REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT ACT

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWET OP BELASTINGWETTE

No , 1997

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.

ACT

To amend the Marketable Securities Tax Act, 1948, so as to reduce the rate of tax payable in respect of the purchase of marketable securities; and to withdraw an exemption; to amend the Transfer Duty Act, 1949, so as to effect certain textual amendments; to amend the Estate Duty Act, 1955, so as to adjust a definition; and to effect certain consequential amendments; to amend the Customs and Excise Act, 1964, so as to repeal a section; to effect certain textual alterations; and to amend Schedule No. 1 to the said Act; to amend the Stamp Duties Act, 1968, so as to adjust or delete certain obsolete provisions; to further regulate the payment of stamp duty; and to reduce the stamp duty tariffs in respect of the registration of transfer, the cancellation or redemption and the acquisition of marketable securities; to amend the Customs and Excise Amendment Act, 1990, so as to repeal a section; to amend the Value-Added Tax Act, 1991, so as to further define certain expressions; to exclude certain activities from the scope of the exemption for financial services; to deem a supply of goods to be made in relation to goods imported by a foreign principal; to provide for a time of supply rule in respect of such deemed supply; to further regulate the valuation of certain deemed supplies; to limit the application of the rate of zero per cent in respect of services rendered elsewhere than in the Republic; to limit the application of the exemption for passenger transport; to further regulate the collection of value-added tax on the importation of goods; to limit the application of the payments basis of accounting for the said tax and to further regulate the accounting for the said tax when the accounting basis is changed; to further regulate the calculation of input tax in respect of second-hand fixed property; to further regulate the tax payable in respect of fixed property supplied to connected persons; to provide for a deduction in respect of properties in possession; to make further provision in respect of entertainment and adjustments of output tax and input tax; to provide that an amount shall not be deducted more than once; to further regulate the records to be maintained in the case of the acquisition of second-hand goods; to further regulate the circumstances in which a deduction may be made in respect of irrecoverable debts written off; to provide for certain deductions to be made in respect of the face value of accounts receivable transferred at face value on a non-recourse basis which is written off as irrecoverable; to shorten the period within which a vendor on the invoice basis must make an adjustment where he has not made payment in respect of a supply while he has claimed input tax; to further regulate the registration of vendors; to further provide for the right of objection; to further provide for the payment of additional tax, penalty or interest where an appeal has been lodged; to further regulate the payment of interest in respect of refunds made after an appeal has been noted; to further regulate the charging of interest and penalties; to further provide for the collection of tax after five years; to provide that a claim for a refund must be received by the Commissioner within a certain period; to further regulate the payment of interest on delayed refunds; to deem separate persons carrying on the same enterprise to be a single person under certain circumstances; to provide

that the tax paid on importation by a foreign principal may be claimed as input tax by the agent; to further regulate the levying of additional tax; to prohibit the registration of imported motor vehicles where tax on importation has not been paid; and to further provide for exemption in respect of the importation of certain goods; to provide for a special exemption in respect of goods or services supplied by the International Telecommunication Union; to amend the Income Tax Act, 1993, so as to further regulate certain unbundling transactions; to amend the Taxation Laws Amendment Act, 1994, so as to further regulate the rationalisation of a group of companies; to amend the Tax on Retirement Funds Act, 1996, so as to insert a definition; and to further regulate the payment of the tax on retirement funds; to provide for the continuation of certain amendments of the Schedules to the Customs and Excise Act, 1964; and to provide for matters connected therewith.

———

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

Amendment of section 2 of Act 32 of 1948, as substituted by section 2 of Act 37 of 1996

1.(1) Section 2 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for the expression ''0,5 per cent'' of the expression ''0,25 per cent''.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1997.

Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960, section 36 of Act 77 of 1968, section 2 of Act 88 of 1974, section 2 of Act 114 of 1977, section 1 of Act 95 of 1978, section 2 of Act 106 of 1980, section 1 of Act 87 of 1982, section 1 of Act 92 of 1983, section 1 of Act 118 of 1984, section 1 of Act 81 of 1985, section 1 of Act 87 of 1988, section 1 of Act 136 of 1992, section 1 of Act 97 of 1993 and section 3 of Act 37 of 1996

2.(1) Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the deletion of paragraph *(e)*.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

Amendment of section 18 of Act 40 of 1949

3. Section 18 of the Transfer Duty Act, 1949, is hereby amended—

(a) by the substitution for the words ''Supreme Court'' in subsections (1) and (2) of the words ''High Court''; and

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

''(3) Any judgment given or order made by a provincial or local division of the said **[Supreme Court]** <u>High Court</u> in terms of subsection (2) shall be subject to appeal to the **[Appellate Division of the Supreme Court of South Africa]** <u>Supreme Court of Appeal</u> in the same manner and on the same conditions as a judgment given or order made in a civil proceeding in that provincial or local division.''.

Amendment of section 19 of Act 40 of 1949

4. Section 19 of the Transfer Duty Act, 1949, is hereby amended by the substitution for the words ''Supreme Court'' of the words ''High Court''.

Amendment of section 1 of Act 45 of 1955, as amended by section 1 of Act 59 of 1957, section 1 of Act 65 of 1960, section 7 of Act 77 of 1964, section 3 of Act 92 of 1971, section 9 of Act 106 of 1980, section 5 of Act 86 of 1987, section 7 of Act 87 of 1988, section 6 of Act 97 of 1993 and section 2 of Act 140 of 1993

5. Section 1 of the Estate Duty Act, 1955, is hereby amended by the substitution for the words ''Supreme Court'' in the definition of ''Master'' of the words ''High Court''.

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988 and section 7 of Act 97 of 1993

6. Section 3 of the Estate Duty Act, 1955, is hereby amended by the substitution for the proviso to paragraph *(a)bis* of subsection (3) of the following proviso:

''Provided that—

(i) this paragraph shall not apply in respect of any annuity **[payable]** provided by a pension fund, a provident fund or a retirement annuity fund as respectively defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);

(ii) this paragraph shall apply in respect of the commutation of any annuity which on or after the date of the death of the deceased is **[payable]** provided or may be **[payable]** provided by a fund referred to in paragraph (i) of this proviso, and that for the purposes of this paragraph any amount payable by way of such a commutation shall be deemed to be a benefit which is due and payable as aforesaid;''.

Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987, section 10 of Act 87 of 1988, section 8 of Act 97 of 1993 and section 3 of Act 20 of 1994

7. Section 4 of the Estate Duty Act, 1955, is hereby amended—

(a) by the deletion of the word ''or'' at the end of subparagraph (iv) of paragraph *(h)*; and

(b) by the deletion of subparagraph (v) of paragraph *(h)*.

Amendment of section 24 of Act 45 of 1955, as substituted by section 15 of Act 77 of 1962 and amended by section 12 of Act 77 of 1964, section 2 of Act 104 of 1976, section 8 of Act 86 of 1987 and section 10 of Act 97 of 1993

8. Section 24 of the Estate Duty Act, 1955, is hereby amended by the substitution for the expression ''State President'' in subsection (4) of the expression ''President''.

Amendment of section 26 of Act 45 of 1955, as amended by section 13 of Act 77 of 1964 and section 5 of Act 99 of 1981

9. Section 26 of the Estate Duty Act, 1955, is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) The **[State President]** National Executive may enter into an agreement with the Government of any other country, **[or territory]** whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and of such other country, **[or territory]** of estate duty in respect of the same property or to the rendering of reciprocal assistance in the administration of, and in the collection of estate duty under the laws relating to estate duty in force in the Republic and in such other country **[or territory]**.

(2) As soon as may be after the **[conclusion]** approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by **[proclamation by the State President]** publication in the *Gazette* **[whereupon until such proclamation is revoked by the State President]** and the arrangements so notified **[therein shall, so far as they relate to immunity, exemption or relief in respect of estate duties in the Republic]** shall thereupon have effect as if enacted in this Act **[but only if and for so long as such arrangements, in so far as they relate to immunity, exemption or relief in respect of estate duties levied or leviable in such other country or territory, have the effect of law in such country or territory]**."; and

(b) by the deletion of subsections (3), (4) and (5).

Amendment of section 27 of Act 45 of 1955

10. Section 27 of the Estate Duty Act, 1955, is hereby amended by the substitution for the words "Supreme Court" in subparagraph (ii) of paragraph *(b)* of subsection (2) of the words "High Court".

Repeal of section 47B of Act 91 of 1964

11. (1) Section 47B of the Customs and Excise Act, 1964, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

Substitution of section 49 of Act 91 of 1964, as substituted by section 3 of Act 7 of 1974

12. The following section is hereby substituted for section 49 of the Customs and Excise Act, 1964:

"Agreements in respect of rates of duty lower than the general rates of duty

49. The **[State President]** National Executive may conclude an agreement with the government of any territory whereby rates of duty lower than the general rates of duty specified in Part 1 of Schedule No. 1 are on importation into the Republic extended to specific goods produced or manufactured in that territory.".

Amendment of section 51 of Act 91 of 1964, as amended by section 7 of Act 57 of 1966, section 1 of Act 89 of 1971, section 5 of Act 103 of 1972 and section 1 of Act 12 of 1977

13. Section 51 of the Customs and Excise Act, 1964, is hereby amended—

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

"The **[State President]** National Executive may conclude an agreement with the government of any territory in Africa in which it is provided that, notwithstanding anything to the contrary in this Act contained—"; and

(b) by the substitution for subsection (2) of the following subsection:

''(2) Payments made by the government of any territory to the Government of the Republic in terms of any agreement concluded under the provisions of subsection (1) shall accrue to the **[State]** National Revenue Fund and payments by the Government of the Republic to the government of any territory in terms of any such agreement shall be made as a drawback of revenue as a charge to the **[State]** National Revenue Fund.''.

Amendment of section 58 of Act 91 of 1964, as amended by section 19 of Act 33 of 1974, section 1 of Act 64 of 1974, section 10 of Act 86 of 1982, section 21 of Act 84 of 1987 and section 2 of Act 105 of 1992

14. Section 58 of the Customs and Excise Act, 1964, is hereby amended by the substitution for the words ''House of Assembly'' in subsection (1) of the words ''National Assembly''.

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995 and section 8 of Act 44 of 1996

15. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, this section shall be deemed to have come into operation on 12 March 1997.

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969, section 5 of Act 66 of 1973, section 7 of Act 88 of 1974, section 19 of Act 106 of 1980, section 3 of Act 118 of 1984, section 17 of Act 87 of 1988, section 36 of Act 9 of 1989, section 3 of Act 69 of 1989, section 5 of Act 136 of 1991 and section 4 of Act 20 of 1994

16. Section 1 of the Stamp Duties Act, 1968, is hereby amended by the substitution for the words ''Supreme Court'' wherever they occur in paragraph *(c)* of the definition of ''authorised revenue officer'' of the words ''High Court''.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 4 of Act 69 of 1989, section 5 of Act 136 of 1992 and section 13 of Act 97 of 1993

17. Section 4 of the Stamp Duties Act, 1968, is hereby amended by the substitution for subparagraph (iii) of paragraph *(f)* of the following subparagraph:

''(iii) any company, society, trust or other association within the Republic which is exempt from tax in terms of section 10(1)*(c*F*), (c*I*)* or *(c*J*),* **[or *(c*L*)*]** as the case may be, of the said Act,''.

Amendment of section 5 of Act 77 of 1968, as amended by section 9 of Act 89 of 1972, section 7 of Act 66 of 1973, section 9 of Act 114 of 1977, section 5 of Act 118 of 1984, section 10 of Act 86 of 1987, section 19 of Act 87 of 1988, section 6 of Act 136 of 1991, section 6 of Act 136 of 1992 and section 12 of Act 37 of 1996

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

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

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 of 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 83 of Act 89 of 1991, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993, section 17 of Act 140 of 1993, section 8 of Act 20 of 1994 and section 17 of Act 37 of 1996

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

(a) by the substitution in subparagraph *(g)* of paragraph (3) for the words preceding subparagraph (i) of the following words:

''if the marketable security was sold or disposed of (whether conditionally or not) after 31 March 1996 but not later than 31 March 1997 and the date of the sale or disposal is noted on the relevant instrument of transfer referred to in section 23 of this Act by the transferee or his agent and such note is signed by the transferee or his agent:'';

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

"*(h)* in any other case—

(i) if transfer—	
(aa) other than a transfer contemplated in subparagraph *(bb)*, is registered before the expiry of a period of six months; or	
(bb) is registered in the name of a broker, or the nominee of a broker and is so registered before the expiry of a period of three months,	
from the date of execution of the relevant instrument of transfer referred to in section 23 of this Act: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security transferred	0 025
(ii) if transfer—	
(aa) is registered after the expiry of the period of six months referred to in subparagraph (i)*(aa)*; or	
(bb) is registered in the name of a broker, or the nominee of a broker, after the expiry of the period of three months referred to in subparagraph (i)*(bb)*	Three times the duty which would have been payable under *(h)*(i) if transfer had been registered before the expiry of the said period of six or three months, as the case may be.'';

(c) by the deletion of subparagraphs *(n)* and *(n*A*)* of the ''*Exemptions from the duty under paragraph (3)*'';

(d) by the substitution in paragraph (4) for the amount ''0 05'' in the column ''Amount of Duty'' of the amount ''0 025''; and

(e) by the substitution for subparagraphs (vi) and (vii) of paragraph (5) of the following subparagraphs:

	‘‘(vi)	if the date of acquisition of such marketable security falls on or after 1 April 1996 but not later than 31 March 1997 and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security	0 05
	(vii)	if the date of acquisition of such marketable security falls on or after 1 April 1997 and the relevant deed or declaration referred to in section 23(15) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R10, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration given is less than the value of the marketable security transferred, of the value of the marketable security	0 025
[(vii)]	(viii)	if the relevant deed or declaration is not duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), (iv), (v), **[or]** (vi) or (vii), as the case may be	Three times the duty which would have been payable under (i), (ii), (iii), (iv), (v), **[or]** (vi) or (vii) (whichever is applicable), if the deed or declaration had been duly stamped within the period of six months referred to in subparagraph (i), (ii), (iii), (iv), (v), **[or]** (vi) or (vii), as the case may be.’’.

(2) *(a)* Subsection (1)*(a), (b), (d)* and *(e)* shall be deemed to have come into operation on 1 April 1997;

(b) Subsection (1)*(c)* shall be deemed to have come into operation on 1 July 1997.

Repeal of section 44 of Act 59 of 1990

22. (1) Section 44 of the Customs and Excise Amendment Act, 1990, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 10 July 1990.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, section 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994 and section 18 of Act 37 of 1996

23. (1) Section 1 of the Value-Added Tax Act, 1991 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for paragraph *(b)* of the definition of ''association not for gain'' of the following paragraph:

''*(b)* any other society, association or organization, whether incorporated or not (other than an educational institution in respect of which the provisions of paragraph *(c)* apply), which—

(i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and

(ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that society, association or organisation—

(aa) required to utilize any property or income solely in the furtherance of its aims and objects; and **[is]**

(bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the society, association or organization for any services actually rendered to such society, association or organization; and

(cc) upon the winding-up or liquidation of such society, association or organization, **[it will be]** obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other society, association or organization with objects similar to those of the said society, association or organization; or'';

(b) by the addition of the following paragraph to the said definition of ''association not for gain'':

''*(c)* any educational institution of a public character, whether incorporated or not, which—

(i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and

(ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that educational institution—

(aa) required to utilize any property or income solely in the furtherance of its aims and objects; and

(bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the educational institution for any services actually rendered to such institution;'';

(c) by the addition of the word ''or'' at the end of paragraph *(f)* of the definition of ''connected persons'';

(d) by the addition of the following paragraph to the definition of ''connected persons'':

''*(g)* any person and any superannuation scheme referred to in section 2(2)(vii), the members of which are mainly the employees or office holders or former employees or office holders of that person;'';

(e) by the insertion after subparagraph (iii) of paragraph *(b)* of the definition of ''enterprise'' of the following subparagraph:

''(iv) the activities of any person who continuously or regularly supplies telecommunication services to any person who utilizes such services in the Republic;'';

(f) by the substitution in the definition of ''input tax'' for the words preceding the proviso to paragraph *(b)* of the following words:

''an amount equal to the tax fraction (being the tax fraction applicable at the time **[of payment]** the supply is deemed to have taken place) of the lesser of

any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic of any second-hand goods situated in the Republic:'';

(g) by the substitution for the definition of ''transfer payment'' of the following definition:

'' 'transfer payment' means a transfer payment as contemplated in paragraph **[A2.9]** 1.2.9.3 of the Manual on the Financial Planning and Budgeting System of the State published in terms of section 39 of the Exchequer Act, 1975 (Act No. 66 of 1975);''; and

(h) by the substitution for the proviso to the definition of ''vendor'' of the following proviso:

''Provided that where the Commissioner has under section 23 or 50A determined the date from which a person is a vendor that person shall be deemed to be a vendor from that date;''.

(2) The provisions of subsection (1)*(e)* shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, section 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994 and section 19 of Act 37 of 1996

24. Section 2 of the principal Act is hereby amended by the substitution for paragraph *(a)* of subsection (4) of the following paragraph:

''(a) the cession, assignment, **[or other]** transfer or other supply of any right to receive payment in relation to any taxable supply where, as a result of any such cession, assignment, **[or]** transfer or supply, output tax in relation to that taxable supply would not be or become attributable to any tax period for the purposes of section 16(3); or''.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, section 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994 and section 20 of Act 46 of 1996

25. Section 8 of the principal Act is hereby amended by the addition of the following subsection:

''(20) For the purposes of this Act, where an importation of goods is deemed to have been made by an agent in the circumstances contemplated in section 54(2A)*(b)*, such agent shall be deemed to make a supply of goods to the recipient of the supply by the principal, as contemplated in subparagraph (iii) of that section.''.

Amendment of section 9 of Act 89 of 1991, as amended by section 25 of Act 136 of 1991, section 25 of Act 97 of 1993 and section 21 of Act 46 of 1996

26. Section 9 of the principal Act is hereby amended by the addition of the following subsection:

''(9) Where any supply of goods is deemed to be made as contemplated in section 8(20), that supply shall be deemed to take place at the time the tax payable on importation of the goods is paid by the agent.''.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, section 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996 and section 22 of Act 46 of 1996

27. Section 10 of the principal Act is hereby amended—

(a) by the substitution in subsection (9) for the words preceding the proviso to the paragraph defining the meaning of the symbol ''C'' of the following words:
''represents the percentage that, during the 12 month period during which the decrease in use or application of the goods or services is deemed to take place, the use or application of the goods or services for the purposes of making taxable supplies (in respect of which, if such goods or services had been acquired at the time of such use or application, a deduction of input tax would not have been denied in terms of section 17(2)*(a)*), was of the total use or application of the goods:''; and

(b) by the insertion after subsection (22A) of the following subsection:
''(22B) Where any supply of goods is deemed to be made as contemplated in section 8(20), the consideration in money for such supply shall be deemed to be the total amount of the value placed on the importation of the goods in terms of section 13(2) and the amount of tax levied on the importation in terms of section 7(1)*(b)*.''.

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, section 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993 and section 13 of Act 20 of 1994

28. Section 11 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:
''Where, but for **[the provisions of]** this section, a supply of goods would be charged with tax **[under section 7(1)*(a)*]** at the rate referred to in section 7(1), such supply of goods shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—'';

(b) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:
''Where, but for this section, a supply of services would be charged with tax **[under section 7(1)*(a)*]** at the rate referred to in section 7(1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—'';

(c) by the substitution for paragraph *(k)* of the said subsection (2) of the following paragraph:
''(k) the services are physically rendered elsewhere than in the Republic, not being telecommunication services supplied to any person who utilizes such services in the Republic; or''; and

(d) by the substitution in paragraph *(l)* of the said subsection (2) for the words preceding subparagraph (i) of the following words:
''the services are supplied for the benefit of and contractually to a person who is not a resident of the Republic and who is outside the Republic at the time the services are rendered, not being services which are supplied directly in connection with—''.

Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, section 7 of Government Notice 2695 of 8 November 1991, section 18 of Act 136 of 1992, section 28 of Act 97 of 1993, section 14 of Act 20 of 1994 and section 22 of Act 37 of 1996

29. Section 12 of the principal Act is hereby amended by the substitution for paragraph *(g)* of the following paragraph:

"(g) the supply by any person in the course of a transport business of any service comprising the transport by that person in a vehicle operated by him of fare-paying passengers and their personal effects by road or railway (excluding a funicular railway), not being a supply of any such service which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11(2)*(a)*;''.

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 29 of Act 97 of 1993 and section 15 of Act 20 of 1994

30. Section 13 of the principal Act is hereby amended—

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

''(1) For the purposes of this Act goods shall be deemed to be imported into the Republic on the date on which the goods are in terms of section 10 of the Customs and Excise Act deemed to be imported: Provided that—

(i) goods which are entered for home consumption in terms of the Customs and Excise Act, shall be deemed to have been imported on the date on which they are so entered;

(ii) **[Provided further that]** where any goods have been imported and entered into a licensed Customs and Excise warehouse but have not been entered for home consumption, any supply of such goods before they are entered for home consumption shall be disregarded for the purposes of this Act;

(iii) **[Provided further that]** goods imported from Botswana, Lesotho, Swaziland and Namibia shall be declared and tax paid to an officer designated by the Commissioner for Customs and Excise on entry into the Republic in accordance with such procedures and at such place as the said Commissioner may prescribe by rule.'';

(b) by the addition of the following proviso to subsection (2):

''Provided that where the Minister has made a regulation determining the value of such goods for the purposes of this section, the greater of such determined value or the value declared on importation shall be used instead of the value for customs purposes.'';

(c) by the substitution in subsection (4) for the words preceding paragraph *(a)* of the following words:

''Where tax is payable in respect of the importation of goods into the Republic and such goods are **[not entered and will]** not **[require]** required to be entered **[for home consumption]** in terms of the Customs and Excise Act and tax has not been paid to the Commissioner for Customs and Excise when the goods were imported the importer shall within 30 days after the importation of the goods—'';

(d) by the substitution for the proviso to the said subsection (4) of the following proviso:

''Provided that this subsection shall not apply in respect of the importation (other than the importation of any motor vehicle) by a vendor in the circumstances contemplated in this subsection, if the tax payable would be allowable as a deduction in terms of section 16(3)*(a)*(iii) or section 16(3)*(b)*(ii) **[except if provided otherwise in any regulation made by the Minister under section 74]**.''; and

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

''(6) Subject to the provisions of **[this Act]** section 7(1)*(b)* and this section, the provisions of the Customs and Excise Act **[relating to the importation, transit, coastwise carriage and clearance of goods and the payment and recovery of duty]** shall *mutatis mutandis* apply as if enacted in this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs and Excise Act.''.

Amendment of section 15 of Act 89 of 1991, as amended by section 8 of Government Notice 2695 of 8 November 1991 and section 20 of Act 136 of 1992

31. Section 15 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

''Subject to the provisions of **[subsection]** subsections (2A) and (3), the Commissioner may, on application in writing by a vendor, direct that the vendor account for the tax payable on a payments basis for the purposes of section 16 with effect from the vendor's registration in terms of this Act or, where he has accounted for tax payable on an invoice basis prior to making an application under this subsection, from the commencement of the tax period immediately following the tax period during which that direction is made by the Commissioner (hereinafter referred to as the changeover period), if—'';

(b) by the insertion after the said subsection (2) of the following subsection:

''(2A) Any vendor (other than a public authority or local authority) who in terms of subsection (2) accounts for tax payable on a payments basis shall, in respect of any supply made on or after 5 June 1997 of goods (other than fixed property) or services in respect of which the consideration in money is R100 000 or more, account for the tax payable on an invoice basis.'';

(c) by the substitution in subsection (3) for the words following upon paragraph *(b)* and preceding the proviso of the following words:

''the Commissioner shall direct that the vendor account for the tax payable on an invoice basis with effect from the commencement of a future tax period **[approved]** or, where the vendor has failed to notify the Commissioner that he has ceased to satisfy the conditions of subsection (2), as required by the said section 25*(c)*, any tax period directed by the Commissioner **[(hereinafter referred to as the changeover period)]**:''; and

(d) by the substitution for subsection (5) of the following subsection:

''(5) Any vendor to whom subsection (4) applies shall, within the time allowed under this Act for the payment of tax in respect of the tax period immediately preceding the changeover period, pay to the Commissioner the tax payable as calculated in accordance with this section.''.

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994 and section 23 of Act 37 of 1996

32. Section 16 of the principal Act is hereby amended—

(a) by the substitution for subparagraphs (ii) and (iiA) of paragraph *(a)* of subsection (3) of the following subparagraphs, respectively:

''(ii) *(aa)* in respect of supplies of second-hand goods to which paragraph *(b)* of the definition of 'input tax' in section 1 applies (other than supplies in respect of which the provisions of subparagraph *(bb)* apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period; **[Provided that where such]**

(bb) in respect of supplies of second-hand goods to which paragraph *(b)* of the definition of 'input tax' in section 1 applies which consist of—

[*(aa)*](A) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or

[*(bb)*](B) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable,

[such input tax shall be deducted only after] if the full or final amount of such transfer duty or stamp duty, as the case may be, has been paid during that tax period;

(iiA) in respect of taxable supplies made to the vendor under sales concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)*(d)* apply (other than supplies in respect of which the provisions of section 10(4) apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;'';

(b) by the substitution for subparagraph (v) of paragraph *(a)* of the said subsection (3) of the following subparagraph:

''(v) calculated in accordance with section 21(2)*(b)* or 21(7) or section 22(1), 22(1A) or 22(4), as applicable to the vendor;'';

(c) by the insertion after paragraph *(i)* of the said subsection (3) of the following paragraph:

''(j) (i) in the case of a vendor who has, during the tax period, supplied a property in possession in the course or furtherance of his enterprise under a sale, an amount equal to the tax fraction of the lesser of—

(aa) the amount (excluding any amount of tax) received in respect of the sale of such property in possession less any amount paid by the vendor in respect of the acquisition of such property in possession; and

(bb) the amount of the unrecovered loan balance less any amount paid by the vendor in respect of the acquisition of such property in possession:

Provided that no deduction shall be made in terms of this paragraph where the person in default is or will be held liable for payment of such lesser amount;

(ii) for the purposes of this paragraph—

(aa) 'property in possession' means fixed property acquired by any vendor—

(A) at a sale in execution as a result of default by any person (other than a person who held or applied such fixed property for the purpose of making taxable supplies in the course or furtherance of his enterprise immediately before such sale in execution) in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement; or

(B) as a result of an abandonment authorised by the Master of the High Court where such person has defaulted in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement or gone insolvent;

(bb) 'unrecovered loan balance' means the amount of capital, interest and administrative holding costs outstanding in terms of a credit agreement at the date of sale in execution or the date of authorisation of abandonment by the Master of the High Court:''; and

(d) by the substitution for subparagraph (ii) of paragraph *(a)* of subsection (4) of the following subparagraph:

''(ii) where a supply is made under a sale concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)*(d)* apply (other than a supply in respect of which the provisions of section 10(4) apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for that supply has been made during that tax period; or''.

Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, section 9 of Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993 and section 17 of Act 20 of 1994

33. Section 17 of the principal Act is hereby amended—

(a) by the substitution for paragraphs (i) and (ii) of the proviso to paragraph *(a)* of subsection (2) of the following paragraphs, respectively:

"(i) such goods or services are acquired by the vendor **[wholly or mainly]** for making taxable supplies of entertainment in the ordinary course of an enterprise which—

(aa) continuously or regularly supplies entertainment to clients or customers (other than in the circumstances contemplated in subparagraph *(bb)*) for a consideration **[and for which supply of entertainment a charge which covers the cost of such entertainment is made by such vendor to the recipient]** to the extent that such taxable supplies of entertainment are made for a charge which—

(A) covers all direct and indirect costs of such entertainment; or

(B) is equal to the open market value of such supply of entertainment,

unless—

(i) such costs or open market value is for *bona fide* promotion purposes not charged by the vendor in respect of the supply to recipients who are clients or customers in the ordinary course of the enterprise, of entertainment which is in all respects similar to the entertainment continuously or regularly supplied to clients or customers for consideration; or

(ii) the goods or services were acquired by the vendor for purposes of making taxable supplies to such clients or customers of entertainment which consists of the provision of any food and a supply of any portion of such food is subsequently made to any employee of the vendor or to any welfare organization as all such food was not consumed in the course of making such taxable supplies;

(bb) supplies entertainment to any employee or office holder of the vendor or any connected person in relation to the vendor, to the extent that such taxable supplies of entertainment are made for a charge which covers all direct and indirect costs of such entertainment;

(ii) such goods or services are acquired by the vendor for the consumption or enjoyment by that vendor (including, where the vendor is a partnership, a member of such partnership) or an employee or office holder of such vendor in respect of personal subsistence in respect of any night that such vendor or member is by reason of the vendor's enterprise or, in the case of such employee or office holder, he is by reason of the duties of his employment or office, obliged to spend away from his usual place of residence and, in respect of an absence on or after **[the date of promulgation of the Taxation Laws Amendment Act, 1992]** 15 July 1992, from his usual working-place;"; and

(b) by the addition of the following subsection:

"(4) Where, but for the provisions of this subsection, an amount qualifies or has qualified for a deduction under more than one provision of this Act, a deduction of such amount, or any portion thereof, shall not be made more than once in the calculation of the amount of tax payable by any person.".

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993 and section 18 of Act 20 of 1994

34. Section 18 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words following upon paragraph *(c)* of the following words:
''(**[not being]** excluding goods or services to the extent that, in respect of the acquisition of which by the vendor, a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall—
(i) if they are subsequently applied by him (otherwise than in the circumstances contemplated in section 8(9)) wholly for a purpose other than the said purpose; or
(ii) if they are subsequently applied by him wholly for a purpose in respect of which, if such goods or services had been acquired by him at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)*(a)* or *(c)*,
be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise.'';

(b) by the substitution in subsection (2) for the words following upon paragraph *(c)* and preceding the proviso of the following words:
''(**[not being]** excluding goods or services to the extent that, in respect of the acquisition of which by the vendor, a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall, if the extent of the application or use of such goods or services in the course of making taxable supplies (in respect of which, if such goods or services had been acquired at the time of such application or use, a deduction of input tax would not have been denied in terms of section 17(2)*(a)*) is subsequently reduced in relation to their total application or use, be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise at the time at which such reduction is deemed by subsection (6) to take place:'';

(c) by the substitution in subsection (4) for the words in paragraph *(a)* following upon subparagraph (ii) of the following words:
''**[(not being goods or services in respect of the acquisition of which by a person a deduction of input tax would have been denied by section 17(2) if that section had been applicable prior to the commencement date)]** and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such person wholly for purposes other than that of consumption, use or supply in the course of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act or for a purpose in respect of which a deduction of input tax in respect of such goods or services would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date; or'';

(d) by the substitution in the said subsection (4) for the words in paragraph *(b)* following upon subparagraph (iii) of the following words:
''**[(not being goods or services in respect of the acquisition of which by a person a deduction of input tax was denied by section 17(2) or would have been denied by that section if that person had been a vendor)]** and no deduction has been made in terms of section 16(3) in respect of or in relation to such goods or services; or''

(e) by the substitution in subsection (4) for the words following upon paragraph *(c)* and preceding the formula of the following words:
''such goods or services are subsequent to the commencement date applied in

any tax period by that person or, where he is a member of a partnership, by the partnership, wholly or partly for consumption, use or supply in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)), those goods or services shall be deemed to be supplied in that tax period to that person or the partnership, as the case may be, and the Commissioner shall allow that person or the partnership, as the case may be, to make a deduction in terms of section 16(3) of an amount determined in accordance with the formula'';

(f) by the substitution for the paragraph in the said subsection (4) defining the meaning of the symbol ''C'' of the following paragraph:

'' 'C' represents the ratio that, immediately after the supply so deemed to be made, the intended use of the goods or services (as contemplated in section 17(1)) in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) bears to the total intended use of those goods or services, expressed as a percentage: Provided that where the intended use of goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is equal to not less than 90 per cent of the total intended use of such goods or services, such percentage shall be deemed to be 100 per cent; and'';

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

''**[(not being goods or services in respect of the acquisition of which by the vendor a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date)]** and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such vendor partly for the purpose of consumption, use or supply in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) or of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act (other than supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date) such goods or services shall, if the extent of the application or the use of such goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is subsequent to the commencement date increased in relation to their total application or use, be deemed to be supplied to him, and the Commissioner shall allow the vendor to make a deduction in terms of section 16(3), in the tax period during which such increase is deemed by subsection (6) to take place, of an amount determined in accordance with the formula'';

(h) by the substitution in the said subsection (5) for the words preceding the proviso to the paragraph defining the meaning of the symbol ''C'' of the following words:

''represents the percentage that, during the 12 month period during which the increase in use or application of the goods or services is deemed to take place,

the use or application of the goods or services for the purposes of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) was of the total use or application of the goods:'';

(i) by the substitution for the paragraph in the said subsection (5) defining the meaning of the symbol ''D'' of the following paragraph:

'' 'D' represents the percentage that the use or application of the goods or services for the purposes of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) was of the total use or application of such goods or services determined in terms of section 17(1), section 10(9) or subsection (4) of this section or this subsection, whichever was applicable in the period immediately preceding the 12 month period contemplated in 'C':''; and

(j) by the addition to the said subsection (5) of the following proviso:

''Provided further that where such goods or services consist of second-hand goods contemplated in the proviso to paragraph *(b)* of the definition of 'input tax' in section 1, the amount determined in terms of this subsection shall not exceed the amount of transfer duty or stamp duty, as the case may be, which is or would have been payable, less any amount which has previously been deducted in terms of the provisions of section 16(3)*(a)*(ii) or *(b)*(i), or subsection (4) of this section, in respect of such acquisition, original issue or registration of transfer, as the case may be.''.

Amendment of section 20 of Act 89 of 1991, as amended by section 11 of Government Notice 2695 of 8 November 1991, section 25 of Act 136 of 1992 and section 33 of Act 97 of 1993

35. Section 20 of the principal Act is hereby amended by the substitution for paragraph *(a)* of subsection (8) of the following paragraph:

''(a) (i) The name of the supplier and—

(aa) where the supplier is a natural person, his identity number; or

(bb) where the supplier is not a natural person, the name and identity number of the natural person representing the supplier in respect of the supply and any legally allocated registration number of the supplier:

Provided that the recipient—

(A) shall verify such name and identity number of any such natural person with reference to his identity document, as contemplated in section 1 of the Identification Act, 1986 (Act No. 72 of 1986), and, where the value of the supply is R1 000 or more, retain a photocopy of such name and identity number appearing in such identity document; or

(B) shall verify such name and registration number of any supplier other than a natural person with reference to its business letterhead or other similar document and, where the value of the supply is R1 000 or more, retain a photocopy of such name and registration number appearing on such letterhead or document; and

(ii) the address of the supplier;''.

Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, section 13 of Government Notice 2695 of 8 November 1991, section 27 of Act 136 of 1992 and section 25 of Act 37 of 1996

36. Section 22 of the principal Act is hereby amended—

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

''(iv) a vendor who has transferred an account receivable at face value on a—

(aa) non-recourse basis to any other person, shall not make any deduction in respect of such transfer in terms of this subsection; or

(bb) recourse basis to any other person, may make a deduction in terms of this subsection only when such account receivable is transferred back to him and he has written off so much of the consideration as has become irrecoverable:'';

(b) by the insertion after the said subsection (1) of the following subsection:

''(1A) Where a vendor—

(a) has made a taxable supply for consideration in money; and

(b) has furnished a return in respect of the tax period for which the output tax on the supply was payable (at the rate of tax referred to in section 7(1)) and has properly accounted for the output tax on that supply as required in terms of this Act; and

(c) has transferred the account receivable relating to such taxable supply at face value to another vendor (hereinafter referred to as the recipient) on a non-recourse basis on or after the date of promulgation of the Taxation Laws Amendment Act, 1997,

and any amount of the face value (excluding any amount of finance charges or collection costs) of such account receivable has been written off as irrecoverable by such recipient, such recipient may make a deduction in terms of section 16(3) of an amount equal to the tax fraction (being the tax fraction applicable at the time such taxable supply is deemed to have been made) of such face value (limited to the amount paid by the recipient in respect of such face value) written off by him, the deduction so made being deemed for the purposes of the said section to be input tax.''; and

(c) by the substitution in subsection (3) for the words following upon paragraph *(b)* of the following words:

''an amount equal to the tax fraction, as applicable at the time of such deduction, of that portion of the consideration which has not been paid shall be deemed to be tax charged in respect of a taxable supply made in the next following tax period after the expiry of the period of **[36]** 12 months: Provided that the period of **[36]** 12 months shall, if any contract in writing in terms of which such supply was made provides for the payment of consideration or any portion thereof to take place after the expiry of the tax period within which such deduction was made, in respect of such consideration or portion be calculated as from the end of the month within which such consideration or portion was payable in terms of that contract.''.

Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994

37. Section 23 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

''(2) Every person who, in terms of subsection (1) or section 50A, becomes liable to be registered shall not later than 21 days after becoming so liable apply to the Commissioner for registration in such application form as the Commissioner may **[approve]** direct and provide the Commissioner with such further particulars and any documentation as the Commissioner may require in such application form for the purpose of registering that person: Provided that where—

(i) a person who applies for registration under this subsection has not provided all particulars and documentation as required by the Commissioner, that person

shall be deemed not to have applied for registration until he has provided all such particulars and documentation to the Commissioner;

(ii) such person is not a resident of the Republic, such person shall be deemed not to have applied for registration until he has—

(aa) appointed a representative vendor as contemplated in section 48(1) in the Republic and furnished the Commissioner with the particulars of such representative vendor;

(bb) opened a banking account with any bank, mutual bank or other similar institution for the purposes of his enterprise carried on in the Republic and furnished the Commissioner with the particulars of such banking account.''.

Amendment of section 32 of Act 89 of 1991

38. Section 32 of the principal Act is hereby amended—

(a) by the addition of the word ''or'' at the end of paragraph *(b)* of subsection (1); and

(b) by the insertion after paragraph *(b)* of the said subsection (1) of the following paragraph:

''(c) any direction or supplementary direction made by the Commissioner and served on that person in terms of section 50A(3) or (4),''.

Amendment of section 36 of Act 89 of 1991, as substituted by section 2 of Act 61 of 1993 and amended by section 18 of Act 140 of 1993 and section 22 of Act 20 of 1994

39. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

''(1) The obligation to pay and the right to receive and recover any tax, additional tax, penalty or interest chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law, but if any assessment is altered on appeal or in conformity with any such decision or a decision by the Commissioner to concede the appeal to the special board or the special court or such court of law, a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate (but subject to the provisions of **[section]** sections 45(1) and 45A) and calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with penalty and interest calculated as provided in section 39(1).''.

Amendment of section 39 of Act 89 of 1991, as amended by section 37 of Act 136 of 1991, section 16 of Government Notice 2695 of 8 November 1991, section 30 of Act 136 of 1992, section 3 of Act 61 of 1993 and section 23 of Act 20 of 1994

40. Section 39 of the principal Act is hereby amended—

(a) by the deletion of subsection (4); and

(b) by the substitution for subsection (7) of the following subsection:

''(7) **[Where]** To the extent that the Commissioner is satisfied that the failure on the part of **[any]** the person concerned or any other person under the control or acting on behalf of that person to make payment of the tax within the period for payment contemplated in subsection (1)*(a)*, (2), (3), (6) or (6A) or on the date referred to in subsection **[(4) or]** (5), as the case may be—

(a) (i) did, having regard to the output tax and input tax relating to the supply in respect of which interest is payable, not result in any financial loss (including any loss of interest) to the State; or

(ii) such person did not benefit financially (taking interest into account) by not making such payment within the said period or on the said date,

he may remit the interest payable in terms of this section; or

(b) was not due to an intent **[to avoid]** not to make payment or to postpone liability for the payment of the tax **[or the Commissioner is partly so satisfied]**, he may remit **[in whole or in part]** any penalty **[or interest]** payable in terms of this section.''.

Amendment of section 41 of Act 89 of 1991, as amended by section 32 of Act 136 of 1992 and section 36 of Act 97 of 1993

41. Section 41 of the principal Act is hereby amended—

(a) by the deletion of item (A) of subparagraph (ii) of paragraph *(d)*; and

(b) by the substitution for subparagraph *(aa)* of paragraph *(d)* of the following paragraph:

''*(aa)* that the failure to pay the amount which should have been paid was not due to an intent of the person concerned or any other person under the control or acting on behalf of that person not to **[avoid the]** make payment of tax; and''.

Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993 and section 27 of Act 37 of 1996

42. Section 44 of the principal Act is hereby amended—

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

''*(a)* the claim for the refund of such excess amount of tax, additional tax, penalty or interest is **[made]** received by the Commissioner within five years after the date upon which payment of the amount claimed to be refundable was made: Provided that if the Commissioner is satisfied that such payment was made in accordance with the practice generally prevailing at the said date, no refund shall be made unless the claim for any refund is **[made]** received by the Commissioner within six months after that date; or''; and

(b) by the substitution for subsection (8) of the following subsection:

''(8) If the Commissioner refuses to make or authorize a refund in terms of this section he shall **[at the request of the vendor concerned]**, give **[the vendor]** written notice of such refusal.''.

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 and section 24 of Act 20 of 1994

43. Section 45 of the principal Act is hereby amended—

(a) by the substitution for paragraph (i) of the proviso to subsection (1) of the following paragraphs:

''(i) **[this subsection shall not apply where—**

(aa)] where such return made by the vendor is incomplete or defective in any material respect **[or]** the said period of 21 business days shall be reckoned from the date on which—

(aa) the vendor rectifies the return and satisfies the Commissioner that the incompleteness or defectiveness of the return does not affect the amount refundable; or

(bb) the Commissioner makes an assessment upon the vendor reflecting the amount properly refundable to the vendor,

whichever date is earlier;

[*(bb)*](iA) where the vendor is in default in respect of any of his obligations under this Act to furnish a return for any tax period preceding the said tax period as required by this Act, the said period of 21 business days shall be reckoned from the date on which any such outstanding return or returns furnished by the vendor as required by this Act are received by such a Receiver of Revenue;''; and

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

''(iii) where the vendor is not a resident of the Republic and—

(aa) has not appointed a representative vendor as contemplated in section 48(1) in the Republic or has not furnished the Commissioner with the particulars of such representative vendor; or

(bb) has not opened a banking account in the Republic as required by paragraph (ii)*(bb)* of the proviso to section 23(2) or has not furnished the Commissioner with the particulars of such banking account,

the said period of 21 business days shall be reckoned from the date the vendor furnishes the Commissioner with the particulars of such representative vendor or banking account, as the case may be.''.

Insertion of section 50A in Act 89 of 1991

44. The following section is hereby inserted in the principal Act after section 50:

"Separate persons carrying on same enterprise under certain circumstances deemed to be single person

50A. (1) Notwithstanding the provisions of section 23, if the Commissioner makes a direction under this section, the persons named in the direction shall be deemed to be a single person carrying on the activities of an enterprise described in the direction and that person shall be liable to be registered in terms of section 23 with effect from the date of the direction or, if the direction so provides, from such date as may be specified therein.

(2) The Commissioner shall not make a direction under this section naming any person unless he is satisfied—

(a) that such person is making or has made taxable supplies; and

(b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities which should properly be regarded as those of the enterprise described in the direction, the other activities of that enterprise being carried on at that time or previously by one or more other persons; and

(c) that, if all the taxable supplies of that enterprise were taken into account, a person carrying on that enterprise should at that time be liable to be registered in terms of subsection (1); and

(d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in subparagraph *(b)* in the way he does is the avoidance of a liability to be so registered (whether that liability would be his, another person's or that of two or more persons jointly).

(3) A direction made under this section shall be served on each of the persons named in it.

(4) Where, after a direction has been given under this section specifying a description of the enterprise, it appears to the Commissioner that a person who was not named in that direction is making taxable supplies in the course or furtherance of activities which should properly be regarded as part of the activities of that enterprise, the Commissioner may make and serve on him a supplementary direction referring to the earlier direction and the description of the enterprise specified in it and adding that person's name to those of the persons named in the earlier direction with effect from—

(a) the date on which he began to make those taxable supplies; or

(b)

if it was later, the date with effect from which the single person referred to in the earlier direction became liable to be registered in terms of this section.

(5) If, immediately before a direction (including a supplementary direction) is made under this section, any person named in the direction is registered in respect of the taxable supplies made by him as contemplated in subsection (2) or (4), he shall cease to be liable to be so registered with effect from—

(a) the date with effect from which the single person concerned became liable to be registered; or

(b) the date of the direction,

whichever date is the later.

(6) In relation to an enterprise specified in a direction (including a supplementary direction) under this section, the persons named in such direction, who together are deemed to be the liable person, are in subsections (7) and (8) referred to as the members.

(7) For the purposes of this Act, where a direction is made under this section—

(a) the person carrying on the enterprise specified in the direction shall be registrable in such name as the members may jointly nominate upon compliance with the provisions of section 23(2);

(b) any supply of goods or services by or to one of the members in the course of the activities of such single person shall be deemed to be a supply by or to such single person;

(c) each of the members shall be jointly and severally liable for any tax due by such single person;

(d) notwithstanding the provisions of paragraph *(c)*, any failure by such single person to comply with any requirement imposed upon him by or under this Act shall be deemed to be a failure by each of the members severally; and

(e) subject to paragraphs *(a)* to *(d)* of this subsection, the members shall be deemed to be a body of persons carrying on the enterprise of such single person and any question as to the scope of the activities of that enterprise at any time shall be determined accordingly.

(8) If the Commissioner is of the opinion that any person who is one of the members should no longer be regarded as such for the purposes of subsection (7)*(c)* and *(d)* and the Commissioner gives notice to that effect, that person shall no longer be liable in terms of that subsection for anything done after the date specified in that notice and shall be deemed to have ceased to be a member of the body of persons referred to in subsection (7)*(e)*.''.

Amendment of section 52 of Act 89 of 1991, as substituted by section 39 of Act 136 of 1991

45. Section 52 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the first proviso of the following words:

''Any pool managed by any board or body for the sale of agricultural, pastoral or other farming products, being a pool contemplated in **[section 57 of the Marketing Act, 1968 (Act No. 59 of 1968)]** section 17 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), may, on written application by such board or body, for the purposes of this Act be deemed to be an enterprise or part of an enterprise carried on by that board or body separately from the members of such board or body:''.

Amendment of section 54 of Act 89 of 1991, as amended by section 40 of Act 136 of 1991, section 34 of Act 136 of 1992 and section 25 of Act 20 of 1994

46. Section 54 of the principal Act is hereby amended by the addition to subsection (2A) of the following paragraph, the existing subsection becoming paragraph *(a)*:

"*(b)* Notwithstanding the provisions of paragraph *(a)*, where any goods are imported into the Republic by an agent who is acting on behalf of another person who is the principal for the purposes of that importation, and—

(i) the agent is a registered vendor; and

(ii) the principal is not a resident of the Republic and is not a registered vendor; and

(iii) the goods are imported by the principal for the purposes of a supply made or to be made by him to a person in the Republic; and

(iv) the agent obtains and retains documentary proof, as is acceptable to the Commissioner, that—

(aa) he paid the tax on importation on behalf of that principal; and

(bb) such agent and that principal agree in writing that the said tax has not and will not be reimbursed to such agent by that principal,

that importation shall for the purposes of this Act be deemed to be made by such agent and not by that principal.''.

Amendment of section 57 of Act 89 of 1991, as substituted by section 24 of Act 46 of 1996

47. Section 57 of the principal Act is hereby amended by the substitution in subsection (1) for the definition of ''judge'' of the following definition:

'' 'judge' means a judge of the **[Supreme Court]** High Court and includes a judge in chambers.''.

Amendment of section 57C of Act 89 of 1991, as inserted by section 24 of Act 46 of 1996

48. Section 57C of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

''(3) A judge may, on **[*ex parte*]** application by the Commissioner or any officer contemplated in section 57(4), grant an order in terms of which a person contemplated in subsection (7) is designated to act as presiding officer at the inquiry contemplated in this section.''.

Amendment of section 57D of Act 89 of 1991, as inserted by section 24 of Act 46 of 1996

49. Section 57D of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

''For the purposes of the administration of this Act, a judge may, on **[*ex parte*]** application by the Commissioner or any officer contemplated in section 57(4), issue a warrant, authorising the officer named therein to, without prior notice and at any time—''.

Amendment of section 60 of Act 89 of 1991, as amended by section 42 of Act 136 of 1991

50. Section 60 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

''Where any vendor or any person under the control or acting on behalf of the vendor fails to perform any duty imposed upon him by this Act or does or omits to do anything, with intent—''.

Insertion of section 67B in Act 89 of 1991

51. (1) The following section is hereby inserted in the principal Act after section 67A:

"Registration of motor vehicles prohibited in certain circumstances

67B. Any motor vehicle registering authority in the Republic shall not register any imported motor vehicle unless the person applying for registration produces to such registering authority—

(a) in the case of a motor vehicle which is imported into the Republic and is not required to be entered in terms of the Customs and Excise Act, a document, receipt or certificate showing that any tax which may be payable in terms of this Act has been paid in respect of such importation into the Republic; or

(b) in the case of a motor vehicle which is imported into the Republic and is required to be entered in terms of the said Customs and Excise Act, a customs document showing that any tax which may be payable under this Act has been paid in respect of such importation into the Republic; or

(c) an exemption certificate issued by the Commissioner to the effect that no tax is payable in terms of this Act in respect of the importation of the motor vehicle.''.

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

Amendment of section 75 of Act 89 of 1991, as amended by section 45 of Act 136 of 1991 and section 41 of Act 136 of 1992 and substituted by section 29 of Act 20 of 1994

52. Section 75 of the principal Act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

''(1) The **[President]** National Executive may enter into an agreement with the government of any other country **[or territory]** whereby arrangements are made with that government with a view to—

(a) the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and such other country **[or territory]**, of value-added tax or any similar tax where the supply of goods or services is subject to such tax in either the Republic or such other country **[or territory]** and such supply or the importation of such goods or services is also subject to such tax in the other country **[or territory]** which is a party to the agreement;

(b) the refunding of value-added tax or any similar tax, or any portion of such value-added tax or similar tax, levied under the laws of the Republic and such other country **[or territory]** in respect of the supply of goods or services in the Republic or such other country **[or territory]**, as the case may be, where such goods or services are imported into such other country **[or territory]** or the Republic, as the case may be;

(c) regulating or co-ordinating any matter with regard to the levying and collection, under the laws of the Republic and such other country **[or territory]**, of value-added tax or any similar tax; or

(d) the rendering of reciprocal assistance in the administration of and the collection of value-added tax or any similar tax under the laws of the Republic and such other country **[or territory]**, or in respect of the execution of the arrangements provided for in any agreement entered into in terms of this section.

(2) As soon as may be possible after the **[conclusion]** approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by **[the President by notice]** publication in the *Gazette* **[whereupon until such notice is withdrawn by the President]** and thereupon the arrangements so notified **[therein shall, in relation to value-added tax in the Republic]** shall have effect as if enacted by this Act.'';

(b) by the deletion of subsection (3);

(c) by the deletion of subsection (4); and

(d) by the substitution for subsection (5) of the following subsection:

''(5) The duty imposed by this Act to preserve secrecy with regard to such tax shall not prevent the disclosure to any authorized officer of the country **[or territory mentioned in any notice issued in terms of subsection (2)]** contemplated in subsection (1) of any information necessary for the proper execution of the agreement notified in **[such notice]** terms of subsection (2).''.

Amendment of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, section 24 of Government Notice 2695 of 8 November 1991, section 43 of Act 136 of 1992, Government Notice 2244 of 31 July 1992, section 44 of Act 97 of 1993, Government Notice 1955 of 7 October 1993, section 32 of Act 20 of 1994 and section 32 of Act 37 of 1994

53. PART A of Schedule 1 to the principal Act is hereby amended by the substitution for subparagraph *(a)* of paragraph 5 of the following subparagraph:

''*(a)* a public authority or a local authority; or''.

Special exemption in respect of goods or services supplied by International Telecommunication Union

54. The supply of any goods or services by the International Telecommunication Union in connection with ''Africa Telecom 98'' shall be exempt from value-added tax imposed in terms of section 7(1)*(a)* of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

Amendment of section 60 of Act 113 of 1993, as amended by section 20 of Act 140 of 1993, section 4 of Act 168 of 1993, section 34 of Act 20 of 1994, section 6 of Act 37 of 1995 and section 34 of Act 37 of 1996

55. (1) Section 60 of the Income Tax Act, 1993, is hereby amended by the substitution in subsection (1) for paragraphs *(a)*, *(b)* and *(c)* of the definition of ''distributable shares'' of the following paragraphs:

''*(a)* any shares in one or more listed companies held **[on 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette*]** by an unbundling company (hereinafter referred to as the holder) on the date of the approval of the proposed transaction in terms of subsection (2) for its own benefit, whether directly or indirectly through one or more intermediate companies, if—

(i) that holder's interest, on such date **[and at the time of the approval of the proposed transaction in terms of subsection (2)]** in at least one of such listed companies constitutes at least 10 per cent of the equity share capital of such listed company; or

(ii) such shares so held on such date **[and time]** represent at least 70 per cent of the market value of the assets of such holder; and

(b) **any further shares (if any) in listed companies acquired by such holder for its own benefit after that date in addition to the shares referred to in paragraph *(a)*, if—**

(i) such further shares so acquired and the shares referred to in paragraph *(a)* are to be distributed *in specie* in the course of an unbundling transaction and the Commissioner is satisfied that such distribution will be effected in the course of or in anticipation of the winding-up or liquidation of such holder, subject to such conditions as the Commissioner may deem necessary; and

(ii) such further shares so acquired are registered in the name of such holder and stamp duty is duly paid on the registration of transfer of such shares in the name of such holder; and

***(c)*]** any shares in an unlisted company held on **[19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette*]** such date by an unbundling company for its own benefit if—

(i) such unbundling company's interest in such unlisted company on **[the]** such date **[and time referred to in paragraph *(a)*]** constitutes at least 30 per cent of the equity share capital of such unlisted company; or

(ii) such shares so held on **[the]** that date **[and time referred to in paragraph *(a)*]** represent at least 70 per cent of the market value of the assets of such unbundling company,''.

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1997.

Amendment of section 39 of Act 20 of 1994, as amended by section 7 of Act 37 of 1995 and section 35 of Act 37 of 1996

56. (1) Section 39 of the Taxation Laws Amendment Act, 1994, is hereby amended—

(a) by the substitution in subsection (1) for the definition of ''controlled company'' of the following definition:
'' 'controlled company' means a company in relation to which another company is at the date **[and time]** referred to in the definition of 'controlling company' the controlling company;'';

(b) by the substitution in subsection (1) for paragraphs *(a)* and *(b)* of the definition of ''controlling company'' of the following words:
''**[*(a)*]** on **[19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette* or, where such other company is incorporated after such date, or after such other date, and the Commissioner is satisfied that such other company was incorporated to give effect to a rationalisation scheme, the date of incorporation of such other company; and**

***(b)* at]** the **[time]** date of any agreement referred to in the definition of 'rationalisation scheme' to which such other company is a party,'';

(c) by the substitution in subsection (1) for the definition of ''group of companies'' of the following definition:
'' 'group of companies' means a controlling company and one or more other companies which are controlled in relation to the controlling company at the date **[and time]** referred to in the definition of 'controlling company';'';

(d) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the definition of ''rationalisation scheme'' of the following words:
'' 'rationalisation scheme' means any scheme effected in terms of an agreement in writing **[concluded on or after 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette*]** for the rationalisation of the activities of a group of companies where—''; and

(e) by the substitution for the words preceding paragraph *(a)* of subsection (6) of the following words:
''For the purposes of taxation levied under the Income Tax Act and notwithstanding anything to the contrary contained in that Act, where on **[or after 19 June 1995 or such other date as may be determined from time to time by the Minister of Finance by notice in the *Gazette*]** the date of the

agreement referred to in the definition of 'rationalisation scheme', the whole or a part of any business undertaking is disposed of (whether by way of sale, donation, cession, dividend or in any other form) in terms of a rationalisation scheme by a company (hereinafter referred to as the transferor company) to any other company (hereinafter referred to as the transferee company) and both such companies are at the time of such disposal members of one and the same group of companies, the controlling company involved in such scheme and the Commissioner may agree that—''.

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1997.

Amendment of section 1 of Act 38 of 1996

57. (1) Section 1 of the Tax on Retirement Funds Act, 1996, is hereby amended—

(a) by the deletion of the word ''and'' at the end of paragraph *(a)* of the definition of ''interest'';

(b) by the addition of the word ''and'' at the end of paragraph *(b)* of the definition of ''interest'';

(c) by the addition to the definition of ''interest'' of the following paragraph: ''*(c)* any amount contemplated in section 24K of the Income Tax Act;''; and

(d) by the insertion after the definition of ''pensioner'' of the following definition: '' 'rental income' includes—

(a) any royalty;

(b) any premium or like consideration contemplated in paragraph *(g)* of the definition of 'gross income' in section 1 of the Income Tax Act;

(c) any dividend (other than those distributed out of profits of a capital nature) distributed by a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981); and

(d) any consideration payable by a borrower to the lender in respect of any 'lending arrangement' as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968), as consideration for the use of any marketable security, in so far as such amount is not included in paragraph *(a)* of the definition of 'interest';''.

(2) *(a)* Subsection (1)*(c)* shall come into operation on the date of promulgation of this Act and shall apply in respect of agreements entered into on or after that date.

(b) Subsection (1)*(d)* shall be deemed to have come into operation on 1 March 1997.

Amendment of section 3 of Act 38 of 1996

58. (1) Section 3 of the Tax on Retirement Funds Act, 1996, is hereby amended by the substitution for paragraphs *(b)* and *(c)* of the following paragraphs, respectively:

''(b) 'I' represents the gross amount of any interest received by or accrued to such fund during such tax period from a source within the Republic or deemed to be within the Republic as contemplated in **[section]** sections 9 and 9C of the Income Tax Act;

(c) 'R' represents the gross amount of any rental income **[(including any royalty and any premium or like consideration contemplated in paragraph *(g)* of the definition of 'gross income' in section 1 of the Income Tax Act)]** received by or accrued to such fund during such tax period from a source within the Republic or deemed to be within the Republic as contemplated in the last-mentioned **[section]** sections 9 and 9C; and''.

(2) Subsection (1) shall in so far as it relates to—

(a) the deletion of the inclusion in rental income, be deemed to have come into operation on 1 March 1997;

(b) the insertion of a reference to section 9C of the Income Tax Act, 1962, be deemed to have come into operation on 1 July 1997.

Amendment of section 16 of Act 38 of 1996

59. Section 16 of the Tax on Retirement Funds Act, 1996, is hereby amended—

(a) by the deletion of the word ''and'' at the end of paragraph *(h)*;

(b) by the addition of the following paragraphs:

''*(j)* rebate in respect of foreign taxes on income; and

(k) income of controlled foreign entities and investment income arising from any donation, settlement or other disposition,'';

(c) by the deletion of the word ''and'' at the end of paragraph (v); and

(d) by the addition of the following paragraphs:

''(vii) the granting of any rebate of any foreign taxes on income as a deduction from any tax payable by a fund; and

(viii) in respect of the inclusion of any investment income in the income of any fund.''.

Continuation of certain amendments of Schedules Nos. 1 to 6 to Act 91 of 1964

60. (1) Every amendment of Schedules Nos. 1 to 6 to the Customs and Excise Act, 1964, made under section 48, section 56 or section 75(15) of that Act on or before 31 December 1996 shall not lapse by virtue of the provisions of section 48(6), 56(3) or 75(16) of that Act.

(2) The amendments of Schedule No. 5 and Schedule No. 6 to the Customs and Excise Act, 1964, made under section 75(15) of that Act by Government Notices No. R.433 and No. R.432, respectively, of 13 March 1997, shall not lapse by virtue of the provisions of section 75 (16) of that Act.

(3) The amendment of Part 2B of Schedule No. 1 to the Customs and Excise Act, 1964, made under section 48 of that Act by Government Notice No. R.434 of 13 March 1997, shall not lapse by virtue of the provisions of section 48(6) of that Act.

Short title

61. This Act shall be called the Taxation Laws Amendment Act, 1997.

SCHEDULE

(Section 15)

AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.00		By the substitution for tariff item 104.00 of the following:		
‘‘104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
.10		Preparations based on sorghum flour, put up for making beverages	33c/kg	33c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		
.10		Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/ℓ	15,98c/ℓ

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/ℓ	15,98c/ℓ
.30		Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	14,83c/ℓ	15,98c/ℓ
104.10	22.03	BEER MADE FROM MALT WITH AN ALCOHOL CONTENT BY VOLUME:		
.10		Exceeding 0,5% but not exceeding 1,5%	7 249c/100ℓ	7 249c/100ℓ
.20		Exceeding 1,5% but not exceeding 2,5%	7 903c/100ℓ	7 903c/100ℓ
.30		Exceeding 2,5% but not exceeding 3,5%	8 557c/100ℓ	8 557c/100ℓ
.40		Exceeding 3,5% but not exceeding 4,5%	9 211c/100ℓ	9 211c/100ℓ
.50		Exceeding 4,5% but not exceeding 5,5%	9 865c/100ℓ	9 865c/100ℓ
.60		Exceeding 5,5% but not exceeding 6,5%	10 519c/100ℓ	10 519c/100ℓ
.70		Exceeding 6,5% but not exceeding 7,5%	11 173c/100ℓ	11 173c/100ℓ
.80		Exceeding 7,5%	11 827c/100ℓ	11 827c/100ℓ
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST, OTHER THAN THAT OF HEADING NO. 20.09		
	22.05	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		
.05		Sorghum beer (excluding beer made from preparations based on sorghum flour)	745c/100ℓ	745c/100ℓ
.10		Unfortified still wine	5 315c/100ℓ	5 315c/100ℓ
.40		Fortified still wine	11 500c/100ℓ	11 500c/100ℓ
.50		Other still fermented beverages, unfortified	7 350c/100ℓ	7 350c/100ℓ
.60		Other still fermented beverages, fortified	13 353c/100ℓ	13 353c/100ℓ
.70		Sparkling wine	14 750c/100ℓ	14 750c/100ℓ
.80		Other fermented beverages (excluding sorghum beer)	15 906c/100ℓ	15 906c/100ℓ

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	237 687c/100ℓ of absolute alcohol	—
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	249 633c/100ℓ of absolute alcohol	—
.25		Spirits, manufactured in the Republic by the distillation of any grain product	255 037c/100ℓ of absolute alcohol	—
.29		Other spirits, manufactured in the Republic	243 008c/100ℓ of absolute alcohol	—
.60		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	—	228 074c/100ℓ of absolute alcohol or 98 072c/100ℓ
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	—	228 074c/100ℓ of absolute alcohol
104.30	24.02	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, ‘‘HOMOGENISED’’ OR ‘‘RECONSTITUTED’’ TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigars	672,5c/kg net	706,0c/kg net
.20		Cigarettes	79c/10 cigarettes	79c/10 cigarettes
		Plus, in respect of cigarettes the mass of the tobacco content of which exceeds 1,5 kg/1 000 cigarettes	2 944c/kg tobacco content	2 944c/kg tobacco content
.30		Cigarette tobacco	99c/50g or fraction thereof plus 382c/kg tobacco	99c/50g or fraction thereof plus 382c/kg tobacco

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	131c/kg tobacco	131c/kg tobacco
.40		Pipe tobacco in immediate packings of a content of less than 5 kg	727c/kg net	727c/kg net
.50		Pipe tobacco in immediate packings of a content of not less than 5 kg	699c/kg net	699c/kg net”