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No. 42169

THE PRESIDENCY

No. 16

17 January 2019

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

Act No. 22 of 2018: Tax Administration Laws Amendment Act, 2018

DIE PRESIDENSIE

No. 16

17 Januarie 2019

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

Wet No. 22 van 2018: Wysigingswet op Belastingadministrasiewette, 2018

ISSN 1682-5843







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Tax Administration Laws Amendment Act, 2018

[] 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 16 January 2019)

ACT

To-

- amend the Income Tax Act, 1962, so as to remove a requirement to submit a return; to clarify a provision; to update certain references and to amend the Fourth Schedule to amend a definition;
- amend the Customs and Excise Act, 1964, so as to insert a provision enabling
 the Commissioner to implement anti-forestalling measures in respect of
 anticipated increases in excise duties; to insert a provision providing for the
 writing off or compromise of any duty, interest, penalty or forfeiture incurred,
 and owed to the Commissioner for the benefit of the National Revenue Fund;
- amend the Value-Added Tax Act, 1991, so as to amend a provision relating to
 tax invoices; to amend a provision relating to the sale of an enterprise as a
 going concern; to update certain references; to remove a requirement to
 submit a return; to update certain references; to clarify a provision relating to
 refunds; to simplify set-off and recovery provisions;
- amend the Securities Transfer Tax Act, 2007, so as to broaden the scope of a provision;
- amend the Tax Administration Act, 2011, so as to ensure that taxpayers are informed at the commencement of an audit; to effect a consequential amendment; to effect a technical correction; to clarify a provision relating to refunds; to allow for the deregistration of non-compliant tax practitioners;
- amend the Customs Control Act, 2014, so as to effect changes to certain
 definitions; to amend a provision to ensure that reporting requirements in
 respect of the departure of trucks due to leave the Republic are adhered to
 irrespective of whether a truck has cargo on board; to insert a provision
 providing for the writing off or compromise of debt owed to the Commissioner
 for credit of the National Revenue Fund;

and to provide for matters connected therewith.

Wysigingswet op Belastingadministrasiewette, 2018

Wet No. 22 van 2018

ALGEMENE VERDUIDELIKENDE NOTA:

[]	Woorde in vet druk in vierkantige hakies, dui skrappings ui bestaande verordeninge aan.
		Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken) (Goedgekeur op 16 Januarie 2019)

WET

Tot wysiging van-

- die Inkomstebelastingwet, 1962, ten einde 'n verpligting om 'n opgawe in te dien te verwyder; 'n bepaling meer duidelik te maak; sekere verwysings op datum te bring en om die Vierde Bylae te wysig om 'n omskrywing te wysig;
- die Doeane- en Aksynswet, 1964, ten einde 'n bepaling in te voeg wat die Kommissaris magtig om teen-vermydingsmaatreëls ten opsigte van verwagte verhogings in aksynsregte te implementeer; 'n bepaling in te voeg wat vir die afskryf van of die toegewing van enige reg, rente, pene of verbeuring opgeloop en betaalbaar aan die Kommissaris vir krediet van die Nasionale Inkomstefonds voorsiening maak;
- die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde 'n bepaling aangaande belastingfakture te wysig; 'n bepaling aangaande die verkoop van 'n besigheid as 'n lopende saak te wysig; sekere verwysings op datum te bring; 'n verpligting om 'n opgawe in te dien te verwyder; 'n bepaling aangaande terugbetalings meer duidelik te maak; vergelyking en verhalingsbepalings te vereenvoudig;
- die Wet op Belasting op Oordrag van Sekuriteite, 2007, ten einde die omvang van 'n bepaling uit te brei;
- die Wet op Belastingadministrasie, 2011, ten einde te verseker dat belastingpligtiges omtrent die aanvang van 'n oudit ingelig word; 'n gevolglike wysiging
 aan te bring; 'n tegniese korreksie aan te bring; 'n bepaling aangaande
 terugbetalings duidelik te maak; vir die de-registrasie van nie-nakomende
 belastingpraktisyns voorsiening te maak;
- die Wet op Doeanebeheer, 2014, ten einde sekere woordomskrywings te wysig; 'n bepaling te wysig om voldoening aan verslagdoeningsvereistes ten opsigte van die vertrek van trokke wat die Republiek verlaat te verseker, ongeag of 'n trok vrag aan boord het of nie; 'n bepaling in te voeg wat vir die afskryf van of die toegewing van enige skuld betaalbaar aan die Kommissaris vir krediet van die Nasionale Inkomstefonds voorsiening maak;

en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

Tax Administration Laws Amendment Act, 2018

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B^E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 64K of Act 58 of 1962, as inserted by section 56 of Act 60 of 2008 and amended by section 53 of Act 17 of 2009, section 84 of Act 24 of 2011, section 271 of Act 28 of 2011 read with paragraph 55 of Schedule 1 to that Act, section 14 of Act 21 of 2012, section 5 of Act 39 of 2013, section 5 of Act 44 of 2014, section 4 of Act 23 of 2015, section 3 of Act 16 of 2016 and section 4 of Act 13 of 2017

1. Section 64K of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1A) of the following subsection:

"(1A) If, in terms of this Part a person has[—

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- (a)] paid a dividend[; or
- (b) received a dividend contemplated in paragraph (a) of the definition of 'dividend' in section 64D that is exempt or partially exempt from dividends tax in terms of section 64F or 64FA].

that person must submit a return in respect of that dividend to the Commissioner by the last day of the month following the month during which the dividend is paid [or received, unless the dividend received—

- (i) is derived from a tax free investment contemplated in section 12T; or
- (ii) is received by a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or a beneficiary 20 fund defined in section 1 of the Pension Funds Act, of which the receipts and accruals are exempt from normal tax in terms of section 10(1)(d)(i)]."

Amendment of section 66 of Act 58 of 1962, as amended by section 10 of Act 6 of 1963, section 19 of Act 90 of 1964, section 27 of Act 88 of 1971, section 22 of Act 91 25 of 1982, section 19 of Act 65 of 1986, section 23 of Act 85 of 1987, section 37 of Act 101 of 1990, section 26 of Act 21 of 1994, section 41 of Act 30 of 2000, section 19 of Act 5 of 2001, section 17 of Act 19 of 2001, section 26 of Act 30 of 2002, section 38 of Act 74 of 2002, section 61 of Act 45 of 2003, section 18 of Act 16 of 2004, section 7 of Act 34 of 2004, section 9 of Act 32 of 2005, section 8 of Act 4 of 2008, 30 section 4 of Act 61 of 2008 and section 271 of Act 28 of 2011

- **2.** Section 66 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (13) for paragraph (*a*) of the following paragraph:
 - "(a) in the case of a person (other than a company), for the whole period of twelve months ending upon the last day of [the year of assessment under charge] 35 February: Provided that where—
 - [(a)] (i) a person dies, a return shall be made for the period commencing on the first day of that [year of assessment] period and ending on the date of death;
 - [(b)] (ii) the estate of a person is sequestrated, separate returns must be made 40 for the periods—
 - [(i)](aa) commencing on the first day of that [year of assessment]

 period and ending on the date preceding the date of sequestration; and
 - [(ii)](bb) commencing on the date of sequestration and ending on 45 the last day of that [year of assessment] period; or
 - [(c)](iii) a person ceases to be a resident, a return shall be made for the period commencing on the first day of that [year of assessment] period and ending on the day preceding the date that the person ceases to be a resident; or".

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

Wysiging van artikel 64K van Wet 58 van 1962, soos ingevoeg deur artikel 56 van Wet 60 van 2008 en gewysig deur artikel 53 van Wet 17 van 2009, artikel 84 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011 gelees met paragraaf 55 van Bylae 1 by daardie Wet, artikel 14 van Wet 21 van 2012, artikel 5 van Wet 39 van 2013, artikel 5 van Wet 44 van 2014, artikel 4 van Wet 23 van 2015, artikel 3 van Wet 16 van 2016 en artikel 4 van Wet 13 van 2017

- **1.** Artikel 64K van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1A) deur die volgende subartikel te vervang:
 - "(1A) Indien, ingevolge hierdie Deel 'n persoon[—
 - (a)] 'n dividend betaal het[; of
 - (b) 'n dividend beoog in paragraaf (a) van die omskrywing van 'dividend' in artikel 64D ontvang het wat ingevolge artikel 64F of 64FA van dividendbelasting vrygestel of gedeeltelik vrygestel is],

moet daardie persoon teen die laaste dag van die maand wat volg op die maand waartydens die dividend betaal [of ontvang] word, 'n opgawe ten opsigte van daardie dividend aan die Kommissaris voorlê[, tensy die dividend ontvang—

- (i) van 'n belastingvrye belegging beoog in artikel 12T verkry word; of
- (ii) deur 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingsannuïteitsfonds, of 'n bystandsfonds omskryf in artikel 1 van die Wet op Pensioenfondse, waarvan die ontvangste en toevallings ingevolge artikel 10(1)(d)(i) van normale belasting vrygestel word, ontvang word]."

Wysiging van artikel 66 van Wet 58 van 1962, soos gewysig deur artikel 10 van 25 Wet 6 van 1963, artikel 19 van Wet 90 van 1964, artikel 27 van Wet 88 van 1971, artikel 22 van Wet 91 van 1982, artikel 19 van Wet 65 van 1986, artikel 23 van Wet 85 van 1987, artikel 37 van Wet 101 van 1990, artikel 26 van Wet 21 van 1994, artikel 41 van Wet 30 van 2000, artikel 19 van Wet 5 van 2001, artikel 17 van Wet 19 van 2001, artikel 26 van Wet 30 van 2002, artikel 38 van Wet 74 van 2002, 30 artikel 61 van Wet 45 van 2003, artikel 18 van Wet 16 van 2004, artikel 7 van Wet 34 van 2004, artikel 9 van Wet 32 van 2005, artikel 8 van Wet 4 van 2008, artikel 4 van Wet 61 van 2008 en artikel 271 van Wet 28 van 2011

- **2.** Artikel 66 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (13) paragraaf (*a*) deur die volgende paragraaf te vervang:
 - "(a) in die geval van 'n persoon (behalwe 'n maatskappy), vir die hele tydperk van twaalf maande eindigende op die laaste dag van [die onderhawige jaar van aanslag] Februarie: Met dien verstande dat waar—
 - [(a)] (i) 'n persoon te sterwe kom, 'n opgawe ingedien moet word vir die tydperk wat begin op die eerste dag van daardie [jaar van aanslag] 40 tydperk en eindig op die datum van dood;
 - [(b)] (ii) die boedel van 'n persoon gesekwestreer is, aparte opgawes ingedien moet word vir die tydperke—
 - [(i)](<u>aa)</u> wat begin op die eerste dag van daardie [**jaar van** aanslag] <u>tydperk</u> en eindig op die datum wat die datum 45 van sekwestrasie voorafgaan; en
 - [(ii)](bb) wat begin op die datum van sekwestrasie en eindig op die laaste dag van daardie [jaar van aanslag] tydperk; of
 - [(c)](iii) 'n persoon ophou om 'n inwoner te wees, moet 'n opgawe verstrek word vir die tydperk vanaf die eerste dag wat daardie [jaar van 50 aanslag] tydperk in aanvang neem en eindig op die dag onmiddellik voordat die persoon ophou om 'n inwoner te wees; of''.

Tax Administration Laws Amendment Act, 2018

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Amendment of section 89quat of Act 58 of 1962, as repealed by section 271 of Act 28 of 2011 read with paragraph 66 of Schedule 1 to that Act

3. Section 89*quat* of the Income Tax Act, 1962, pending its repeal, is hereby amended by the substitution in subsection (1) for the definition of "normal tax" of the following definition:

"'normal tax' includes any additional amounts payable in terms of section 76 and [paragraphs] paragraph 20 [and 20A] of the Fourth Schedule.".

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, 10 section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, 15 section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of 2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008, section 93 of Act 24 of 2011, section 271 of Act 18 of 2009, section 18 of Act 8 of 2010, section 93 of Act 24 of 2011, section 7 of Act 44 of 2014, section 6 of Act 23 of 2015, section 5 of Act 16 of 2016 and section 8 of Act 13 of 2017

- **4.** (1) Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in the definition of "employee" of paragraph (g).
- (2) Subsection (1) comes into operation on 1 March 2019 and applies to years of 25 assessment commencing on or after that date.

Insertion of section 58A in Act 91 of 1964

5. (1) The following section is hereby inserted into the Customs and Excise Act, 1964, after section 58:

"Anti-forestalling measures in respect of anticipated increases in 30 excise duties

58A. (1) For purposes of this section—

"controlled period" means a period leading up to an anticipated increase in the rate of duty on excisable goods, as may be determined by the Commissioner in terms of subsection (5)(a)(ii) for the purpose of applying this section; and

"duty forestalling" means the practice of entering excisable goods for home consumption in quantities exceeding the quantities determined, as contemplated in subsection (2), during a period leading up to an anticipated increase in the rate of excise duty, thereby avoiding the payment of the increased rate of duty when that increase becomes effective.

- (2) In order to combat duty forestalling in respect of an anticipated increase in the rate of duty on excisable goods, the Commissioner may limit the quantities of excisable goods that may be entered for home consumption during a controlled period to such quantities as may be determined in accordance with a formula prescribed by rule in terms of subsection (5)(b)(i).
- (3) No person may during a controlled period enter excisable goods for home consumption in excess of the quantities contemplated in subsection (2), unless the Commissioner approves the entry of such excess quantity in exceptional circumstances.

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Wysiging van artikel 89quat van Wet 58 van 1962, soos herroep deur artikel 271 van Wet 28 van 2011 gelees met paragraaf 66 van Bylae 1 by daardie Wet

- 3. Artikel 89quat van die Inkomstebelastingwet, 1962, hangende die herroeping daarvan, word hierby gewysig deur in subartikel (1) die omskrywing van "normale belasting" deur die volgende omskrywing te vervang:
 - "'normale belasting' ook enige addisionele bedrae betaalbaar ingevolge artikel 76 en [paragrawe] paragraaf 20 [en 20A] van die Vierde Bylae.".

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, 10 artikel 6 van Wet 30 van 1984, artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991, artikel 33 van Wet 141 van 1992, artikel 48 van Wet 113 van 1993, artikel 16 van Wet 140 van 1993, artikel 37 van Wet 21 van 1995, artikel 34 van Wet 36 van 1996, artikel 44 van Wet 28 van 1997, artikel 52 van Wet 30 van 1998, artikel 52 van 15 Wet 30 van 2000, artikel 53 van Wet 59 van 2000, artikel 19 van Wet 19 van 2001, artikel 32 van Wet 30 van 2002, artikel 46 van Wet 32 van 2004, artikel 49 van Wet 31 van 2005, artikel 28 van Wet 9 van 2006, artikel 39 van Wet 20 van 2006, artikel 54 van Wet 8 van 2007, artikel 64 van Wet 35 van 2007, artikel 43 van Wet 3 van 2008, artikel 66 van Wet 60 van 2008, artikel 17 van Wet 18 van 2009, 20 artikel 18 van Wet 8 van 2010, artikel 93 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011 gelees met paragraaf 77 van Bylae 1 by daardie Wet, artikel 7 van Wet 44 van 2014, artikel 6 van Wet 23 van 2015, artikel 5 van Wet 16 van 2016 en artikel 8 van Wet 13 van 2017

- 4. (1) Paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, 25 word hierby gewysig deur in die omskrywing van "voorlopige belastingpligtige" paragraaf (g) te skrap.
- (2) Subartikel (1) tree in werking op 1 Maart 2019 en is van toepassing op jare van aanslag wat op of na daardie datum in aanvang neem.

Invoeging van artikel 58A in Wet 91 of 1964

58 ingevoeg:

5. (1) Die volgende artikel word hierby in die Doeane- en Aksynswet, 1964, na artikel

"Teen-vermydingsmaatreëls ten opsigte van verwagte verhogings in aksynsregte

58A. (1) Vir doeleindes van hierdie artikel beteken—

- "aksynsregvermyding" die praktyk om, gedurende 'n tydperk wat 'n verwagte vehoging in die skaal van aksynsreg voorafgaan, synsbare goedere in groter hoeveelhede as die hoeveelhede bepaal soos beoog in subartikel (2) vir binnelandse gebruik te klaar, en daardeur die betaling van die verwagte hoër skaal van aksynsreg te vermy wanneer die verhoging in werking tree; en
- "beheertydperk" 'n tydperk wat 'n verwagte verhoging in die skaal van aksynsreg op synsbare goedere voorafgaan, soos ingevolge subartikel (5)(a)(ii) deur die Kommissaris vir doeleindes van die toepassing van hierdie artikel bepaal kan word.
- (2) Die Kommissaris kan, ten einde aksynsregvermyding ten opsigte van 'n verwagte verhoging in die skaal van aksynsreg op synsbare goedere te bekamp, die hoeveelhede synsbare goedere wat gedurende 'n beheertydperk vir binnelandse gebruik geklaar kan word, beperk tot die hoeveelhede wat ooreenkomstig 'n formule ingevolge subartikel (5)(b)(i)by reël voorgeskryf, bepaal mag word.
- (3) Geen persoon mag gedurende 'n beheertydperk synsbare goedere in groter hoeveelhede as dié in subartikel (2) beoog vir binnelandse gebruik klaar nie, tensy die Kommissaris in uitsonderlike omstandighede die klaring van sodanige oormatige hoeveelheid goedkeur.

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- (4) A person who contravenes subsection (3) is guilty of an offence and is liable on conviction to a fine not exceeding R20 000 or treble the value of the goods cleared in excess of the quantities contemplated in subsection (2), whichever is the greater, and the goods cleared in excess of the relevant quantity shall be liable to forfeiture.
- (5) The Commissioner may make rules for the effective implementation of this section, including rules to-
- (a) determine-
 - (i) the kind or description of the excisable goods to which this section applies, taking into account the prevalence of duty forestalling in the particular industry; and
 - the controlled period during which this section is applied, which period may not exceed three months; and
- (b) prescribe
 - the formula to be used for calculating the quantity of excisable | 15 (i) goods that may be entered for home consumption during the controlled period, taking into account the average amount of entries for home consumption per product per registered importer or licenced manufacturing warehouse, calculated over a period sufficiently long to reflect seasonal fluctuations;
 - (ii) the penalties that may be imposed for an offence referred to in subsection (4).".
- (2) Subsection (1) takes effect on a date to be determined by the Minister by Notice in the Government Gazette. 25

Insertion of section 114A in Act 91 of 1964

6. The following section is hereby inserted in the Customs and Excise Act, 1964, after section 114, whilst the existing section 114A becomes section 114AA:

"Application of Tax Administration Act for write off or compromise of 30

114A. Chapter 14 of the Tax Administration Act, including any criminal and other sanctions contained in that Act for the enforcement of that Chapter, applies, with any necessary changes as the context may require, to the writing off or compromise of any duty, interest, penalty or forfeiture incurred under this Act and owed to the Commissioner for the benefit of the 35 National Revenue Fund.".

Amendment of section 20 of Act 89 of 1991, as amended by section 25 of Act 136 of 1992, section 33 of Act 97 of 1993, section 35 of Act 27 of 1997, section 94 of Act 30 of 1998, section 91 of Act 53 of 1999, section 157 of Act 60 of 2001, section 175 of Act 45 of 2003, section 47 of Act 16 of 2004, section 104 of Act 32 of 2004, section 38 of Act 21 of 2006, section 14 of Act 9 of 2007, section 1 of Act 3 of 2008, section 35 of Act 18 of 2009, section 30 of Act 8 of 2010, section 29 of Act 21 of 2012, section 176 of Act 31 of 2013 and section 26 of Act 23 of 2015

- 7. Section 20 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after subsection (1A) of the following subsection:
 - "(1B) Where a tax invoice contains an error in the particulars listed in subsection
 - (4) or (5) and the circumstances contemplated in section 21(1)(a) to (e) of this Act are not applicable, the supplier must-
 - (i) correct that tax invoice with the correct particulars, within 21 days from the date of the request to correct it: Provided that the time of supply contemplated in section 9 of this Act remains unaltered; and

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- (4) 'n Persoon wat subartikel (3) oortree is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R20 000 of drie maal die waarde van die goedere wat in groter hoeveelhede as die hoeveelhede in subartikel (2) beoog, geklaar is, na gelang van watter bedrag die hoogste is, en die goedere in groter hoeveelhede as die toepaslike hoeveelheid geklaar, is aan verbeuring onderhewig.
- (5) Die Kommissaris kan reëls uitvaardig wat nodig mag wees vir die doeltreffende toepassing van hierdie artikel, met inbegrip van reëls ten einde-
- (a) te bepaal
 - op watter klas of beskrywing van synsbare goedere hierdie (i) artikel van toepassing is, met inagneming van die voorkoms van aksynsregvermyding in die bepaalde nywerheid; en
 - die beheertydperk waartydens hierdie artikel van toepassing is, welke tydperk nie drie maande mag oorskry nie; en
- (b) voor te skryf
 - die formule wat gebruik moet word ter berekening van die hoeveelheid synsbare goedere wat gedurende die beheertydperk vir binnelandse gebruik geklaar kan word, met inagneming van die gemiddelde aantal klarings vir binnelandse gebruik per produk per geregistreerde invoerder of gelisensieerde aksynsvervaardigingspakhuis, bereken oor 'n tydperk wat lank genoeg is om seisoenale wisselings te reflekteer; en
 - (ii) die boetes wat vir 'n oortreding bedoel in subartikel (4) opgelê | 25 kan word.".
- (2) Subartikel (1) tree in werking op 'n datum wat deur die Minister by kennisgewing in die Staatskoerant bepaal word.

Invoeging van artikel 114A in Wet 91 van 1964

6. Die volgende artikel word hierby in die Doeane- en Aksynswet, 1964, na artikel 30 114 ingevoeg, terwyl die bestaande artikel 114A artikel 114AA word:

"Toepassing van Wet op Belastingadministrasie vir afskryf of toegewing van skuld

114A. Hoofstuk 14 van die Wet op Belastingadministrasie, met inbegrip van enige strafregtelike- en ander strafmaatreëls wat vir die toepassing van 35 daardie Hoofstuk in daardie Wet vervat is, is met enige nodige veranderinge wat deur die samehang vereis mag word, op die afskryf of die toegewing van enige reg, rente, pene of verbeuring onder hierdie Wet opgeloop en tot voordeel van die Nasionale Inkomstefonds aan die Kommissaris betaalbaar, van toepassing.".

Wysiging van artikel 20 van Wet 89 van 1991, soos gewysig deur artikel 25 van Wet 136 van 1992, artikel 33 van Wet 97 van 1993, artikel 35 van Wet 27 van 1997, artikel 94 van Wet 30 van 1998, artikel 91 van Wet 53 van 1999, artikel 157 van Wet 60 van 2001, artikel 175 van Wet 45 van 2003, artikel 47 van Wet 16 van 2004, artikel 104 van Wet 32 van 2004, artikel 38 van Wet 21 van 2006, artikel 14 van 45 Wet 9 van 2007, artikel 1 van Wet 3 van 2008, artikel 35 van Wet 18 van 2009, artikel 30 van Wet 8 van 2010, artikel 29 van Wet 21 van 2012, artikel 176 van Wet 31 van 2013 en artikel 26 van Wet 23 van 2015

- 7. Artikel 20 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikel na subartikel (1A) in te voeg:
 - '(1B) Waar 'n belastingfaktuur 'n fout bevat ten opsigte van die besonderhede gelys in subartikel (4) of (5), en die omstandighede beoog in artikel 21(1)(a) tot (e) van hierdie Wet nie van toepassing is nie, moet die leweraar-
 - (i) daardie belastingfaktuur binne 21 dae van die datum van die versoek om dit reg te stel, met die korrekte besonderhede regstel: Met dien verstande dat die 55 tyd van lewering beoog in artikel 9 van hierdie Wet, onveranderd bly; en

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(ii) obtain and retain information sufficient to identify the transaction to which that tax invoice and the corrected tax invoice refers.".

Amendment of section 21 of Act 89 of 1991, as amended by section 26 of Act 136 of 1992, section 34 of Act 97 of 1993, section 176 of Act 45 of 2003, section 48 of Act 16 of 2004, section 36 of Act 18 of 2009, section 150 of Act 22 of 2012, section 27 of Act 23 of 2015 and section 136 of Act 25 of 2015

- **8.** Section 21 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for paragraph (d) of the following paragraph:
 - "(d) the goods or services or part of the goods or services supplied have been returned to the supplier, including the return to—
 - (i) a vendor of a returnable container, the vendor in such case being deemed for the purposes of this Act to have made the supply of the container in respect of which the deposit was charged, whether the supply was made by him or any other person; or
 - (ii) a vendor, where a supply of an enterprise as a going concern, contemplated in section 11(1)(e) of this Act, was made to that vendor, the vendor in such case being deemed for purposes of this Act to have made the supply of the goods or services to the recipient, whether the supply was made by him or the other vendor that made the supply of that enterprise as a going concern; or".

Amendment of section 25 of Act 89 of 1991, as amended by section 96 of Act 30 of 1998, section 94 of Act 53 of 1999, section 40 of Act 34 of 2004, section 10 of Act 10 of 2005 and section 271 of Act 28 of 2011

9. Section 25 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of section 25(dA).

Amendment of section 29 of Act 89 of 1991, as amended by section 49 of Act 16 of 2004 and section 271 of Act 28 of 2011

- 10. Section 29 of the Value-Added Tax Act, 1991, is hereby amended—
 - (a) by the substitution for the heading of the following heading:
 - "[Special returns] Special records and payments";
 - (b) by the substitution for paragraph (a) of the following paragraph:

 "(a) [furnish the Commissioner with a return reflecting—] obtain
 - and retain the following information in the manner prescribed by the Commissioner:
 - (i) the name and address of the seller and, if registered as a 35 vendor, his or her VAT registration number;
 - (ii) the name and address of the person whose goods are sold (hereinafter referred to as the owner) and, if the owner is registered under this Act, the VAT registration number of the owner;
 - (iii) the date of the sale;
 - (iv) the description and quantity of the goods sold; and
 - (v) the selling price of the goods and the amount of tax charged in respect of the supply of goods under the sale, being the tax leviable in respect of such supply under section 7(1)(a); [and 45]
 - (vi) such other particulars as may be required;]";
 - (c) by the substitution for paragraph (c) of the following paragraph:
 - "(c) send or deliver to the owner a copy of the [return] document reflecting the information referred to in paragraph (a),"; and

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(ii) inligting verkry en behou wat voldoende is om die transaksie te identifiseer waarna daardie belastingfaktuur en die reggestelde belastingfaktuur verwys.".

Wysiging van artikel 21 van Wet 89 van 1991 soos gewysig deur artikel 26 van Wet 136 van 1992, artikel 34 van Wet 97 van 1993, artikel 176 van Wet 45 van 2003, artikel 48 van Wet 16 van 2004, artikel 36 van Wet 18 van 2009, artikel 150 van Wet 22 van 2012, artikel 27 van Wet 23 van 2015 en artikel 136 van Wet 25 van 2015

8. Artikel 21 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (1) paragraaf (d) deur die volgende paragraaf te vervang:

- "(d) die goed of dienste of 'n gedeelte van die goed of dienste wat gelewer is aan 10 die leweraar teruggegee is, met inbegrip van die teruggee aan—
 - 'n ondernemer van 'n terugsendbare houer, terwyl die ondernemer in daardie geval by die toepassing van hierdie Wet geag word die lewering van die houer ten opsigte waarvan die deposito gevra is, te gedoen het, ongeag of die lewering deur hom of enige ander persoon gedoen is; of
 - (ii) 'n ondernemer, waar die lewering van 'n onderneming as 'n lopende saak soos beoog in artikel 11(1)(e) van hierdie Wet aan daardie ondernemer gemaak is, en die ondernemer in so geval geag word vir doeleindes van hierdie Wet om die lewering van die goedere of dienste aan die ontvanger te gedoen het, ongeag of die lewering deur hom gedoen is of deur die ander ondernemer wat die lewering van die onderneming as 'n lopende saak gedoen het; of".

Wysiging van artikel 25 van Wet 89 van 1991 soos gewysig deur artikel 96 van Wet 30 van 1998, artikel 94 van Wet 53 van 1999, artikel 40 van Wet 34 van 2004, artikel 10 van Wet 10 van 2005 en artikel 271 van Wet 28 van 2011

9. Artikel 25 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur artikel 25(dA) te skrap.

Wysiging van artikel 29 van Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 16 van 2004 en artikel 271 van Wet 28 van 2011

- 10. Artikel 29 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby 30 gewysig-
 - (a) deur die opskrif met die volgende opskrif te vervang:
 - "[Spesiale opgawes] Spesiale aantekeninge en betalings";
 - (b) deur paragraaf (a) deur die volgende paragraaf te vervang:
 - '(a) [aan die Kommissaris 'n opgawe verstrek, waarin aangetoon 35 word] die volgende inligting verkry en behou op die wyse deur die Kommissaris voorgeskryf-
 - (i) die naam en adres van die verkoper en, indien as 'n ondernemer geregistreer, sy of haar BTW-registrasienommer;
 - (ii) die naam en adres van die persoon wie se goed verkoop word 40 (hieronder die eienaar genoem) en indien die eienaar ingevolge hierdie Wet geregistreer is, die eienaar se BTW-registrasienommer;
 - (iii) die datum van die verkoop;
 - (iv) die beskrywing en hoeveelheid van die verkoopte goed;
 - (v) die verkoopprys van die goed en die bedrag belasting gehef ten opsigte van die lewering van goed kragtens die verkoop, wat belasting hefbaar ten opsigte van daardie lewering ingevolge artikel 7(1)(a) is; [en
 - (vi) die ander besonderhede wat benodig is;]";
 - (c) deur paragraaf (c) deur die volgende paragraaf te vervang:
 - '(c) aan die eienaar 'n afskrif van die dokument wat die in paragraaf (a) bedoelde [opgawe] inligting bevat, stuur of dit by hom aflewer,";

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(d) by the substitution for the words after paragraph (c) of the following words: "and the seller and the owner shall exclude from any return which the seller or owner is required to furnish under section 28 the tax charged on the supply of goods under the sale [in respect of which the return is furnished under] contemplated in this section.".

Amendment of section 41 of Act 89 of 1991, as amended by Government Notice 2695 of 8 November 1991, section 32 of Act 136 of 1992, section 36 of Act 97 of 1993, section 41 of Act 27 of 1997, section 167 of Act 60 of 2001, section 40 of Act 32 of 2005, section 39 of Act 21 of 2006, section 16 of Act 9 of 2007 and section 28 of Act 23 of 2015

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11. Section 41 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

"Notwithstanding anything to the contrary in this Act (other than the provisions of section [41A or] 41B)—".

Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 15 1993, section 27 of Act 37 of 1996, section 42 of Act 27 of 1997, section 100 of Act 30 of 1998, section 98 of Act 53 of 1999, section 168 of Act 60 of 2001, section 88 of Act 20 of 2006, section 271 of Act 28 of 2011, section 180 of Act 31 of 2013 and section 31 of Act 44 of 2014

- **12.** Section 44 of the Value-Added Tax Act, 1991, is hereby amended by the addition 20 after subsection (10) of the following subsection:
 - "(11) (a) A refund of the amount erroneously paid, as contemplated in section 190(1)(b) of the Tax Administration Act, may only be made by the Commissioner where the claim for the refund of such erroneous payment is received by the Commissioner within five years after the date on which the erroneous payment was made;

(b) A claim for a refund under paragraph (a) shall be deemed not to have been received where the vendor has not furnished the Commissioner in writing with the particulars of the enterprise's banking account or an account with a similar institution, as contemplated in subsection (3)(d), within 90 days from the 30 submission of the claim.".

Amendment of section 50 of Act 89 of 1991, as amended by section 38 of Act 136 of 1991 and section 271 of Act 28 of 2011

13. Section 50 of the Value-Added Tax Act, 1991, is hereby amended by the addition after subsection (6) of the following subsection:

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"(7) Notwithstanding the provisions of this section, any amount that is refundable under section 190 of the Tax Administration Act (including interest thereon) to the vendor referred to in subsection (1) or any separate enterprise, branch or division, which is registered separately in terms of subsection (2), may be set off against the outstanding tax debt of the vendor referred to in subsection (1) or 40 any separate enterprise, branch or division, which is registered separately in terms of subsection (2), as the case may be.".

Amendment of section 51 of Act 89 of 1991

- 14. Section 51 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (3) of the following subsection:
 - "(3) Subject to the provisions of section 46, every member of a partnership or joint venture shall be liable jointly and severally with other members of the partnership or joint venture for performing the duties of the partnership or joint venture in terms of this Act and paying the tax imposed by this Act on the partnership or joint venture in respect of supplies made by the partnership or joint 50 venture while such member was a member of the partnership or joint venture:

(d) deur die woorde wat op paragraaf (c) volg, deur die volgende woorde te vervang:

> "en die verkoper en die eienaar moet die belasting wat gehef word op die lewering van goed kragtens die verkoop [ten opsigte waarvan die opgawe ingevolge] soos in hierdie artikel [verstrek is] beoog, uitsluit van enige opgawe wat die verkoper of eienaar ingevolge artikel 28 moet verstrek.".

Wysiging van artikel 41 van Wet 89 van 1991 soos gewysig deur Goerwermentskennisgewing 2695 van 8 November 1991, artikel 32 van Wet 136 van 1992, artikel 36 van Wet 97 van 1993, artikel 41 van Wet 27 van 1997, artikel 167 van Wet 10 60 van 2001, artikel 40 van Wet 32 van 2005, artikel 39 van Wet 21 van 2006, artikel 16 van Wet 9 van 2007 en artikel 28 van Wet 23 van 2015

11. Artikel 41 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

"Ondanks andersluidende bepalings van hierdie Wet (behalwe die bepalings van artikel [41A of] 41B)—".

Wysiging van artikel 44 van Wet 89 van 1991 soos gewysig deur artikel 37 van Wet 97 van 1993, artikel 27 van Wet 37 van 1996, artikel 42 van Wet 27 van 1997, artikel 100 van Wet 30 van 1998, artikel 98 van Wet 53 van 1999, artikel 168 van 20 Wet 60 van 2001, artikel 88 van Wet 20 van 2006, artikel 271 van Wet 28 van 2011, artikel 180 van Wet 31 van 2013 en artikel 31 van Wet 44 van 2014

12. Artikel 44 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikel na subartikel 10 in te voeg:

"(11) (a) 'n Terugbetaling van die bedrag verkeerdelik betaal, soos in artikel 25 190(1)(b) van die Wet op Belastingadministrasie beoog, mag slegs deur die Kommissaris gemaak word waar die eis vir die terugbetaling van sodanige verkeerde betaling deur die Kommissaris ontvang is binne vyf jaar na die datum waarop die foutiewe betaling gemaak is.

(b) 'n Eis vir 'n terugbetaling kragtens paragraaf (a) sal geag word nie ontvang te gewees het nie, waar die ondernemer nie die Kommissaris binne 90 dae van die indien van die eis, op skrif voorsien het nie van die besonderhede van die onderneming se bankrekening of 'n rekening by 'n soortgelyke instelling in subartikel (3)(d) beoog.".

Wysiging van artikel 50 van Wet 89 van 1991 soos gewysig deur artikel 38 van 35 Wet 136 van 1991 en artikel 271 van Wet 28 van 2011

13. Artikel 50 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende artikel na subartikel (6) in te voeg:

'(7) Ondanks die bepalings van hierdie artikel, mag enige bedrag (insluitende rente op daardie bedrag) wat kragtens artikel 190 van die Wet op Belastingadministrasie terugbetaalbaar is aan die ondernemer bedoel in subartikel (1) of enige afsonderlike onderneming, tak of afdeling, wat afsonderlik geregistreer is ingevolge subartikel (2), afgesit word teen die uitstaande belastingskuld van die ondernemer bedoel in subartikel (1) of enige afsonderlike onderneming, tak of afdeling, wat afsonderlike geregistreer is ingevolge subartikel (2), na gelang van | 45 die geval.".

Wysiging van artikel 51 van Wet 89 van 1991

14. Artikel 51 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

(3) Behoudens die bepalings van artikel 46 is elke lid van 'n vennootskap of 50 gesamentlike onderneming gesamentlik en afsonderlik aanspreeklik met die ander lede van die vennootskap of gesamentlike onderneming vir die verrigting van die pligte van die vennootskap of gesamentlike onderneming ingevolge hierdie Wet en die betaling van die belasting deur hierdie Wet op die vennootskap of gesamentlike onderneming gehef ten opsigte van lewerings deur die vennootskap of 55

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Provided that this subsection shall not apply to any such member of a partnership who, in relation to that partnership, is a partner *en commandite* or a special partner, as defined in the Special Partnerships' Limited Liability Act, 1861 (Act No. 24 of 1861), of the Cape of Good Hope or in Law No. 1 of 1865 of Natal, who has not held himself out as an ordinary or general partner of the partnership concerned.".

Amendment of section 8 of Act 25 of 2007, as amended by section 73 of Act 3 of 2008, section 127 of Act 60 of 2008, section 97 of Act 17 of 2009, section 127 of Act 7 of 2010, section 148 of Act 24 of 2011, section 155 of Act 22 of 2012, section 183 of Act 31 of 2013 and section 138 of Act 25 of 2015

- **15.** Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended by the 10 substitution for subsections (2) and (3) of the following subsections, respectively:
 - "(2) The Commissioner may for the purposes of this section prescribe any declaration to be submitted by any person to the participant <u>or member</u> in respect of any security referred to in subsection (1).
 - (3) No exemption referred to in subsection (1) applies in respect of any transfer 15 of the security referred to in that subsection, unless there is lodged with a participant or member a declaration referred to in subsection (2) in respect of that security."

Amendment of section 42 of Act 28 of 2011, as amended by section 48 of Act 21 of 2012

- **16.** Section 42 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:
 - "(1) A SARS official involved in or responsible for an audit under this Chapter must, in the form and in the manner as may be prescribed by the Commissioner by public notice, provide the taxpayer with a notice of commencement of an audit and, 25 thereafter, a report indicating the stage of completion of the audit."

Amendment of section 44 of Act 28 of 2011

- **17.** Section 44 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (3) of the following subsection:
 - "(3) Relevant **[information]** <u>material</u> obtained during a criminal investigation 30 may be used for purposes of audit as well as in subsequent civil and criminal proceedings."

Amendment of section 70 of Act 28 of 2011, as amended by section 13 of Act 26 of 2013, section 42 of Act 39 of 2013 and section 48 of Act 23 of 2015

- **18.** (1) Section 70 of the Tax Administration Act, 2011, is hereby amended by the 35 substitution in subsection (3) for paragraph (*b*) of the following paragraph:
 - "(b) the Financial [Services Board] Sector Conduct Authority, the information as may be required for the purpose of carrying out the [Board's] Financial Sector Conduct Authority's duties and functions under the Financial [Services Board Act, 1990 (Act No. 97 of 1990)] Sector Regulation Act, 40 2017 (Act No. 9 of 2017);".
 - (2) Subsection (1) is deemed to have come into operation on 1 April 2018.

Amendment of section 129 of Act 28 of 2011, as amended by section 52 of Act 39 of 2013

19. Section 129 of the Tax Administration Act, 2011, is hereby amended— 45 (a) by the deletion in subsection (2) of the word "or" at the end of paragraph (b);

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gesamentlike onderneming terwyl daardie lid 'n lid van die vennootskap of gesamentlike onderneming was: Met dien verstande dat hierdie subartikel nie van toepassing is nie op so 'n lid van 'n vennootskap wat met betrekking tot daardie vennootskap 'n kommanditêre vennoot of 'n "special partner" is soos omskryf in die "Special Partnerships' Limited Liability Act, 1861" (Wet No. 24 van 1861), van die Kaap die Goeie Hoop of in Wet No. 1 van 1865 van Natal, wat homself nie voorgedoen het as 'n gewone of algemene vennoot van die betrokke vennootskap nie.".

Wysiging van artikel 8 van Wet 25 van 2007 soos gewysig deur artikel 73 van Wet 3 van 2008, artikel 127 van Wet 60 van 2008, artikel 97 van Wet 17 van 2009, 10 artikel 127 van Wet 7 van 2010, artikel 148 van Wet 24 van 2011, artikel 155 van Wet 22 van 2012, artikel 183 van Wet 31 van 2013 en artikel 138 van Wet 25 van 2015

- **15.** Artikel 8 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig deur subartikels (2) en (3) deur die volgende subartikels, onderskeidelik, te 15 vervang:
 - "(2) Die Kommissaris kan by die toepassing van hierdie artikel 'n verklaring voorskryf wat ten opsigte van 'n sekuriteit in subartikel (1) bedoel deur 'n persoon aan die deelnemer of lid voorgelê moet word.
 - (3) Geen vrystelling bedoel in subartikel (1) is van toepassing ten opsigte van 'n 20 oordrag van die sekuriteit bedoel in daardie subartikel nie, tensy 'n verklaring bedoel in subartikel (2) by 'n deelnemer of lid ten opsigte van daardie sekuriteit ingedien word.".

Wysiging van artikel 42 van Wet 28 van 2011 soos gewysig deur artikel 48 van Wet 21 van 2012

- **16.** Artikel 42 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
 - "(1) 'n SAID-amptenaar betrokke by of verantwoordelik vir 'n oudit kragtens hierdie Hoofstuk moet, in die vorm en op die wyse deur die Kommissaris by openbare kennisgewing voorgeskryf, die belastingpligtige van 'n kennisgewing voorsien, van die aanvang van 'n oudit en, daarna, van 'n verslag [voorsien], wat die stadium van voltooiing van die oudit aandui."

Wysiging van artikel 44 van Wet 28 van 2011

- **17.** Artikel 44 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:
 - "(3) Tersaaklike **[inligting]** materiaal verkry gedurende 'n strafregtelike ondersoek kan vir die doeleindes van oudit sowel as in daaropvolgende siviele of strafregtelike gedinge gebruik word.".

Wysiging van artikel 70 van Wet 28 van 2011, soos gewysig deur artikel 13 van Wet 26 van 2013, artikel 42 van Wet 39 van 2013 en artikel 48 van Wet 23 van 2015 40

- **18.** (1) Artikel 70 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (3) paragraaf (*b*) deur die volgende paragraaf te vervang:
 - "(b) die [Raad op Finansiële Dienste] Financial Sector Conduct Authority, die inligting wat benodig word vir doeleindes van die uitvoering van die [Raad]
 Financial Sector Conduct Authority se pligte en verrigting van sy werksaamhede kragtens die [Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990)] Financial Sector Regulation Act, 2017 (Wet No. 9 van 2017);".
 - (2) Subartikel (1) word geag op 1 April 2018 in werking te getree het.

Wysiging van artikel 129 van Wet 28 van 2011, soos gewysig deur artikel 52 van 50 Wet 39 van 2013

19. Artikel 129 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
(a) deur in subartikel (2) die woord "of" aan die eide van paragraaf (b) te skrap;

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- (b) by the deletion in subsection (2) of the full stop and the addition of the phrase "; or" at the end of paragraph (c); and
- (c) by the addition in subsection (2) of the following paragraph: "(d) make an appropriate order in a procedural matter.".

Amendment of section 170 of Act 28 of 2011

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- **20.** Section 170 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraph (b) of the following paragraph:
 - "(b) except in the case of proceedings on appeal instituted under Chapter 9 against the assessment, that all the particulars of the assessment are correct.".

Amendment of section 190 of Act 28 of 2011, as amended by section 71 of Act 39 of 10 2013, section 53 of Act 44 of 2014 and section 60 of Act 23 of 2015

- 21. Section 190 of the Tax Administration Act, 2011, is hereby amended—
 - (a) by the deletion in subsection (4) of the word "or" after paragraph (a);
 - (b) by the addition in subsection (4) of the phrase "; or" at the end of paragraph (b); and
 - (c) by the addition in subsection (4) of the following paragraph:
 - "(c) an erroneous payment claimed by a taxpayer within the period referred to in paragraph (a) or (b), but not paid by SARS within the period.".

Amendment of section 221 of Act 28 of 2011, as amended by section 61 of Act 16 of 20 2016

- **22.** Section 221 of the Tax Administration Act, 2011, is hereby amended by the substitution in the definition of 'understatement' for paragraph (a) of the following paragraph:
 - "(a) [a default in rendering] failure to submit a return required under a tax Act or by the Commissioner;". 25

Amendment of section 222 of Act 28 of 2011, as amended by section 75 of Act 39 of 2013

- 23. Section 222 of the Tax Administration Act, 2011, is hereby amended—
 - (a) by the substitution for subsection (2) of the following subsection:

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- "(2) The understatement penalty is the amount resulting from applying the highest applicable understatement penalty percentage in accordance with the table in section 223 to each shortfall determined under subsections (3) and (4) in relation to each 'understatement' [in a return]."; and
- (b) by the substitution for subsection (4) of the following subsection:
 - "(4) (a) If there is a difference under both paragraphs (a) and (b) of subsection (3), the shortfall must be reduced by the amount of any duplication between the paragraphs.
 - (b) Where the 'understatement' is the failure to submit a return, the 'tax' that resulted from the 'understatement', had the 'understatement' been accepted, for purposes of subsection (3), must be regarded as nil.".

Amendment of section 240 of Act 28 of 2011, as amended by section 82 of Act 21 of 2012, section 81 of Act 39 of 2013 and secti, on 60 of Act 44 of 2014

- **24.** Section 240 of the Tax Administration Act, 2011, is hereby amended—
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- (a) by the deletion in subsection (3) of the word "or" at the end of paragraph (b);
- (b) by the deletion in subsection (3) of the full stop and the addition of the phrase "; or" at the end of paragraph (c); and
- (c) by the addition in subsection (3) of the following paragraph:
 - "(d) during the preceding 12 months has for an aggregate period of at least six months not been tax compliant to the extent referred to in section 256(3) and has failed to—

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- (b) deur die punt aan die einde van subartikel (2) te skrap, en die frase "; of" aan die einde van paragraaf (c) in te voeg; en
- (c) deur in subartikel (2) die volgende paragraaf by te voeg: "(d) 'n toepaslike bevel in 'n prosedurele aangeleentheid maak.".

Wysiging van artikel 170 van Wet 28 van 2011

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- **20.** Artikel 170 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur paragraaf (*b*) deur die volgende paragraaf te vervang:
 - "(b) behalwe in die geval van verrigtinge op appèl teen die aanslag, <u>kragtens</u> Hoofstuk 9 ingestel, dat al die besonderhede van die aanslag korrek is.".

Wysiging van artikel 190 van Wet 28 van 2011, soos gewysig deur artikel 71 van 10 Wet 39 van 2013, artikel 53 van Wet 44 van 2014 en artikel 60 van Wet 23 van 2015

- 21. Artikel 190 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
 - (a) deur in subartikel (4) die woord "of" aan die einde van paragraaf (a) te skrap;
 - (b) deur in subartikel (4) die frase "; of" aan die einde van paragraaf (b) in te voeg;
 - (c) deur in subartikel (4) die volgende paragraaf by te voeg:
 - "(c) 'n bedrag verkeerdelik betaal, deur die belastingpligtige geëis binne die tydperk in paragraaf (a) of (b) bedoel, maar nie deur SAID binne die tydperk betaal nie.".

Wysiging van artikel 221 van Wet 28 van 2011, soos gewysig deur artikel 61 van 20 Wet 16 van 2016

- **22.** Artikel 221 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in die omskrywing van 'onderstelling' paragraaf (a) deur die volgende paragraaf te vervang:
 - '(a) 'n versuim om 'n opgawe in te dien, soos kragtens 'n Belastingwet of deur die Kommissaris vereis;''.

Wysiging van artikel 222 van Wet 28 van 2011, soos gewysig deur artikel 75 van Wet 39 van 2013

- 23. Artikel 222 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
 - (a) deur subartikel (2) deur die volgende subartikel te vervang: "(2) Die onderstellingsboete is die bedrag wat voo

"(2) Die onderstellingsboete is die bedrag wat voortspruit uit die toepassing van die hoogste toepaslike onderstellingsboete persentasie in ooreenstemming met die tabel in artikel 223 op elke tekort kragtens subartikels (3) en (4) bepaal, met betrekking tot elke 'onderstelling' [in 'n opgawe]."; en

(b) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) <u>(a)</u> Indien daar 'n verskil is kragtens beide paragrawe (a) en (b) van subartikel (3), moet die tekort verminder word met die bedrag van enige verdubbeling tussen die paragrawe.

(b) Waar die 'onderstelling' die versuim is om 'n opgawe in te dien, 40 moet die 'belasting' wat voortvloei uit die 'onderstelling', was die 'onderstelling' vir doeleindes van subartikel (3) aanvaar, geag word nul te wees.".

Wysiging van artikel 240 van Wet 28 van 2011, soos gewysig deur artikel 82 van Wet 21 van 2012, artikel 81 van Wet 39 van 2013 en artikel 60 van Wet 44 van 2014 45

- **24.** Artikel 240 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
 - (a) deur in subartikel (3) die woord "of" aan die einde van paragraaf (b) te skrap;
 - (b) deur die punt aan die einde in subartikel (3) te skrap en die frase "; of" aan die einde van paragraaf (c) in te voeg; en
 - (c) deur in subartikel (3) die volgende paragraaf by te voeg:

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"(d) gedurende die voorafgaande 12 maande vir 'n gesamentlike tydperk van ten minste 6 maande nie belastingnakomend, tot die mate in artikel 256(3) na verwys was nie, en versuim het om—

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- (i) demonstrate that he or she has been compliant for that period;or
- (ii) remedy the non-compliance, within the period specified in a notice by SARS.".

Amendment of section 1 of Act 31 of 2014, as amended by section 83 of Act 23 of 2015 and section 70 of Act 16 of 2016

- **25.** Section 1 of the Customs Control Act, 2014, is hereby amended—
 - (a) by the deletion in subsection (1) from the definition of "cargo reporter" of the word "actually"; and
 - (b) by the substitution in subsection (1) for the definition of "FCL container" of 10 the following definition:
 - "'FCL container' means a container containing goods consigned from one or more [than one] consignor to a single consignee;".

Amendment of section 71 of Act 31 of 2014, as amended by section 89 of Act 23 of 2015

- **26.** Section 71 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 - "(1) The on-board operator of a truck due to leave the Republic [with cargo on board] must, at the land border-post where the truck will leave the Republic, report to the customs authority at that land border-post, in a manner as may be prescribed by rule—".

Insertion of section 705A in Act 31 of 2014

27. The following section is hereby inserted in the Customs Control Act, 2014, after section 705:

"Application of Tax Administration Act for write off or compromise of debt

705A. Chapter 14 of the Tax Administration Act, including any criminal and other sanctions contained in that Act for the enforcement of that Chapter, applies, with any necessary changes as the context may require, to the writing off or compromise of a debt referred to in section 695 owed to the Commissioner for credit of the National Revenue Fund.".

Review

28. The Minister shall review the amendment to the rate in section 9 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018, effective 1 April 2018, 35 three years from that date, following an evaluation of its impact on revenue collection and the poor, and shall table a report in Parliament by no later than 30 June 2021.

Short title and commencement

- **29.** (1) This Act is called the Tax Administration Laws Amendment Act, 2018.
- (2) Subject to subsections (3) and (4), and save in so far as is otherwise provided for 40 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.
- (3) The amendments to the Customs Duty Act, 2014, take effect immediately after the Customs Duty Act, 2014, has taken effect in terms of section 229 of that Act.
- (4) The amendments to the Customs Control Act, 2014, take effect immediately after 45 the Customs Control Act, 2014, has taken effect in terms of section 944(1) of that Act.

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- (i) aan te toon dat hy of sy belastingnakomend vir daardie tydperk was; of
- (ii) die nie-nakoming reg te stel,

binne die tydpkerk deur SAID by kennisgewing bepaal.".

Wysiging van artikel 1 van Wet 31 van 2014, soos gewysig deur artikel 83 van Wet 23 van 2015 en artikel 70 van Wet 16 van 2016

- 25. Artikel 1 van die Wet op Doeanebeheer, 2014, word hierby gewysig-
 - (a) deur in subartikel (1) in die omskrywing van "vragverslagdoener" die woord "werklik" te skrap; en
 - (b) deur in subartikel (1) die omskrywing van "FCL houer" deur die volgende 10 omskrywing te vervang:
 - "'FCL houer' 'n houer wat goedere bevat wat versend word van <u>een of</u> meer [as een] versender na een geadresseerde;".

Wysiging van artikel 71 van Wet 31 van 2014, soos gewysig deur artikel 89 van Wet 23 van 2015

- **26.** Artikel 71 van die Wet op Doeanebeheer, 2014, word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 - "(1) Die aanboord operateur van 'n trok wat die Republiek [met vrag aan boord] verlaat, moet by die land-grenspos waar die trok die Republiek gaan verlaat 20 by die doeanegesag by daardie land-grenspos op die wyse wat by reël voorgeskryf mag word—".

Invoeging van artikel 705A in Wet 31 van 2014

27. Die volgende artikel word hierby na artikel 705 in die Wet op Doeanebeheer, 2014 ingevoeg:

"Toepassing van Wet op Belastingadministrasie vir afskryf of toegewing van skuld

705A. Hoofstuk 14 van die Wet op Belastingadministrasie, met inbegrip van enige strafregtelike- en ander strafmaatreëls wat vir die toepassing van daardie Hoofstuk in daardie Wet ingesluit is, is met enige nodige veranderinge wat die samehang mag vereis, van toepassing op die afskryf of die toegewing van 'n skuld bedoel in artikel 695 wat aan die Kommissaris vir krediet van die Nasionale Inkomstefonds verskuldig is.''.

Heroorweging

28. Die Minister sal die wysiging aan die koers in artikel 9 van die Wet op Skale en 35 Monetêre Bedrae en Wysiging van Inkomstewette, 2018, effektief vanaf 1 April 2018, binne drie jaar vanaf daardie datum, heroorweeg, wat volg op 'n oorweging van die effek op belastingvordering en die behoeftiges, en sal 'n verslag by Parlement indien teen nie later nie as 30 Junie 2021.

Kort titel en inwerkingtreding

- **29.** (1) Hierdie Wet heet die Wysigingswet op Belastingadministrasiewette, 2018.
- (2) Behoudens subartikels (3) en (4), en tensy hierdie Wet anders bepaal, of die samehang anders aandui, tree die wysigings wat deur hierdie Wet aangebring word op die datum van afkondiging van hierdie Wet in werking.
- (3) Die wysigings aan die Wet op Doeanereg, 2014, tree in werking onmiddellik na die Wet op Doeanereg, 2014, ingevolge artikel 229 van daardie Wet in werking getree bet
- (4) Die wysigings aan die Wet op Doeanebeheer, 2014, tree in werking onmiddellik na die Wet op Doeanebeheer, 2014, ingevolge artikel 944(1) van daardie Wet in werking getree het.

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