

REPUBLIC OF SOUTH AFRICA

REVENUE LAWS AMENDMENT

BILL

(As introduced in the National Assembly as a money Bill)

(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B — 2001]

[00af]123

[00af]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.

used by the taxpayer in the course of any trade carried on by such taxpayer, the receipts and accruals of which were not included in the income of such taxpayer during such year or years, all the allowances which could have been made in terms of the provisions referred to in item (aa) as if such receipts and accruals had been included in such taxpayer's income,

to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils, articles, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway:”;(e)by the substitution for paragraphs (i) and (ii) of the proviso to paragraph (o) of the following paragraphs:“(i)no allowance shall be made in the case of any such building (or portion thereof), improvements (or portion thereof) to such building, shipbuilding structure, improvements to such shipbuilding structure, residential unit, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway which has or have been scrapped within a period of ten years from the date of erection or purchase, or in the case of any such residential unit in respect of which any amount has fallen for inclusion in the taxpayer's income under the provisions of section 13ter(7)(a), whether in the current or in any previous year of assessment;

(ii)for the purposes of this paragraph the cost of any building (or portion thereof), improvements (or portion thereof) to any building, shipbuilding structure, improvements to any shipbuilding structure, residential unit, transmission line or cable, [or] railway line, aircraft hangar, apron, runway or taxiway shall be deemed to be that portion of the actual cost on which the allowance in question was made;”. (2)(a) Subsection (1)(a) shall—

(i)in so far as it adds the reference to any pipeline, transmission line or cable or railway line contemplated in section 12D, be deemed to have come into operation on 23 February 2000; and

(ii)in so far as it adds the reference to any aircraft hangar, apron, runway or taxiway contemplated in section 12F, be deemed to have come into operation on 1 April 2001;

(b) Subsection (1)(b) shall in so far as it changes the paragraph number, be deemed to have come into operation on 23 February 2000, and insofar it adds the word “or” shall be deemed to have come into operation on 1 April 2001.(c) Subsection (1)(c), (d) and (e) shall be deemed to have come into operation on 1 April 2001.

Amendment of section 13 of Act 58 of 1962 13. Section 13 of the Income Tax Act, 1962, is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraph:

“(dA)any building that has never been used, if such building has been acquired by the taxpayer by purchase from any other person and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture or any other process which in the opinion of the Commissioner is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or”.

Amendment of section 25B of Act 58 of 1962, as inserted by section 27 of Act 129 of 1991 and amended by section 22 of Act 141 of 1992, section 36 of Act 30 of 1998 and section 32 of Act 59 of 2000

14. (1) Section 25B of the Income Tax Act, 1962, is hereby amended—

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

“(1) Any income received by or accrued to or in favour of any person during any year of assessment in his capacity as the trustee of a trust [referred to in the definition of 'person' in section 1], shall, subject to the provisions of section 7, to the extent to which such income has been derived for the immediate or future benefit of any ascertained beneficiary [with] who has a vested right to such income during such year, be deemed to be income which has accrued to such beneficiary, and to the extent to which such income is not so derived, be deemed to be income which has accrued to such trust.”;

(b)by the substitution for paragraphs (a) and (b) of subsection (2A) of the following paragraphs:

“(a)such capital arose from—

(i)income received by or accrued to such trust; or

(ii)any receipts and accruals of such trust which would have constituted income if such trust had been a resident,

in any previous year of assessment during which such resident had a contingent right to such income or receipts and accruals; and

36. The following section is hereby inserted in the Customs and Excise Act, 1964, after section 7:

“Reports of cargo landed and unpacked and packed or loaded

8. Notwithstanding the provisions of sections 7 and 12, the Commissioner may by rule prescribe that[00c4]

(a)any report including any manifest or other report listing and describing cargo carried by or loaded on to any ship, aircraft, railway train or other vehicle arriving at or departing from any place in the Republic, as the case may be; or

(b)any outturn report or other report concerning goods landed from or unpacked from or packed into or loaded on to any such ship or aircraft; or

(c)any outturn report or other report in respect of any imported goods unpacked while under the control of any person after landing thereof at any place approved by the Commissioner,

shall be in such form containing such particulars and shall be submitted to the Controller by such person in such circumstances and at such times as may be specified in such rule.”.

Amendment of section 18 of Act 91 of 1964, as amended by section 2 of Act 95 of 1965, section 6 of Act 105 of 1969, section 4 of Act 71 of 1975, section 3 of Act 105 of 1976, section 3 of Act 112 of 1977, section 4 of Act 84 of 1987, section 13 of Act 59 of 1990, section 11 of Act 45 of 1995 and section 48 of Act 53 of 1999

37. (1) Section 18 of the Customs and Excise Act, 1964, is hereby amended—

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

“(a)except as prescribed by rule, the licensed remover of goods in bond contemplated in section 64D may remove in bond—

(i)any imported goods landed in the Republic; or

(ii)any excisable or fuel levy goods manufactured in a customs and excise warehouse; or

the benefits provided in terms of this section;

(c) delegate, by rule, subject to section 3(2), any power which may be exercised or assign the duties that shall be performed by the Commissioner in accordance with the provisions of this Act to any officer or other person.(3)

(a) The Commissioner may refuse any application for accredited client status or cancel or suspend such status.(b) Any decision by the Commissioner to refuse such application or suspend or cancel such status shall be subject mutatis mutandis to the provisions of section 60(2).”(2)

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

Amendment of section 69 of Act 91 of 1964, as amended by section 22 of Act 105 of 1969, section 6 of Act 93 of 1978, section 9 of Act 101 of 1985, section 7 of Act 69 of 1988, as substituted by section 12 of Act 68 of 1989, section 1 of Act 111 of 1991, as amended and deleted by section 3 of Act 105 of 1992, section 6 of Act 98 of 1993, and amended by section 6 of Act 44 of 1996 and section 61 of Act 53 of 1999

49. (1) Section 69 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution in paragraph (a) of subsection (1) of the words preceding the proviso of the following words:

“For the purpose of assessing the excise duty on any goods manufactured in the Republic and specified in items 126.01, 126.02, 126.03, 126.04 and 126.05 of Section B of Part 2 of Schedule No. 1, the value thereof shall, subject to the provisions of this section, be taken to be the full and final market price (before deduction of any discounts other than cash discounts) at which, at the time of sale, such or similar goods are freely offered for sale, for consumption in the Republic, for purposes of trade in the principal markets of the Republic in the ordinary course of trade, in the usual wholesale quantities and in the condition and the usual packing ready for sale in the retail trade, to any merchant wholesaler in the Republic not deemed to be related as specified in section 66(2)(a) under fully competitive conditions, plus the cost of packing and packages and all other expenses incidental to placing the goods on any vehicle for delivery to the purchaser, plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods, but excluding the non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1 or any value-added tax payable on such goods:”;

(b) by the substitution in paragraph (c) of subsection (1) for the words preceding subparagraph (i) of the following words:

“(c) For the purpose of [this subsection] paragraph (a) the Commissioner may specify—”;

(A) does not comply in respect of such application with the requirements contemplated in subsection (3);

(B) has made a false or misleading statement with respect to any material fact or omits to state any material fact which was required to be stated in the application for registration;

(bb) the applicant or any employee of such applicant[00c4]

(A) has contravened or failed to comply with the provisions of this Act; (B) has been convicted of an offence under this Act;

(C) has been convicted of an offence involving dishonesty; or

(D) has failed to comply with any condition or obligation imposed by the Commissioner in respect of such registration:

Provided that subparagraphs (A) to (C) shall not apply in respect of an employee if the applicant proves that he was not a party to or could not prevent any such act or omission by such employee; or

(ii) cancel or suspend for a specified period any registration[00c4]

(aa) if the registered user[00c4]

(A) is sequestered or liquidated; (B) no longer carries on the business for which the registration was issued;

(C) is no longer qualified according to the qualifications prescribed in the rules; or

(D) fails to meet in respect of the computer system used all the compliance requirements and the operational standards required in terms of the user agreement and prescribed by the Commissioner as contemplated in this section;

(bb) if the registered user or the employee of such user has[00c4]

(A) contravened or failed to comply with the provisions of this Act;

(B) been convicted of an offence under this Act;

(C) been convicted of an offence involving dishonesty; or

(D) failed to comply with any condition or obligation imposed by this Act or by the Commissioner in respect of such registration:

Provided that subparagraphs (A) to (C) shall not apply in respect of an employee except an employee to whom a digital signature was allocated, if the holder proves that he was not a party to or could not prevent any such act or omission by such employee:

registered vendor] a recipient with a tax invoice, credit note or debit note as required by this Act:”.

Amendment of Item 2 and Item 15 of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, section 44 of Act 136 of 1992, section 45 of Act 97 of 1993, section 33 of Act 20 of 1994 and section 104 of Act 30 of 1998.

73. Schedule 2 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in Part B for Items 2 and 15 of the following items:

“Item 2 Maize meal graded as super maize meal, special maize meal, sifted maize meal or unsifted maize meal, not further processed other than by the addition of minerals and vitamins not exceeding one per cent by mass of the final product, solely for the purpose to increase the nutritional value”;

“Item 15 Milk, including high-fat, full-fat, low-fat or fat-free milk, being the milk of cattle, sheep or goats that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any other process other than homogenization or preservation by pasteurization, ultra-high temperature treatment, sterilization, chilling or freezing or the addition of minerals, vitamins, enzymes and other similar additives not exceeding one per cent by volume of the final product, solely for the purpose to increase the nutritional value.”.

Amendment of section 5 of Act 56 of 1996

74. Section 5 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996), is hereby amended by the addition of the following subsection:

“(3) The Chief Executive Officer shall from time to time withdraw money from the Fund for repayment to the Commissioner for the South African Revenue Service of amounts of fuel levy in respect of diesel refunded by the Commissioner and recoverable from the Fund in accordance with the provisions of section 75(1A) and (1B), respectively, of the Customs and Excise Act, 1964 (Act No. 91 of 1964).”.

Amendment of section 6 of Act 31 of 1998

75. Section 6 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the substitution for subparagraph (iii) of paragraph

22.08

UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS
PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES:

.10

Wine spirits, manufactured in the Republic by the distillation of wine

3337c/l of absolute alcohol

-

.15

Spirits, manufactured in the Republic by the distillation of any sugar cane
product

3337c/l of absolute alcohol

-

.25

Spirits, manufactured in the Republic by the distillation of any grain product

3337c/l of absolute alcohol

-

.29

Other spirits, manufactured in the Republic

3337c/l of absolute alcohol

TARIFF

ITEM

TARIFF

HEADING

DESCRIPTION