesluit elke lid van 'n vennootskap *en commandite*, 'n anonieme vennootskap of enige soortgelyke vennootskap;
 - (ii) indien 'n vennoot in die vennootskap 'n regspersoon of 'n natuurlik persoon is wat namens 'n vennootskap optree of ter uitvoering van die bepalings van die trustinstrument, die uiteindelik geregtigde van daardie regspersoon, vennootskap of trust; en
 - (iii) die natuurlike persoon wat uitvoerende beheer oor die vennootskap uitoefen; en
- (c) van 'n trust, dra die betekenis aldus aan dit toegeken deur artikel 1 van die Wet op Beheer van Trustgoed, 1988 (Wet No. 57 van 1988).".

Wysiging van artikel 69 van Wet 28 van 2011, soos gewysig deur artikel 41 van Wet 39 van 2013, artikel 48 van Wet 44 van 2014, artikel 47 van Wet 23 van 2015 en artikel 53 van Wet 16 van 2016

- **26.** Artikel 69 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subparagraaf (ii) in subartikel (8)(b) deur die volgende subparagraaf te vervang:
 - "(ii) [openbare weldaadsorganisasies]organisasies goedgekeur [vir die doeleindes van]ingevolge artikels 18A en 30 van die Inkomstebelastingwet en die tipe goedkeuring;".

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Tax Administration Laws Amendment Act, 2023

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44

Amendment of section 70 of Act 28 of 2011, as amended by section 42 of Act 39 of 2013, section 48 of Act 23 of 2015, section 18 of Act 22 of 2018 and section 25 of Act 24 of 2020

- 27. Section 70 of the Tax Administration Act, 2011, is hereby amended—
 - (a) by the deletion in subsection (3) of the word "and" at the end of paragraph (c);
 - (b) by the deletion in subsection (3) of the full stop at the end of paragraph (d) and insertion of the expression "; and";
 - (c) by the addition in subsection (3) after paragraph (d) of the following paragraphs:
 - "(e) the Companies and Intellectual Property Commission, the 10 information as may be required for the purpose of carrying out the Commission's duties and functions under the Companies Act, 2008 (Act No. 71 of 2008);
 - (f) the Directorate for Nonprofit Organisations, the information as may be required for the purpose of carrying out the Directorate's duties and functions under the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997); and
 - (g) the Master as defined in section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), the information as may be required for the purpose of carrying out the Master's duties and functions under that Act.".

Amendment of section 80 of Act 28 of 2011, as amended by section 57 of Act 21 of 2012

- **28.** Section 80 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (*a*)(iii) of the following paragraph:
 - "(iii) the pricing of goods or services supplied by or rendered to a connected person or associated enterprise, as defined in section 31 of the Income Tax Act, in relation to the 'applicant' or a 'class member';".

Amendment of section 95 of Act 28 of 2011, as amended by section 29 of Act 24 of 2020 and section 19 of Act 21 of 2021

- 29. (1) Section 95 of the Tax Administration Act, 2011, is hereby amended—
 - (a) by the substitution for subsection (6) of the following subsection:
 - "(6) The taxpayer in relation to whom the assessment under subsection (1)(a) or (c) has been issued may, within 40 business days from the date of assessment, or a longer period as the Commissioner may prescribe by public notice, request SARS to make a reduced or additional assessment by submitting a true and full return or the relevant material."; and
 - (b) by the substitution for subsection (8) of the following subsection:
 - "(8) If SARS decides not to make a reduced or additional assessment 40 $\underline{\text{as requested}}$ under subsection (6), the date of the assessment made under $\underline{\text{subsection }}(1)(a)$ or (1)(c), for purposes of Chapter 9, is [**regarded as**] extended to the date of the written notice of the decision."
- (2) Subsection (1)(a) is deemed to have come into operation on 31 July 2023.

Amendment of section 246 of Act 28 of 2011, as amended by section 86 of Act 21 of 45 2012, section 84 of Act 39 of 2013 and section 45 of Act 33 of 2019

- **30.** Section 246 of the Tax Administration Act, 2011, is hereby amended by the addition after subsection (7) of the following subsection:
 - "(8) A person who is disqualified in terms of section 6 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), section 25A of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or section 69 of the Companies Act, 2008 (Act No. 71 of 2008), may not be appointed as a public officer under this section.".

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Wysiging van artikel 70 van Wet 28 van 2011, soos gewysig deur artikel 42 van Wet 39 van 2013, artikel 48 van Wet 23 van 2015, artikel 18 van Wet 22 van 2018 en artikel 25 van Wet 24 van 2020

- 27. Artikel 70 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
 - (a) deur in subartikel (3) die woord "en" aan die einde van paragraaf (c) te skrap;
 - deur in subartikel (3) die punt aan die einde van paragraaf (d) te skrap en die die uitdrukking "; en" in te voeg;
 - (c) deur in subartikel (3) die volgende paragrawe na paragraaf (d) by te voeg:
 - "(e) die Kommissie vir Maatskappye en Intellektuele Eiendom, die inligting soos vereis mag word vir doeleindes van die uitoefening van die Kommissie se verpligtinge en funksies kragtens die Maatskappyewet, 2008 (Wet No. 71 of 2008);
 - die Direktoraat vir Organisasies Sonder Winsoogmerk, die inligting soos vereis mag word vir doeleindes van die uitoefening van die Direktoraat se verpligtinge en funksies kragtens die Wet op | 15 Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997);
 - (g) die Meester soos omskryf in artikel 1 van die Wet op Beheer van Trustgoed, 1988 (Wet No. 57 van 1988), die inligting soos vereis mag word vir doeleindes van die uitoefening van die Meester se 20 verpligtinge en funksies kragtens daardie Wet.".

Wysiging van artikel 80 van Wet 28 van 2011, soos gewysig deur artikel 57 van Wet 21 van 2012

- 28. Artikel 80 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur paragraaf (a)(iii) in subartikel (1) deur die volgende paragraaf te vervang:
 - '(iii) die prysvasstelling van goedere of dienste aan 'n verbonde persoon of geassosieerde onderneming, soos omskryf in artikel 31 van die Inkomstebelastingwet, met betrekking tot die 'aansoeker' of 'n lid van 'n 'klas' voorsien of gelewer;".

Wysiging van artikel 95 van Wet 28 van 2011, soos gewysig deur artikel 29 van Wet 30 24 van 2020 en artikel 19 van Wet 21 van 2021

- 29. (1) Artikel 95 van die Wet op Belastingadministrasie, 2011, word hierby
 - (a) deur subartikel (6) deur die volgende subartikel te vervang:
 - "(6) Die belastingpligtige ten opsigte van wie die aanslag kragtens 35 subartikel (1)(a) of (c) uitgereik is, mag binne 40 besigheidsdae vanaf die datum van aanslag, of 'n langer tydperk soos die Kommissaris deur openbare kennisgewing mag bepaal, SAID versoek om 'n verminderde of addisionele aanslag uit te reik deur 'n korrekte en volledige opgawe of die tersaaklike materiaal, in te dien."; en
 - (b) deur subartikel (8) deur die volgende subartikel te vervang:
 - "(8) Indien SAID besluit om nie 'n verminderde of addisionele aanslag soos versoek kragtens subartikel (6) uit te reik nie, word die datum van die aanslag kragtens subartikel (1)(a) of (c) uitgereik, vir doeleindes van Hoofstuk 9, [geag] uitgestel na die datum van die 45 kennisgewing van die besluit [te wees].".
 - (2) Subartikel (1)(a) word geag op 31 Julie 2023 in werking te getree het.

Wysiging van artikel 246 van Wet 28 van 2011, soos gewysig deur artikel 86 van Wet 21 van 2012, artikel 84 van Wet 39 van 2013 en artikel 45 van Wet 33 van 2019

- 30. Artikel 246 van die Wet op Belastingadministrasie, 2011, word hierby gewysig 50 deur die volgende subartikel na subartikel (7) by te voeg:
 - "(8) 'n Persoon wat onbevoeg is ingevolge artikel 6 van die Wet op Beheer op Trustgoed, 1988 (Wet No. 57 van 1988), artikel 25A van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), of artikel 69 van die Maatskappyewet, 2008 (Wet No. 71 of 2008), mag nie as 'n openbare amptenaar | 55 ingevolge hierdie artikel aangestel word nie.'

Act No. 18 of 2023

Tax Administration Laws Amendment Act, 2023

46

Short title and commencement

- **31.** (1) This Act is called the Tax Administration Laws Amendment Act, 2023.
- (2) Save in so far as is otherwise provided for in this Act, or the context otherwise indicates, the amendments effected by this Act come into operation on the date of promulgation of this Act.

Wysigingswet op die Belastingadministrasiewette, 2023

Wet No. 18 van 2023

47

Kort titel en inwerkingtreding

31. (1) Hierdie Wet heet die Wysigingswet op Belastingadministrasiewette, 2023. (2) Tensy hierdie Wet anders bepaal of dit uit die samehang anders blyk, tree die wysigings wat deur hierdie Wet aangebring word op die datum van promulgering van

hierdie Wet in werking.

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