



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 570 Cape Town, 20 December 2012 No. 36036
Kaapstad,

THE PRESIDENCY

No. 1107 20 December 2012

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

Act No 21 of 2012: Tax Administration Laws Amendment Act, 2012

DIE PRESIDENSIE

No. 1107 20 Desember 2012

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

Wet Nr. 21 van 2012: Wysigingswet op Belastingadministrasiewette, 2012



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

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
-
-

(English text signed by the President)
(Assented to 12 December 2012)

ACT

To—

- **make a provision for the enactment of an international agreement into law;**
 - **insert a provision providing for the application of the Tax Administration Act, 2011, to certain matters relating to customs and excise;**
 - **amend the Estate Duty Act, 1955, so as to effect a consequential amendment;**
 - **amend the Income Tax Act, 1962, so as to effect textual amendments; to amend certain provisions; to insert new provisions and to effect consequential amendments;**
 - **amend the Customs and Excise Act, 1964, so as to amend a provision;**
 - **amend the Value-Added Tax Act, 1991, so as to amend a provision and to insert a new provision;**
 - **amend the Unemployment Insurance Contributions Act, 2002, so as to effect a textual amendment;**
 - **amend the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, so as to insert certain provisions;**
 - **amend the Taxation Laws Second Amendment Act, 2009, so as to repeal a provision;**
 - **amend the Taxation Laws Second Amendment Act, 2011, so as to postpone an effective date;**
 - **amend the Tax Administration Act, 2011, so as to effect technical corrections, to regulate tax practitioners;**
- and to provide for matters connected therewith.**

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

Enactment of an international agreement into law

1. (1) Notwithstanding anything to the contrary contained in this Act or any other law, an international agreement on combined border control posts entered into by the National Executive with the government of any other country shall, after approval by Parliament in terms of section 231 of the Constitution and on publication in the *Gazette*, have the effect as if enacted in any law in terms of which any power must be exercised or a function must be performed to give effect to that agreement, including any law regulating the movement of goods, persons or means of transport into or out of the

5
10

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit
bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande
verordenings aan.

*(Engelse teks deur die President geteken)
(Goedgekeur op 12 Desember 2012)*

WET

Ten einde—

- 'n bepaling te maak vir die wetlike verordening van 'n internasionale ooreenkoms;
 - 'n bepaling in te voeg wat vir die toepassing van die Wet op Belastingadministrasie, 2011, ten opsigte van sekere aangeleenthede rakende doeane en aksyns, voorsiening maak;
 - die Boedelbelastingwet, 1955, te wysig deur 'n gevolglike wysiging aan te bring;
 - die Inkomstebelastingwet, 1962, te wysig deur teksuele wysings aan te bring; sekere bepalings te wysig; nuwe bepalings in te voeg en gevolglike wysings aan te bring;
 - die Doeane- en Aksynswet, 1964, te wysig deur 'n bepaling te wysig;
 - die Wet op Belasting op Toegevoegde Waarde, 1991, te wysig deur 'n bepaling te wysig en 'n nuwe bepaling in te voeg;
 - die “Mulayo wa Zwibviswa zwa Ndindakhombo ya u Shaya Mushumo”, 2002, te wysig deur 'n tekstuele wysiging aan te bring;
 - die “Molao wa Royalithi (Tshepedišo) ya Methopo ya Diminerale le Petroliamo, wa 2008” te wysig deur seker bepalings in te voeg;
 - die Tweede Wysigingswet op Belastingwette, 2009, te wysig deur 'n bepaling te herroep;
 - die Tweede Wysigingswet op Belastingwette, 2011, te wysig deur 'n effektiewe datum uit te stel;
 - die Wet op Belastingadministrasie, 2011, te wysig deur tegniese korreksies aan te bring en belastingpraktisyns te reguleer;
- en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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

Wetlike verordening van 'n internasionale ooreenkoms

1. (1) Ondanks andersluidende bepalings in hierdie Wet of enige ander wet, het 'n internasionale ooreenkoms oor gekombineerde grenskontrole poste aangegaan deur die Nasionale Uitvoerende Gesag met die regering van enige ander land, na goedkeuring deur die Parlement ingevolge artikel 231 van die Grondwet en by afkondiging in die *Staatskoerant*, die uitwerking asof verorden in enige wet ingevolge waarvan enige bevoegdheid uitgeoefen moet word of enige funksie verrig moet word om uitvoering te gee aan daardie ooreenkoms, met inbegrip van enige wet wat die beweging van goedere, 5 10

(2) Any annex or amendment to such agreement shall have the same effect after approval by Parliament in terms of section 231 of the Constitution and on publication in the *Gazette*.

Application of Tax Administration Act to certain matters relating to customs and excise

5

2. (1) The Tax Ombud appointed in terms of section 14 of the Tax Administration Act, 2011 (Act No. 28 of 2011), must review and address in accordance with the provisions of sections 16 to 21 of that Act and any regulations issued under section 257(2) of that Act, any complaint by a person affected by the application of the Customs and Excise Act, 1964 (Act No. 91 of 1964), regarding a service, procedural or administrative matter. 10

(2) Chapter 14 of the Tax Administration Act, 2011, applies to the writing off or compromise of an amount owed to the Commissioner in terms of the Customs and Excise Act, 1964.

(3) Subsections (1) and (2) are deemed to have come into operation on 1 October 2012. 15

Amendment of section 10 of Act 45 of 1955

3. (1) Section 10 of the Estate Duty Act, 1955, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) **[If the assessment of duty is delayed beyond a period of twelve months from the date of death, interest at the prescribed rate shall be]** Interest in terms of Chapter 12 of the Tax Administration Act [payable as from a date twelve months after the date of death] must be calculated on the difference (if any) between the duty assessed and any deposit **[(if any)]** made on account of the duty **[payable within the said period of twelve months]**.”. 20

(2) Subsection (1) is deemed to have come into operation on the date that paragraph 18 of Schedule 1 to the Tax Administration Act, 2011, comes into operation. 25

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011 and paragraph 23 of Schedule 1 to Act 28 of 2011 30
35
40
45
50

4. Section 1 of the Income Tax Act, 1962, is hereby amended by the substitution in the definition of ‘representative taxpayer’ for paragraph (c) of the following paragraph:

(2) Enige anneks of wysiging van sodanige ooreenkoms het na goedkeuring deur die Parlement ingevolge artikel 231 van die Grondwet en by afkondiging in die *Staatskoerant* dieselfde uitwerking.

**Toepassing van Wet op Belastingadministrasie op sekere aangeleenthede
aangaande doeane en aksyns** 5

2. (1) Die Belastingombud aangestel ingevolge artikel 14 van die Wet op Belastingadministrasie, 2011 (Wet No.28 van 2011), moet ooreenkomstig die bepalings van artikels 16 tot 21 van daardie Wet en enige regulasies kragtens artikel 257(2) van daardie Wet uitgevaardig, enige klage deur 'n persoon wat aangetas is deur die toepassing van die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964) aangaande 'n diens, prosedurele- of administratiewe aangeleentheid, hersien en beredder. 10

(2) Hoofstuk 14 van die Wet op Belastingadministrasie, 2011, is van toepassing op die afskryf of toeweging van 'n bedrag wat ingevolge die Doeane- en Aksynswet, 1964, aan die Kommissaris verskuldig is.

(3) Subartikel (1) en (2) word geag op 1 Oktober 2012 in werking te getree het. 15

Wysiging van artikel 10 van Wet 45 van 1955

3. (1) Artikel 10 van die Boedelbelastingwet, 1955, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [Indien die belastingaanslag vir 'n langer tydperk as twaalf maande vanaf die datum van oorlye verdraag word, is rente teen die voorgeskrewe koers betaalbaar vanaf 'n datum twaalf maande na die datum van oorlye] Rente ingevolge Hoofstuk 12 van die Wet op Belastingadministrasie moet bereken word op die verskil (indien daar is) tussen die belasting wat aangeslaan is en enige deposito [(indien daar is)] wat [binne bedoelde tydperk van twaalf maande] teen die betaalbare belasting gestort is.” 20 25

(2) Subartikel (1) word geag in werking te getree het op die datum wat paragraaf 18 van Bylae 1 by die Wet op Belastingadministrasie, 2011, in werking tree.

Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentkennisgewing R780 van 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel 2 van Wet 113 van 1993, artikel 2 van Wet 21 van 1994, Goewermentskennisgewing 46 van 1994, artikel 2 van Wet 21 van 1995, artikel 2 van Wet 36 van 1996, artikel 2 van Wet 28 van 1997, artikel 19 van Wet 30 van 1998, Goewermentskennisgewing 1503 van 1998, artikel 10 van Wet 53 van 1999, artikel 13 van Wet 30 van 2000, artikel 2 van Wet 59 van 2000, artikel 5 van Wet 5 van 2001, artikel 3 van Wet 19 van 2001, artikel 17 van Wet 60 van 2001, artikel 9 van Wet 30 van 2002, artikel 6 van Wet 74 van 2002, artikel 33 van Wet 12 van 2003, artikel 12 van Wet 45 van 2003, artikel 3 van Wet 16 van 2004, artikel 3 van Wet 32 van 2004, artikel 3 van Wet 32 van 2005, artikel 19 van Wet 9 van 2006, artikel 3 van Wet 20 van 2006, artikel 3 van Wet 8 van 2007, artikel 5 van Wet 35 van 2007, artikel 2 van Wet 3 van 2008, artikel 4 van Wet 60 van 2008, artikel 7 van Wet 17 van 2009, artikel 6 van Wet 7 van 2010, artikel 7 van Wet 24 van 2011 en paragraaf 23 van Bylae 1 by Wet 28 van 2011 30 35 40 45 50

4. Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in die Engelse weergawe paragraaf (c) in die omskrywing van 'verteenwoordigende 55

“(c) in respect of income which is the subject of any trust or in respect of the income of any minor or mentally disordered or defective person or any other person under legal disability, the trustee, guardian, curator or other person entitled to the receipt, management, disposal or control of such income or remitting or paying to or receiving moneys on behalf of such person under disability;”.

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006 and amended by section 13 of Act 8 of 2007, section 3 of Act 9 of 2007, section 19 of Act 35 of 2007, section 11 of Act 3 of 2008, section 19 of Act 60 of 2008, section 16 of Act 17 of 2009, section 20 of Act 7 of 2010, section 32 of Act 24 of 2011, section 1 of Act 25 of 2011 and paragraph 34 of Schedule 1 to Act 28 of 2011

5. (1) Section 11D of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (19) of the following subsection:

“(19) [For the purposes of subsection (1), the] The Commissioner may, notwithstanding the provisions of sections 99 and 100 of the Tax Administration Act, raise an additional assessment for any year of assessment with respect to a deduction in respect of research and development which has been allowed, where approval has been withdrawn in terms of subsection (10).”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2012 and applies in respect of expenditure incurred in respect of research and development on or after that date but before 1 October 2022.

Amendment of section 12I of Act 58 of 1962, as inserted by section 26 of Act 60 of 2008 and amended by section 24 of Act 17 of 2009, section 26 of Act 7 of 2010 and section 37 of Act 24 of 2011

6. (1) Section 12I of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (11) of the following subsection:

“(11) Within 12 months after the close of each year of assessment, starting with the year in which approval is granted in terms of subsection (8), a company carrying on an industrial policy project must report to the adjudication committee with respect to the progress of the industrial policy project in terms of the requirements of subsections (7) and (8) within such time, in such form and in such manner as the Minister of Finance may prescribe.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2012 and applies in respect of industrial policy projects approved on or after that date.

Amendment of section 18A of Act 58 of 1962, as amended by section 16 of Act 88 of 1971, section 13 of Act 90 of 1972, section 14 of Act 65 of 1973, section 16 of Act 69 of 1975, section 13 of Act 104 of 1980, section 16 of Act 96 of 1981, section 14 of Act 91 of 1982, section 16 of Act 94 of 1983, section 16 of Act 121 of 1984, section 15 of Act 90 of 1998, section 17 of Act 101 of 1990, section 20 of Act 129 of 1991, section 11 of Act 36 of 1996, section 24 of Act 30 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 1 of Act 3 of 2008, section 6 of Act 4 of 2008, section 34 of Act 60 of 2008, section 37 of Act 7 of 2010 and section 44 of Act 24 of 2011

7. Section 18A of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

“(7) Any person who is—

- (i) in a fiduciary capacity responsible for the management or control of the income and assets of any public benefit organisation, institution, board or body contemplated in this section; or
- (ii) the accounting officer or accounting authority contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999), or the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), as the case may be, for any institution in respect of which that Act applies,

“(c) in respect of income which is the subject of any trust or in respect of the income of any minor or mentally disordered or defective person or any other person under legal disability, the trustee, guardian, curator or other person entitled to the receipt, management, disposal or control of such income or remitting or paying to or receiving moneys on behalf of such person under disability;”.

Wysiging van artikel 11D van Wet 58 van 1962, soos ingevoeg deur artikel 13 van Wet 20 van 2006 en gewysig deur artikel 13 van Wet 8 van 2007, artikel 3 van Wet 9 van 2007, artikel 19 van Wet 35 van 2007, artikel 11 van Wet 3 van 2008, artikel 19 van Wet 60 van 2008, artikel 16 van Wet 17 van 2009, artikel 20 van Wet 7 van 2010, artikel 32 van Wet 24 van 2011, artikel 1 van Wet 25 van 2011 en paragraaf 34 van Bylae 1 by Wet 28 van 2011

5. (1) Artikel 11D van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (19) deur die volgende subartikel te vervang:

“(19) [By die toepassing van subartikel (1), kan die] Die Kommissaris kan, ongeag die bepalinge van artikels 99 en 100 van die Wet op Belastingadministrasie, ’n addisionele aanslag vir enige jaar van aanslag uitreik, met betrekking tot ’n afrekening ten opsigte van navorsing en ontwikkeling wat toegelaat is, waar goedkeuring ingevolge subartikel (10) ingetrek is.”.

(2) Subartikel (1) word geag op 1 Oktober 2012 in werking te getree het en is van toepassing ten opsigte van uitgawes aangegaan in verband met navorsing en ontwikkeling op of na daardie datum maar voor 1 Oktober 2022.

Wysiging van artikel 12I van Wet 58 van 1962, soos ingevoeg deur artikel 26 van Wet 60 van 2008 en gewysig deur artikel 24 van Wet 17 van 2009, artikel 26 van Wet 7 van 2010 en artikel 37 van Wet 24 van 2011

6. (1) Artikel 12I van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (11) deur die volgende subartikel te vervang:

“(11) Binne twaalf maande na die sluiting van elke jaar van aanslag, vanaf die jaar waarin goedkeuring ingevolge subartikel (8) verleen word, moet ’n maatskappy wat ’n nywerheidsbeleidprojek beoefen aan die beoordelingskomitee verslag doen met betrekking tot die vordering van die nywerheidsbeleidprojek ingevolge die vereistes van subartikels (7) en (8) binne die tydperk, in die vorm en op die wyse wat deur die Minister van Finansies voorgeskryf kan word.

(2) Subartikel (1) word geag op 1 Januarie 2012 in werking te getree het en is van toepassing op nywerheidsbeleidprojekte op of na daardie datum goedgekeur.

Wysiging van artikel 18A van Wet 58 van 1962, soos gewysig deur artikel 16 van Wet 88 van 1971, artikel 13 van Wet 90 van 1972, artikel 14 van Wet 65 van 1973, artikel 16 van Wet 69 van 1975, artikel 13 van Wet 104 van 1980, artikel 16 van Wet 96 van 1981, artikel 14 van Wet 91 van 1982, artikel 16 van Wet 94 van 1983, artikel 16 van Wet 121 van 1984, artikel 15 van Wet 90 van 1998, artikel 17 van Wet 101 van 1990, artikel 20 van Wet 129 van 1991, artikel 11 van Wet 36 van 1996, artikel 24 van Wet 30 van 2000, artikel 20 van Wet 30 van 2002, artikel 34 van Wet 45 van 2003, artikel 26 van Wet 31 van 2005, artikel 16 van Wet 20 van 2006, artikel 18 van Wet 8 van 2007, artikel 1 van Wet 3 van 2008, artikel 6 van Wet 4 van 2008, artikel 34 van Wet 60 van 2008, artikel 37 van Wet 7 van 2010 en artikel 44 van Wet 24 van 2011

7. Artikel 18A van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel in te voeg:

“(7) Enige persoon wat—
(i) in ’n fidusiële hoedanigheid verantwoordelik is vir die bestuur van of beheer oor die inkomste en bates van enige openbare weldaadsorganisasie, instelling, raad of liggaam in hierdie artikel beoog; of
(ii) die rekenkundige beamppte of rekenkundige gesag is soos beoog in die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), of die Wet op Plaaslike Regering: Munisipale Bestuur, 2003 (Wet 56 van 2003), na gelang van die

who intentionally fails to comply with any provisions of this section, or a provision of the constitution, will or other written instrument under which such organisation is established to the extent that it relates to the provisions of this section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 24 months.”

5

Amendment of section 30 of Act 58 of 1962, as amended by section 16 of Act 19 of 2001, section 22 of Act 30 of 2002, section 31 of Act 74 of 2002, section 45 of Act 45 of 2003, section 28 of Act 32 of 2004, section 36 of Act 31 of 2005, section 24 of Act 20 of 2006, section 25 of Act 8 of 2007, section 43 of Act 35 of 2007, section 22 of Act 3 of 2008, section 24 of Act 20 of 2006, section 22 of Act 3 of 2008, section 41 of Act 60 of 2008, section 41 of Act 17 of 2009, section 53 of Act 7 of 2010

8. Section 30 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (10) of the following subsection:

“(11) Any person who is in a fiduciary capacity responsible for the management or control of the income and assets of any approved public benefit organisation and who intentionally fails to comply with any provision of this section or of the constitution, will or other written instrument under which such organisation is established to the extent that it relates to the provisions of this section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 24 months.”

15

20

Amendment of section 30A of Act 58 of 1962, as amended by section 26 of Act 8 of 2007, section 42 of Act 60 of 2008, section 42 of Act 17 of 2009 and section 54 of Act 7 of 2010

9. Section 30A of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

25

“(9) Any person who is in a fiduciary capacity responsible for the management or control of the income and assets of any approved recreational club and who intentionally fails to comply with any provision of this section or of the constitution, or other written instrument under which such recreational club is established to the extent that it relates to the provisions of this section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 24 months.”

30

Amendment of section 30B of Act 58 of 1962, as amended by section 56 of Act 24 of 2011

10. Section 30B of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

35

“(10) Any person who is in a fiduciary capacity responsible for the management or control of the income and assets of any approved association and who intentionally fails to comply with any provision of this section or of the constitution, or other written instrument under which such association is established to the extent that it relates to the provisions of this section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 24 months.”

40

Insertion of sections 37L, 37M, 37N and 37O in Act 58 of 1962

11. (1) The following sections are hereby inserted in the Income Tax Act, after section 37K:

45

wat opsetlik nalaat om aan enige bepaling van hierdie artikel, of 'n bepaling van die konstitusie, testament of ander geskrewe stuk waarkragtens daardie organisasie opgerig is, tot die mate wat dit verband hou met die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.”.

5

Wysiging van artikel 30 van Wet 58 van 1962, soos gewysig deur artikel 16 van Wet 19 van 2001, artikel 22 van Wet 30 van 2002, artikel 31 van Wet 74 van 2002, artikel 45 van Wet 45 van 2003, artikel 28 van Wet 32 van 2004, artikel 36 van Wet 31 van 2005, artikel 24 van Wet 20 van 2006, artikel 25 van Wet 8 van 2007, artikel 43 van Wet 35 van 2007, artikel 22 van Wet 3 van 2008, artikel 24 van Wet 20 van 2006, artikel 22 van Wet 3 van 2008, artikel 41 van Wet 60 van 2008, artikel 41 van Wet 17 van 2009, artikel 53 van Wet 7 van 2010

8. Artikel 30 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel na subartikel (10) in te voeg:

“(11) Enige persoon wat in 'n fidusiêre hoedanigheid verantwoordelik is vir die bestuur van of beheer oor die inkomste en bates van enige goedgekeurde openbare weldaadsorganisasie en wat opsetlik nalaat om aan enige bepaling van hierdie artikel, of 'n bepaling van die konstitusie, testament of ander geskrewe stuk waarkragtens daardie organisasie opgerig is, tot die mate wat dit verband hou met die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.”.

15

20

Wysiging van artikel 30A van Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 8 van 2007, artikel 42 van Wet 60 van 2008, artikel 42 van Wet 17 van 2009 en artikel 54 van Wet 7 van 2010

25

9. Artikel 30A van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel by te voeg:

“(9) Enige persoon wat in 'n fidusiêre hoedanigheid verantwoordelik is vir die bestuur van of beheer oor die inkomste en bates van enige goedgekeurde ontspanningsklub en wat opsetlik nalaat om aan enige bepaling van hierdie artikel, of 'n bepaling van die konstitusie of ander geskrewe stuk waarkragtens daardie ontspanningsklub opgerig is, tot die mate wat dit verband hou met die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.”.

30

35

Wysiging van artikel 30B van Wet 58 van 1962, soos gewysig deur artikel 56 van Wet 24 van 2011

10. Artikel 30B van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel by te voeg:

“(10) Enige persoon wat in 'n fidusiêre hoedanigheid verantwoordelik is vir die bestuur van of beheer oor die inkomste en bates van enige goedgekeurde vereniging en wat opsetlik nalaat om aan enige bepaling van hierdie artikel, of 'n bepaling van die konstitusie of ander geskrewe stuk waarkragtens daardie vereniging opgerig is, tot die mate wat dit verband hou met die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 24 maande.”.

40

45

Invoeging van artikels 37L, 37M, 37N en 37O in Wet 58 of 1962

11. (1) Die volgende artikels word hierby in die Inkomstebelastingwet, 1962, na artikel 37K ingevoeg:

50

“Withholding of withholding tax on interest by payers of interest

- 37L.** (1) Subject to subsections (2) and (3), any person who makes payment of any amount of interest to or for the benefit of a foreign person must withhold an amount as contemplated in section 37J from that payment. 5
- (2) A person must not withhold any amount from any payment contemplated in subsection (1)—
- (a) to the extent that the interest is exempt from the withholding tax on interest in terms of section 37K(1); or
 - (b) if the foreign person to or for the benefit of which that payment is to be made has— 10
 - (i) by a date determined by the person making the payment; or
 - (ii) if the person making the payment did not determine a date as contemplated in subparagraph (i), by the date of the payment, submitted to the person making the payment a declaration in such form as may be prescribed by the Commissioner that the foreign person is, in terms of section 37K(3), exempt from the withholding tax on interest in respect of that payment. 15
- (3) The rate referred to in subsection (1) must, for the purposes of that subsection, be reduced if the foreign person to or for the benefit of which the payment contemplated in that subsection is to be made has— 20
- (a) by a date determined by the person making the payment; or
 - (b) if the person making the payment did not determine a date as contemplated in paragraph (a), by the date of the payment, submitted to the person making the payment a declaration in such form as may be prescribed by the Commissioner that the interest is subject to that reduced rate of tax as a result of the application of an agreement for the avoidance of double taxation. 25

Payment and recovery of tax

- 37M.** (1) If, in terms of section 37JA, a foreign person is liable for any amount of withholding tax on interest in respect of any amount of interest that is paid to or for the benefit of the foreign person, that foreign person must pay that amount of withholding tax by the last day of the month following the month during which the interest is paid, unless the tax has been paid by any other person. 30 35
- (2) Any person that withholds any withholding tax on interest in terms of section 37L must pay the tax to the Commissioner by the last day of the month following the month during which the interest is paid.

Refund of withholding tax on interest

- 37N.** Notwithstanding chapter 13 of the Tax Administration Act, if— 40
- (a) an amount is withheld from a payment of an amount of interest as contemplated in section 37L(1);
 - (b) a declaration contemplated in section 37L(2)(b) or (3) in respect of that interest is not submitted to the person paying that interest by the date of the payment of that interest; and 45
 - (c) a declaration contemplated in section 37L(2)(b) or (3) is submitted to the Commissioner within three years after the payment of the interest in respect of which the declaration is made, 50
- so much of that amount as would not have been withheld had that declaration been submitted by the date contemplated in the relevant subsection is refundable by the Commissioner to the person to which the interest was paid.

“Terughouding van terughoudingsbelasting op rente deur betalers van rente

37L. (1) Behoudens subartikels (2) en (3) moet enige persoon wat betaling maak van enige bedrag van rente aan of ten behoeve van ’n buitelandse persoon ’n bedrag soos beoog in artikel 37C van daardie betaling terughou. 5

(2) ’n Persoon moet nie enige bedrag van enige betaling beoog in subartikel (1) terughou nie—

(a) namate die rente ingevolge artikel 37K(1) van die terughoudingsbelasting op rente vrygestel is; of 10

(b) indien die buitelandse persoon aan of ten behoeve waarvan daardie betaling gemaak staan te word—

(i) teen ’n datum bepaal deur die persoon wat die betaling maak; of

(ii) indien die persoon wat die betaling maak nie ’n datum bepaal het nie soos beoog in subparagraaf (i), teen die datum van die betaling, 15

aan die persoon wat die betaling maak ’n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die buitelandse persoon, ingevolge artikel 37K(3), vrygestel is van die terughoudingsbelasting op rente ten opsigte van daardie betaling. 20

(3) Die koers bedoel in subartikel (1) moet, by die toepassing van daardie subartikel, verminder word indien die buitelandse persoon aan of ten behoeve waarvan die betaling beoog in daardie subartikel gemaak staan te word— 25

(a) teen ’n datum bepaal deur die persoon wat die betaling maak; of

(b) indien die persoon wat die betaling maak nie ’n datum bepaal het soos beoog in paragraaf (a) nie, teen die datum van die betaling, 30

aan die persoon wat die betaling maak ’n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die rente aan daardie verminderde koers van belasting onderhewig is as gevolg van die toepassing van ’n ooreenkoms vir die voorkoming van dubbele belasting. 30

Betaling en verhaal van belasting

37M. (1) Indien, ingevolge artikel 37JA, ’n buitelandse persoon aanspreeklik is vir enige bedrag van terughoudingsbelasting op rente ten opsigte van enige bedrag van rente wat betaal word aan of ten behoeve van die buitelandse persoon, moet daardie buitelandse persoon daardie bedrag van terughoudingsbelasting betaal teen die laaste dag van die maand wat volg op die maand waartydens die rente betaal word, tensy die belasting deur enige ander persoon betaal is. 35 40

(2) Enige persoon wat enige terughoudingsbelasting op rente ingevolge artikel 37L terughou, moet die belasting aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens die rente betaal word.

Terugbetaling van terughoudingsbelasting op rente 45

37N. Ondanks Hoofstuk 13 van die Wet op Belastingadministrasie, indien—

(a) ’n bedrag teruggehou word van ’n betaling van ’n bedrag van rente soos beoog in artikel 37L(1);

(b) ’n verklaring beoog in artikel 37L(2)(b) of (3) ten opsigte van daardie rente nie voorgelê is nie aan die persoon wat daardie rente betaal teen die datum van die betaling van daardie rente nie; en 50

(c) ’n verklaring beoog in artikel 37L(2)(b) of (3) aan die Kommissaris voorgelê word binne drie jaar na die betaling van die rente ten opsigte waarvan die verklaring gemaak word, 55

is soveel van daardie bedrag as wat nie teruggehou sou gewees het nie indien daardie verklaring voorgelê is teen die datum beoog in die betrokke subartikel terugbetaalbaar deur die Kommissaris aan die persoon waaraan

Currency of payments made to Commissioner

37O. If an amount withheld by a person in terms of section 37L(1) is denominated in any currency other than the currency of the Republic, the amount so withheld must, for the purposes of determining the amount to be paid to the Commissioner in terms of section 37M(2), be translated to the currency of the Republic at the spot rate on the date on which the amount was so withheld.” 5

(2) Subsection (1) comes into operation on 1 July 2013 and applies in respect of—

(a) interest that accrues; or 10

(b) interest that is paid or that becomes due and payable,
on or after that date. 10

Insertion of sections 49E, 49F and 49G in Act 58 of 1962

12. (1) The Income Tax Act, 1962, is hereby amended by the insertion of the following sections after section 49D:

“Withholding of withholding tax on royalties by payers of royalties 15

49E. (1) Subject to subsections (2) and (3), any person making payment of any royalty to or for the benefit of a foreign person must withhold an amount as contemplated in section 49B from that payment.

(2) A person must not withhold any amount from any payment contemplated in subsection (1) if the foreign person to or for the benefit of which that payment is to be made has— 20

(a) by a date determined by the person making the payment; or
(b) if the person making the payment did not determine a date as contemplated in paragraph (a), by the date of the payment, submitted to the person making the payment a declaration in such form as may be prescribed by the Commissioner that the foreign person is, in terms of section 49D, exempt from the withholding tax on royalties in respect of that payment. 25

(3) The rate referred to in section 49B(1) must, for the purposes of that subsection, be reduced if the foreign person to or for the benefit of which the payment contemplated in that subsection is to be made has— 30
(a) by a date determined by the person making the payment; or
(b) if the person making the payment did not determine a date as contemplated in paragraph (a), by the date of the payment, submitted to the person making the payment a declaration in such form as may be prescribed by the Commissioner that the royalty is subject to that reduced rate of tax as a result of the application of an agreement for the avoidance of double taxation. 35

Payment and recovery of tax

49F. (1) If, in terms of section 49C, a foreign person is liable for any amount of withholding tax on royalties in respect of any royalty that is paid to or for the benefit of the foreign person, that foreign person must pay that amount of withholding tax by the last day of the month following the month during which the royalty is paid, unless the tax has been paid by any other person. 40 45

(2) Any person that withholds any withholding tax on royalties in terms of section 49E must pay the tax to the Commissioner by the last day of the month following the month during which the royalty is paid.

Geldeenheid van betalings aan Kommissaris

370. Indien 'n bedrag teruggehou deur 'n persoon ingevolge artikel 37L(1) in enige ander geldeenheid as die geldeenheid van die Republiek aangedui word, moet die bedrag aldus teruggehou, by die bepaling van die bedrag aan die Kommissaris betaal te word ingevolge artikel 37M(2), oorgeskakel word na die geldeenheid van die Republiek teen die kontantkoers op die datum waarop die bedrag aldus teruggehou is.”

- (2) Subartikel (1) tree op 1 Julie 2013 in werking en is van toepassing op—
- (a) rente wat toeval; of
 - (b) rente wat betaal word of verskuldig en betaalbaar word, op of na daardie datum.

Invoeging van artikels 49E, 49F en 49G in Wet 58 van 1962

12. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende artikels na artikel 49D in te voeg:

“Terughouding van terughoudingsbelasting op tantième deur betalers van tantième

49E. (1) Behoudens subartikels (2) en (3) moet enige persoon wat 'n betaling maak van tantième aan of ten behoeve van 'n buitelandse persoon 'n bedrag gelyk aan 15 persent van die bedrag van daardie tantième van daardie betaling terughou.

(2) 'n Persoon moet nie enige bedrag van enige betaling beoog in subartikel (1) terughou nie indien die buitelandse persoon aan of ten behoeve waarvan daardie betaling gemaak staan te word—

- (a) teen 'n datum bepaal deur die persoon wat die betaling maak; of
- (b) indien die persoon wat die betaling maak nie 'n datum bepaal het soos beoog in paragraaf (a) nie, teen die datum van die betaling, aan die persoon wat die betaling maak 'n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die buitelandse persoon, ingevolge artikel 49D, vrygestel is van die terughoudingsbelasting op tantième ten opsigte van daardie betaling.

(3) Die koers bedoel in subartikel (1) moet, by die toepassing van daardie subartikel, verminder word indien die buitelandse persoon aan of ten behoeve waarvan die betaling beoog in daardie subartikel gemaak staan te word—

- (a) teen 'n datum bepaal deur die persoon wat die betaling maak; of
- (b) indien die persoon wat die betaling maak nie 'n datum bepaal het soos beoog in paragraaf (a) nie, teen die datum van die betaling, aan die persoon wat die betaling maak 'n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die tantième aan daardie verminderde koers van belasting onderhewig is as gevolg van die toepassing van 'n ooreenkoms vir die voorkoming van dubbele belasting.

Betaling en verhaal van belasting

49F. (1) Indien, ingevolge artikel 49C, 'n buitelandse persoon aanspreeklik is vir enige bedrag van terughoudingsbelasting op tantième ten opsigte van enige tantième wat betaal word aan of ten behoeve van die buitelandse persoon, moet daardie buitelandse persoon daardie bedrag van terughoudingsbelasting betaal teen die laaste dag van die maand wat volg op die maand waartydens die tantième betaal is, tensy die belasting deur enige ander persoon betaal is.

(2) Enige persoon wat enige terughoudingsbelasting op tantième ingevolge artikel 49E, terughou, moet die belasting aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens die tantième betaal word.

Refund of withholding tax on royalties

49G. Notwithstanding Chapter 13 of the Tax Administration Act, if—

- (a) an amount is withheld from a payment of a royalty as contemplated in section 49E(1);
 - (b) a declaration contemplated in section 49E(2) or (3) in respect of that royalty is not submitted to the person paying that royalty by the date of the payment of that royalty; and
 - (c) a declaration contemplated in section 49E(2) or (3) is submitted to the Commissioner within three years after the payment of the royalty in respect of which the declaration is made,
- so much of that amount as would not have been withheld had that declaration been submitted by the date contemplated in the relevant subsection is refundable by the Commissioner to the person to which the royalty was paid.”

(2) Subsection (1) comes into operation on 1 July 2013 and applies in respect of royalties that are paid or that become due and payable on or after that date, but only to the extent that the amount of the royalties was not subject to tax in terms of section 35 of the Income Tax Act, 1962.

Amendment of section 61 of Act 58 of 1962, as amended by section 25 of Act 90 of 1988 and section 57 of Act 45 of 2003

13. (1) Section 61 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) the reference in paragraphs (b) and (c) of the definition of ‘representative taxpayer’ in section [one] 1 to the income under the management, disposition or control of an agent or to income which is the subject of any trust, as the case may be, shall be deemed to include a reference to any property disposed of under a donation which is under the management, disposition or control of the agent or to property disposed of under a donation which is the subject of the trust, as the case may be;”

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 64K of Act 58 of 1962, as inserted by section 56 of Act 60 of 2008, substituted by section 53 of Act 17 of 2009 and amended by section 84 of Act 24 of 2011

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

“(d) If, in terms of this Part, a person **[is required to make payment of any amount of dividends tax] has paid a dividend[,]** that person must**[, together with that payment,]** submit a return to the Commissioner.”

Amendment of section 64L of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

15. (1) Section 64L of the Income Tax Act, 1962, is hereby amended—

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

“(c) **[a] both the declaration and the written undertaking** contemplated in section 64G(2)(a) or (3) **[is] are** submitted to the company within three years after the payment of the dividend in respect of which **[it is] they are** made;”

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

“(1A) If—

- (a) an amount is withheld by a company from the payment of a dividend in terms of section 64G(1); and
- (b) a rebate in respect of foreign taxes paid on that dividend should have been deducted from that amount in terms of section 64N,

Terugbetaling van terughoudingsbelasting op tantième

49G. Ondanks artikel 102, indien—

- (a) 'n bedrag teruggehou word van 'n betaling van 'n tantième soos beoog in artikel 49E(1);
- (b) 'n verklaring beoog in artikel 49E(2) of (3) ten opsigte van daardie tantiëmenie voorgelê is nie aan die persoon wat daardie tantième betaal teen die datum van die betaling van daardie tantième nie; en
- (c) 'n verklaring beoog in artikel 49E(2) of (3) aan die Kommissaris voorgelê word binne drie jaar na die betaling van die tantième ten opsigte waarvan die verklaring gemaak word, is soveel van daardie bedrag as wat nie teruggehou sou gewees het nie indien daardie verklaring voorgelê is teen die datum beoog in die betrokke subartikel terugbetaalbaar deur die Kommissaris aan die persoon waaraan die tantième betaal is.”

(2) Subartikel (1) tree op 1 Julie 2013 in werking en is van toepassing op tantieme wat op of na daardie datum betaal word of verskuldig en betaalbaar word, maar slegs tot die mate wat die bedrag van die tantieme nie onderhewig was aan belasting ingevolge artikel 35 van die Inkomstebelastingwet, 1962, nie.

Wysiging van artikel 61 van Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 90 van 1988 en artikel 57 van Wet 45 van 2003

13. (1) Artikel 61 van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (d) deur die volgende paragraaf te vervang:

“(d) word die verwysing in paragraawe (b) en (c) van die omskrywing van ‘verteenwoordigende belastingpligtige in artikel [een] 1, na die inkomste onder die bestuur, tot die beskikking of onder die beheer van 'n agent of na inkomste wat die onderwerp van 'n trust is, na gelang van die geval, geag 'n verwysing in te sluit na enige eiendom waaroor beskik is ingevolge 'n skenking wat onder die bestuur, tot die beskikking of onder die beheer van die agent is of na eiendom waaroor beskik is ingevolge 'n skenking wat die onderwerp van die trust is, na gelang van die geval;”

(2) Subartikel (1) tree op 1 Januarie 2013 in werking en is van toepassing op jare van aanslag wat op of na daardie datum in aanvang neem.

Wysiging van artikel 64K van Wet 58 van 1962, soos ingevoeg deur artikel 56 van Wet 60 van 2008, vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 84 van Wet 24 van 2011

14. Artikel 64K van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf (d) deur die volgende paragraaf te vervang:

“(d) Indien, 'n persoon ingevolge hierdie Deel, [van 'n persoon vereis word om betaling te maak van 'n bedrag van dividendbelasting] 'n dividend betaal het, moet daardie persoon[, tesame met daardie betaling,] 'n opgawe aan die Kommissaris voorlê.”

Wysiging van artikel 64L van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009

15. (1) Artikel 64L van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:
- “(c) [’n] beide die verklaring en die skriftelike onderneming beoog in artikel 64G(2)(a) of (3) aan die maatskappy voorgelê word binne drie jaar na die betaling van die dividend ten opsigte waarvan dit gemaak word;”

- (b) deur die volgende subartikel na subartikel (1) in te voeg:
- “(1A) Indien—

- (a) 'n bedrag deur 'n maatskappy teruggehou word van die betaling van 'n dividend ingevolge artikel 64G(1); en
- (b) 'n korting ten opsigte van buitelandse belasting betaal op daardie dividend ingevolge artikel 64N van daardie bedrag afgetrek moes

so much of that amount as would not have been withheld had that rebate been deducted from the amount, is refundable to the person to whom the dividend was paid: Provided such rebate is claimed within three years after the payment of the relevant dividend.”; and

- (c) by the substitution for subsections (2), (3) and (4) of the following subsections, respectively: 5

“(2) Any amount that is refundable in terms of subsection (1) or (1A) must be refunded by the company that withheld that amount to the person to whom the dividend was paid—

(a) from any amount of dividends tax withheld by that company within a period of one year after the submission of the declaration contemplated in subsection (1)(c) or the claim of a rebate contemplated in subsection (1A); or 10

(b) to the extent that the amount that is refundable exceeds the amount of dividends tax withheld as contemplated in paragraph (a), from an amount recovered by the company from the Commissioner in terms of subsection (3). 15

(3) Subject to subsection (4), if any amount is refundable to any person by a company in terms of subsection (1) or (1A) and that amount exceeds the amount of dividends tax withheld as contemplated in subsection (2)(a), the company contemplated in subsection (2) may recover the excess from the Commissioner. 20

(4) No amount may be recovered in terms of subsection (3) if the company submits the claim for recovery to the Commissioner after the expiry of a period of four years reckoned from the date of the payment contemplated in subsection (1)(a) or (1A)(a).” 25

- (2) Subsection (1)(a) is deemed to have come into operation on 1 April 2012.

Amendment of section 64M of Act 58 of 1962, as inserted by section 53 of Act 17 of 2009

16. Section 64M of the Income Tax Act, 1962, is hereby amended— 30

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

“(c) [a] both the declaration and the written undertaking contemplated in section 64H(2)(a) or (3) [is] are submitted to the regulated intermediary within three years after the payment of the dividend in respect of which [it is] they are made.”; 35

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

“(1A) If—

(a) an amount is withheld by a regulated intermediary from the payment of a dividend in terms of section 64H(1); and 40

(b) a rebate in respect of foreign taxes paid on that dividend should have been deducted from that amount in terms of section 64N, so much of that amount as would not have been withheld had that rebate been deducted from the amount, is refundable to the person to whom the dividend was paid: Provided such rebate is claimed within three years after the payment of the relevant dividend.”; and 45

- (c) by the substitution for subsection (2) of the following subsection:

“(2) Any amount that is refundable in terms of subsection (1) or (1A) must be refunded by the regulated intermediary contemplated in subsection (1)(a) or (1A)(a) from any amount of dividends tax withheld by the regulated intermediary after the submission of the declaration as contemplated in subsection (1)(c) or the claim of a rebate contemplated in subsection (1A).” 50

- (2) Subsection (1)(a) is deemed to have come into operation on 1 April 2012.

is soveel van daardie bedrag as wat nie teruggehou sou gewees het nie, indien die korting van die bedrag afgetrek is, terugbetaalbaar aan die persoon waaraan die dividend betaal is: Met dien verstande dat sodanige korting binne drie jaar na die betaling van die betrokke dividend geëis word.”; en

- (c) deur subartikels (2), (3) en (4) onderskeidelik deur die volgende subartikels te vervang:

“(2) ’n Bedrag wat ingevolge subartikel (1) of (1A) terugbetaalbaar is, moet terugbetaal word deur die maatskappy wat daardie bedrag teruggehou het aan die persoon aan wie die dividend betaal is—

(a) uit ’n bedrag van dividendbelasting teruggehou deur daardie maatskappy binne ’n tydperk van een jaar na die voorlegging van die verklaring beoog in subartikel (1)(c) of die eis van ’n korting in subartikel (1A) beoog; of

(b) namate die bedrag wat terugbetaalbaar is die bedrag van dividendbelasting teruggehou soos beoog in paragraaf (a) oorskry, uit ’n bedrag ingevolge subartikel (3) deur die maatskappy van die Kommissaris verhaal.

(3) Ondanks subartikel (4), indien ’n bedrag ingevolge subartikel (1) of (1A) aan ’n persoon deur ’n maatskappy terugbetaalbaar is en daardie bedrag die bedrag van dividendbelasting teruggehou soos beoog in subartikel (2)(a) oorskry, kan die maatskappy beoog in subartikel (2) die oorskot van die Kommissaris verhaal.

(4) Geen bedrag mag ingevolge subartikel (3) verhaal word nie indien die maatskappy die eis vir verhaal aan die Kommissaris voorlê na die verstryking van ’n tydperk van vier jaar gereken vanaf die datum van die betaling in subartikel (1)(a) of (1A)(a) beoog.”.

- (2) Subartikel (1)(a) word geag op 1 April 2012 in werking te getree het.

Wysiging van artikel 64M van Wet 58 van 1962, soos ingevoeg deur artikel 53 van Wet 17 van 2009

16. Artikel 64M van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:

“(c) [’n] beide die verklaring en skriftelike onderneming beoog in artikel 64H(2)(a) of (3) aan die gereguleerde tussenganger voorgelê word binne drie jaar na die betaling van die dividend ten opsigte waarvan dit gemaak word,”;

- (b) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) Indien—

(a) ’n bedrag deur ’n gereguleerde tussenganger teruggehou word van die betaling van ’n dividend ingevolge artikel 64H(1); en

(b) ’n korting ten opsigte van buitelandse belasting betaal op daardie dividend ingevolge artikel 64N van daardie bedrag afgetrek moes gewees het,

is soveel van die bedrag as wat nie teruggehou sou gewees het nie, indien die korting van daardie bedrag afgetrek is, terugbetaalbaar aan die persoon waaraan die dividend betaal is: Met dien verstande dat daardie korting binne drie jaar na die betaling van die betrokke dividend geëis word.”; en

- (c) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) ’n Bedrag wat ingevolge subartikel (1) of (1A) terugbetaalbaar is, moet deur die gereguleerde tussenganger beoog in subartikel (1)(a) of (1A)(a) terugbetaal word uit ’n bedrag van dividendbelasting deur die gereguleerde tussenganger teruggehou na die voorlegging van die verklaring soos beoog in subartikel (1)(c) of die eis van ’n korting soos in subartikel (1A) beoog.”.

- (2) Subartikel (1)(a) word geag op 1 April 2012 in werking te getree het.

Amendment of section 64N of Act 58 of 1962, as inserted by section 54 of Act 17 of 2009

17. (1) Section 64N of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

“(5) A company or regulated intermediary must obtain proof of any tax paid to any sphere of government of any country other than the Republic and deducted from the dividend tax payable in terms of this section, in the form and manner prescribed by the Commissioner.” 5

(2) Subsection (1) is deemed to have come into operation on 1 April 2012.

Amendment of section 72A of Act 58 of 1962, as substituted by section 65 of Act 45 of 2003 and amended by section 11 of Act 32 of 2005 and section 13 of Act 4 of 2008

18. (1) Section 72A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A resident must have available for submission to the Commissioner when so requested, a copy of the financial statements of the controlled foreign company for the relevant foreign tax year[, as defined in section 9D,] of that controlled foreign company.” 15

(2) Subsection (1) is deemed to have come into operation on 1 January 2012 and applies in respect of foreign tax years ending during years of assessment commencing on or after that date. 20

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 30 of Act 103 of 1976, section 28 of Act 113 of 1977, section 29 of Act 104 of 1980, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004, section 50 of Act 31 of 2005, section 40 of Act 20 of 2006, section 55 of Act 8 of 2007, section 65 of Act 35 of 2007, section 18 of Act 18 of 2009 and section 94 of Act 24 of 2011 25 30

19. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the insertion after subparagraph (1A) of the following subparagraph:

“(1B) Notwithstanding the provisions of subparagraph (1), a person shall deduct or withhold employees’ tax in respect of any amount payable in respect of variable remuneration, as defined in section 7B(1), on the date on which the amount is paid to the employee by the employer as contemplated in section 7B(2).” 35

(b) by the deletion in subparagraph (4) of item (d); and

(c) by the substitution in subparagraph (4)(f) for subitem (i) of the following subitem: 40

“(i) as does not exceed 5 per cent of that remuneration after deducting therefrom the amounts contemplated in items (a) to [(d)](cA); and”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 March 2013 and applies in respect of amounts received or accrued on or after that date. 45

(3) Paragraphs (b) and (c) of subsection (1) come into operation on 1 March 2014 and apply in respect of years of assessment commencing on or after that date.

Amendment of paragraph 14 of Fourth Schedule to Act 58 of 1962, as amended by section 40 of Act 88 of 1971, section 50 of Act 101 of 1990, section 57 of Act 74 of 2002, section 22 of Act 4 of 2008, section 16 of Act 61 of 2008, section 21 of Act 18 of 2009, section 22 of Act 8 of 2010 and paragraph 85 of Schedule 1 to Act 28 of 2011 50

20. Paragraph 14 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (6) for the following subparagraph:

Wysiging van artikel 64N van Wet 58 van 1962, soos ingevoeg deur artikel 54 van Wet 17 van 2009

17. (1) Artikel 64N van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel by te voeg:

“(5) ’n Maatskappy of gereguleerde tussenganger moet bewys verkry van enige belasting betaal aan enige regeringsfeer van enige land buiten die Republiek en afgetrek van die dividendbelasting betaalbaar ingevolge hierdie artikel, in die vorm en op die wyse deur die Kommissaris voorgeskryf.” 5

(2) Subartikel (1) word geag op 1 April 2012 in werking te getree het.

Wysiging van artikel 72A van Wet 58 van 1962, soos vervang deur artikel 65 van Wet 45 van 2003 en gewysig deur artikel 11 van Wet 32 van 2005 en artikel 13 van Wet 4 van 2008 10

18. (1) Artikel 72A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) ’n Inwoner moet ’n afskrif van die finansiële state van die beheerde buitelandse maatskappy vir die betrokke buitelandse belastingjaar[, soos in artikel 9D omskryf,] van daardie beheerde buitelandse maatskappy beskikbaar hê vir indiening by die Kommissaris indien so versoek.” 15

(2) Subartikel (1) word geag op 1 Januarie 2012 in werking te getree het en is van toepassing op buitelandse belastingjare wat eindig gedurende jare van aanslag wat op of na daardie datum in aanvang neem. 20

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 30 van Wet 103 van 1976, artikel 28 van Wet 113 van 1977, artikel 29 van Wet 104 van 1980, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995, artikel 45 van Wet 28 van 1997, artikel 53 van Wet 30 van 2000, artikel 54 van Wet 59 van 2000, artikel 20 van Wet 19 van 2001, artikel 21 van Wet 16 van 2004, artikel 50 van Wet 31 van 2005, artikel 40 van Wet 20 van 2006, artikel 55 van Wet 8 van 2007, artikel 65 van Wet 35 van 2007, artikel 18 van Wet 18 van 2009 en artikel 94 van Wet 24 van 2011 25

19. (1) Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die volgende subparagraaf na subparagraaf (1A) in te voeg: 35

“(1B) Nieteenstaande die bepalings van subparagraaf (1), sal ’n persoon werknemersbelasting aftrek of terughou ten opsigte van enige bedrag betaalbaar ten opsigte van wisselende besoldiging, ingevolge artikel 7B(1) omskryf, op die datum waarop die bedrag deur die werkgewer aan die werknemer betaal word, soos in artikel 7B(2) beoog.”; 40

(b) deur in subparagraaf (4) item (d) te skrap; en

(c) deur in subparagraaf (4)(f) subitem (i) deur die volgende subitem te vervang:

“(i) wat nie, nadat die bedrae beoog in items (a) tot [(d)](cA) daarvan afgetrek is, 5 persent van daardie besoldiging oorskry nie; en” 45

(2) Paragraaf (a) van subartikel (1) tree op 1 Maart 2013 in werking en is van toepassing op bedrae op of na daardie datum ontvang of toegeval.

(3) Paragraawe (b) en (c) van subartikel (1) tree op 1 Maart 2014 in werking en is van toepassing op jare van aanslag wat op of na daardie datum in aanvang neem.

Wysiging van paragraaf 14 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 40 van Wet 88 van 1971, artikel 50 van Wet 101 van 1990, artikel 57 van Wet 74 van 2002, artikel 22 van Wet 4 van 2008, artikel 16 van Wet 61 van 2008, artikel 21 van Wet 18 van 2009, artikel 22 van Wet 8 van 2010 en paragraaf 85 van Bylae 1 by Wet 28 van 2011 50

20. Paragraaf 14 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word 55

“(6) If an employer fails to render to the Commissioner a return referred to in subparagraph (3) within the period prescribed in that subparagraph, the Commissioner may impose **[under Chapter 15 of the Tax Administration Act]** on that employer a **[percentage based]** penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, for each month that the employer fails to submit a complete return which in total may not exceed 10 per cent of the total amount of employees’ tax deducted or withheld or which should have been deducted or withheld by the employer from the remuneration of employees for the period described in that subparagraph.” 5

Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962, as amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 58 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986, section 24 of Act 19 of 2001, section 58 of Act 74 of 2002, section 34 of Act 30 of 2002, section 24 of Act 16 of 2004, section 47 of Act 32 of 2004, section 53 of Act 31 of 2005, section 1 of Act 3 of 2008, section 22 of Act 18 of 2009 and section 96 of Act 24 of 2011 10 15

21. Paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (1) of the following subparagraph:

“(2) Any taxable capital gain of a company resulting from the application of the deemed disposal rules under section 29B of the Act for years of assessment ending on or after 29 February 2012 but not later than 31 October 2012, is exempt from provisional tax.” 20

Amendment of paragraph 19 of Fourth Schedule to Act 58 of 1962, as amended by section 28 of Act 88 of 1965, section 46 of Act 89 of 1969, section 43 of Act 88 of 1971, section 50 of Act 85 of 1974, section 49 of Act 94 of 1983, section 52 of Act 101 of 1990, section 44 of Act 21 of 1995, section 37 of Act 5 of 2001, section 87 of Act 45 of 2003, section 54 of Act 31 of 2005, section 46 of Act 3 of 2008, section 18 of Act 61 of 2008, section 23 of Act 18 of 2009 and paragraph 90 of Schedule 1 to Act 28 of 2011 25

22. Paragraph 19 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (a) of the following item: 30

“(a) Every provisional taxpayer (other than a company) shall, during every period within which provisional tax is or may be payable by that provisional taxpayer as provided in this Part, submit to the Commissioner (should the Commissioner so require) a return of an estimate of the total taxable income which will be derived by the taxpayer in respect of the year of assessment in respect of which provisional tax is or may be payable by the taxpayer: Provided that such estimate will not include any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit received by or accrued to or to be received by or accrue to the taxpayer during the relevant year of assessment.” 35 40

Amendment of paragraph 20 of Fourth Schedule to Act 58 of 1962, as amended by section 25 of Act 72 of 1963, section 29 of Act 88 of 1965, section 47 of Act 89 of 1969, section 44 of Act 88 of 1971, section 51 of Act 85 of 1974, section 36 of Act 69 of 1975, section 50 of Act 94 of 1983, section 39 of Act 121 of 1984, section 19 of Act 61 of 2008, section 24 of Act 18 of 2009 and paragraph 91 of Schedule 1 to Act 28 of 2011 45

23. Paragraph 20 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for item (a) of the following item:
“(a) more than R1 million and such estimate is less than 80 per cent of the amount of the actual taxable income the Commissioner **[may, if he or she is not satisfied that the amount of such estimate was seriously calculated with due regard to the factors having a** 50

“(6) Indien ’n werkgewer nalaat om ’n opgawe bedoel in subparagraaf (3) aan die Kommissaris te lewer binne die tydperk in daardie subparagraaf voorgeskryf, kan die Kommissaris **[ingevolge Hoofstuk 15 van die Wet op Belastingadministrasie]** op daardie werkgewer ’n **[persentasie gebaseerdeboete]**boete oplê, wat geag word ’n persentasie gebaseerde boete ingevolge Hoofstuk 15 van die Wet op Belastingadministrasie opgelê, te wees, vir elke maand wat die werkgewer versuim om ’n volledige opgawe in te dien, wat in totaal **[hoogstens]**nie 10 persent van die totale bedrag aan werknemersbelasting afgetrek of weerhou of wat afgetrek of weerhou moes wees van die besoldiging van werknemers vir die tydperk in daardie subparagraaf beskryf, oorskry nie.”.

Wysiging van paragraaf 18 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 28 van Wet 90 van 1964, artikel 42 van Wet 88 van 1971, artikel 49 van Wet 58 van 1974, artikel 19 van Wet 104 van 1979, artikel 26 van Wet 65 van 1986, artikel 9 van Wet 108 van 1986, artikel 24 van Wet 19 van 2001, artikel 58 van Wet 74 van 2002, artikel 34 van Wet 30 van 2002, artikel 24 van Wet 16 van 2004, artikel 47 van Wet 32 van 2004, artikel 53 van Wet 31 van 2005, artikel 1 van Wet 3 van 2008, artikel 22 van Wet 18 van 2009 en artikel 96 van Wet 24 van 2011

21. Paragraaf 18 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subparagraaf na subparagraaf (1) in te voeg:

“(2) Enige belasbare kapitale wins van ’n maatskappy wat voorspruit uit die toepassing van die geagte beskikkingsreëls kragtens artikel 29B van die Wet, vir jare van aanslag wat op of na 29 Februarie 2012 maar nie later as 31 Oktober 2012 eindig nie, is vrygestel van voorlopige belasting.”.

Wysiging van paragraaf 19 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 28 van Wet 88 van 1965, artikel 46 van Wet 89 van 1969, artikel 43 van Wet 88 van 1971, artikel 50 van Wet 85 van 1974, artikel 49 van Wet 94 van 1983, artikel 52 van Wet 101 van 1990, artikel 44 van Wet 21 van 1995, artikel 37 van Wet 5 van 2001, artikel 87 van Wet 45 van 2003, artikel 54 van Wet 31 van 2005, artikel 46 van Wet 3 van 2008, artikel 18 van Wet 61 van 2008, artikel 23 van Wet 18 van 2009 en paragraaf 90 van Bylae 1 by Wet 28 van 2011

22. Paragraaf 19 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1) item (a) deur die volgende item te vervang:

“(a) Elke voorlopige belastingpligtige (behalwe ’n maatskappy) moet gedurende elke tydperk waarin voorlopige belasting deur die voorlopige belastingpligtige volgens voorskrif van hierdie Deel betaalbaar is of mag wees aan die Kommissaris (sou die Kommissaris so vereis) ’n opgawe van ’n skatting verstrek van die totale belasbare inkomste wat ten opsigte van die jaar van aanslag ten opsigte waarvan voorlopige belasting deur die belastingpligtige betaalbaar is of mag wees, deur die belastingpligtige verkry sal word: Met dien verstande dat daardie skatting nie enige uitreefondsenkelbedragvoordeel, uitreefondsenkelbedrag-onttrekkingsvoordeel of enige skeidingsvoordeel ontvang deur of toegeval aan of wat ontvang sal word of sal toeval aan die belastingpligtige gedurende die tersaaklike jaar van aanslag, sal insluit nie.”.

Wysiging van paragraaf 20 van die Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 72 van 1963, artikel 29 van Wet 88 van 1965, artikel 47 van Wet 89 van 1969, artikel 44 van Wet 88 van 1971, artikel 51 van Wet 85 van 1974, artikel 36 van Wet 69 van 1975, artikel 50 van Wet 94 van 1983, artikel 39 van Wet 121 van 1984, artikel 19 van Wet 61 van 2008, artikel 24 van Wet 18 van 2009 en paragraaf 91 van Bylae 1 by Wet 28 van 2011

23. Paragraaf 20 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(a) meer as R1 miljoen is en sodanige geskatte bedrag minder is as 80 persent van die bedrag van die werklike belasbare inkomste **[kan]** moet die Kommissaris, **indien hy of sy nie oortuig is dat die**

bearing thereon or was not deliberately or negligently understated, subject to the provisions of subparagraph (3),] must impose, in addition to the normal tax chargeable in respect of the taxpayer's taxable income for such year of assessment, a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to 20 per cent of the difference between [the amount of normal tax as calculated in respect of such estimate and]—

- (i) the amount of normal tax calculated, at the rates applicable in respect of such year of assessment, in respect of a taxable income equal to 80 per cent of such actual taxable income; and
 - (ii) the amount of employees' tax and provisional tax in respect of such year of assessment paid by the end of the year of assessment;;
- (b) by the substitution in subparagraph (1) for item (b) of the following item:
“(b) in any other case, less than 90 per cent of the amount of such actual taxable income and is also less than the basic amount applicable to the estimate in question, as contemplated in paragraph 19(1)(d), the taxpayer shall, subject to the provisions of subparagraphs (2) and (3), be liable to pay to the Commissioner, in addition to the normal tax chargeable in respect of his or her taxable income for such year of assessment, a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to 20 per cent of the difference between [the amount of normal tax as calculated in respect of such estimate and] the lesser of [the following amounts, namely]—
- (i) the amount of normal tax calculated, at the rates applicable in respect of such year of assessment, in respect of a taxable income equal to 90 per cent of such actual taxable income; and
 - (ii) the amount of normal tax calculated in respect of a taxable income equal to such basic amount, at the rates applicable in respect of such year of assessment,
and the amount of employees' tax and provisional tax in respect of such year of assessment paid by the end of the year of assessment;”;
- (c) by the insertion of the following proviso to subparagraph (1) at the end of item (e):
“Provided that any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit received by or accrued to or to be received by or accrue to the taxpayer during the relevant year of assessment shall not be taken into account for purposes of this subparagraph;”;
- (d) by the substitution for subparagraph (2) of the following paragraph:
“(2) Where the Commissioner is satisfied that the amount of any estimate referred to in subparagraph (1)[(b)] was seriously calculated with due regard to the factors having a bearing thereon and was not deliberately or negligently understated, or if the Commissioner is partly so satisfied, the Commissioner may in his or her discretion remit the penalty or a part thereof.”.

die faktore wat daarop betrekking het of nie opsetlik of uit nalatigheid te min geskat is nie, behoudens die bepalings van subparagraaf (3),] bo en behalwe die normale belasting wat ten opsigte van die belastingpligtige se belasbare inkomste vir bedoelde jaar van aanslag hefbaar is, 'n boete, wat geag word 'n persentasie-gebaseerde boete kragtens Hoofstuk 15 van die Wet op Belastingadministrasie opgelê, te wees, gelyk aan 20 persent van die verskil tussen [die bedrag aan normale belasting ten opsigte van die sodanige skatting bereken en]— 5

(i) die bedrag aan normale belasting bereken, teen die toepaslike skale ten opsigte van sodanige jaar van aanslag, ten opsigte van 'n belasbare inkomste gelyk aan 80 persent van sodanige werklike belasbare inkomste; en 10

(ii) die bedrag aan werknemersbelasting en voorlopige belasting wat ten opsigte van sodanige jaar van aanslag teen die einde van die jaar van aanslag betaal is;” 15

(b) deur in subparagraaf (1) item (b) deur die volgende item te vervang:

“(b) in enige ander geval, minder is as 90 persent van die bedrag van die sodanige werklike belasbare inkomste en ook minder as die basiese bedrag van toepassing op die sodanige skatting, soos in paragraaf 19(1)(d) beoog, moet die belastingpligtige, behoudens die bepalings van subparagraawe (2) en (3), bo en behalwe die normale belasting wat ten opsigte van sy belasbare inkomste vir bedoelde jaar van aanslag hefbaar is, 'n boete, wat geag word 'n persentasiegebaseerde boete kragtens Hoofstuk 15 van die Wet op Belastingadministrasie opgelê te wees, aan die Kommissaris betaal, gelyk aan 20 persent van die verskil tussen [die bedrag aan normale belasting ten opsigte van sodanige geskatte bedrag bereken en] die minste van [die volgende bedrae, naamlik]— 20

(i) die bedrag van normale belasting bereken, teen die toepaslike skale ten opsigte van bedoelde jaar van aanslag, ten opsigte van 'n belasbare inkomste gelykstaande aan 90 persent van bedoelde werklike belasbare inkomste; en 25

(ii) die bedrag van normale belasting bereken ten opsigte van 'n belasbare inkomste gelykstaande aan bedoelde basiese bedrag, teen die toepaslike skale ten opsigte van die bedoelde jaar van aanslag, 30

en die bedrag aan werknemersbelasting en voorlopige belasting wat ten opsigte van sodanige jaar van aanslag, teen die einde van die jaar van aanslag, betaal is.” 35

(c) deur die volgende voorbehoudsbepaling in subparagraaf (1) na item (e) in te voeg:

“Met dien verstande dat enige uitreefondsenkelbedragvoordeel, uitreefondsenkelbedrag-onttrekkingsvoordeel of enige skeidingsvoordeel ontvang deur of toegeval aan of wat ontvang sal word of sal toeval aan die belastingpligtige gedurende die tersaaklike jaar van aanslag, nie vir doeleindes van hierdie subparagraaf in berekening gebring sal word nie.”; en 45

(d) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

“(2) Waar die Kommissaris oortuig is dat die bedrag van 'n skatting bedoel in subparagraaf (1)[(b)] in erns bereken is met behoorlike inagneming van die faktore wat daarop betrekking het, en nie opsetlik of uit nalatigheid te min geskat is nie, of indien die Kommissaris ten dele aldus oortuig is, kan die Kommissaris na goeddunke die boete of 'n gedeelte daarvan kwytsteld.”. 50 55

Amendment of paragraph 20A of Fourth Schedule to Act 58 of 1962, as amended by section 25 of Act 52 of 1970, section 45 of Act 88 of 1971, section 52 of Act 85 of 1974, section 40 of Act 121 of 1984, section 88 of Act 45 of 2003 and paragraph 92 of Schedule 1 to Act 28 of 2011

24. Paragraph 20A of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph: 5

“(1) Subject to the provisions of subparagraphs (2) and (3), where any provisional taxpayer is liable for the payment of normal tax in respect of any amount of taxable income derived by that provisional taxpayer during any year of assessment and the estimate of [his or her] the taxpayer’s taxable income for that year required to be submitted by [him or her] the taxpayer under paragraph 19(1) during the period contemplated in paragraph 21(1)(b), 22(1) or 23(b), as the case may be, was not submitted by [him or her] the taxpayer on or before the last day of that year the taxpayer shall, unless the Commissioner has estimated the said taxable income under paragraph 19(2) or has increased the amount thereof under paragraph 19(3), be required to pay to the Commissioner, in addition to the normal tax chargeable in respect of such taxable income, a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to 20 per cent of the amount by which the normal tax payable by [him or her] the taxpayer in respect of such taxable income exceeds the sum of any amounts of provisional tax paid by [him or her] the taxpayer in respect of such taxable income within any period allowed for the payment of such provisional tax under this Part and any amounts of employees’ tax deducted or withheld from [his or her] the taxpayer’s remuneration by [his or her] the taxpayer’s employer during such year.”. 10 15 20 25

Amendment of paragraph 27 of Fourth Schedule to Act 58 of 1962, as amended by section 43 of Act 121 of 1984, section 29 of Act 65 of 1986, section 48 of Act 32 of 2004 and paragraph 95 of Schedule 1 to Act 28 of 2011

25. Paragraph 27 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph: 30

“(1) If any provisional taxpayer fails to pay any amount of provisional tax for which he or she is liable within the period allowed for payment thereof in terms of paragraph 21 or 23, or paragraph 25(1), the Commissioner must, under Chapter 15 of the Tax Administration Act, impose a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to ten per cent of the amount not paid.”. 35

Amendment of paragraph 11 of Sixth Schedule to Act 58 of 1962, as amended by paragraph 99 of Schedule 1 to Act 28 of 2011

26. (1) Paragraph 11 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended— 40

(a) by the insertion of the following subparagraph after subparagraph (4):

“(4A) For purposes of paragraph 2(1) of the Fourth Schedule and section 89bis (2), a registered micro business may elect to pay the amounts deducted or withheld in terms of that paragraph or section to the Commissioner— 45

- (i) with regard to amounts deducted or withheld during the first six calendar months from the first day of the year of assessment, by the end of such period; and
- (ii) with regard to amounts deducted or withheld within the next six calendar months following the period in item (i), by the last day of the year of assessment.”; 50

Wysiging van paragraaf 20A van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 52 van 1970, artikel 45 van Wet 88 van 1971, artikel 52 van Wet 85 van 1974, artikel 40 van Wet 121 van 1984, artikel 88 van Wet 45 van 2003 en paragraaf 92 van Bylae 1 by Wet 28 van 2011

24. Paragraaf 20A van die Vierde Bylae by the Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang: 5

“(1) Behoudens die bepalings van subparagraawe (2) en (3), waar ’n voorlopige belastingpligtige aanspreeklik is vir die betaling van normale belasting ten opsigte van ’n bedrag van belasbare inkomste wat daardie voorlopige belastingpligtige gedurende ’n jaar van aanslag verkry het en die skatting van [sy of haar] die belastingpligtige se belasbare inkomste vir daardie jaar wat volgens voorskrif van paragraaf 19(1) gedurende die in paragraaf 21(1)(b), 22(1) of 23(b) beoogde tydperk, na gelang van die geval, verstrek moes gewees het, nie op of voor die laaste dag van daardie jaar of, waar die tydperk vir die betaling van voorlopige belasting ten opsigte van bedoelde tydperk deur [hom] die belastingpligtige verskuldig, ingevolge paragraaf 25(2) tot ’n datum na die end van bedoelde jaar verleng is, op of voor dié datum, deur [hom of haar] die belastingpligtige verstrek is nie, moet die belastingpligtige, tensy die Kommissaris bedoelde belasbare inkomste ingevolge paragraaf 19(2) geskat het of die bedrag daarvan ingevolge paragraaf 19(3) verhoog het, by wyse van addisionele belasting bo en behalwe die normale belasting wat ten opsigte van bedoelde belasbare inkomste hefbaar is, ’n bedrag aan die Kommissaris betaal gelyk aan 20 persent van die bedrag waarmee die normale belasting wat deur [hom of haar] die belastingpligtige betaalbaar is ten opsigte van bedoelde belasbare inkomste deur [hom of haar] die belastingpligtige betaal binne ’n tydperk wat vir die betaling van daardie voorlopige belasting ingevolge hierdie Deel toegelaat word of binne ’n verlenging van daardie tydperk ingevolge paragraaf 25(2) en enige bedrae aan werknemersbelasting wat deur [sy of haar] die belastingpligtige se werkgever gedurende bedoelde jaar van [sy of haar] die belastingpligtige se besoldiging afgetrek of teruggehou is, te bowe gaan.”. 30

Wysiging van paragraaf 27 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 43 van Wet 121 van 1984, artikel 29 van Wet 65 van 1986, artikel 48 van Wet 32 van 2004 en paragraaf 95 van Bylae 1 by Wet 28 van 2011

25. Paragraaf 27 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang: 35

“(1) Indien ’n voorlopige belastingpligtige versuim om enige bedrag aan voorlopige belasting waarvoor hy of sy aanspreeklik is te betaal binne die tydperk ingevolge paragraaf 21 of 23 of paragraaf 25(1) vir die betaling daarvan toegelaat, moet die Kommissaris, ’n boete, kragtens Hoofstuk 15 van die Wet op Belastingadministrasie [’n boete] gelyk aan tien persent van die bedrag wat nie betaal is nie, oplê, wat geag word ’n persentasiegebaseerde boete ingevolge Hoofstuk 15 van die Wet op Belastingadministrasie te wees.”. 40

Wysiging van paragraaf 11 van Sesde Bylae by Wet 58 van 1962, soos gewysig deur paragraaf 99 van Bylae 1 by Wet 28 van 2011

26. (1) Paragraaf 11 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig— 45

(a) deur die volgende subparagraaf na subparagraaf (4) in te voeg:
“(4A) Vir doeleindes van paragraaf 2(1) van die Vierde Bylae en artikel 89bis(2), kan ’n geregistreeerde mikrobesigheid kies om die bedrae afgetrek of teruggehou ingevolge daardie paragraaf aan die Kommissaris te betaal— 50
(i) met betrekking tot bedrae afgetrek of teruggehou gedurende die eerste ses kalendermaande vanaf die eerste dag van die jaar van aanslag, teen die einde van bedoelde tydperk; en
(ii) ten opsigte van bedrae afgetrek of teruggehou gedurende die volgende ses kalendermaande wat volg op die tydperk in item (i), teen die laaste dag van die jaar van aanslag.”; 55

(b) by the substitution for subparagraph (6) of the following subparagraph:

“(6) Where the estimate described in subparagraph 4(a) is less than 80 per cent of the taxable turnover for the year of assessment, a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to 20 per cent of the difference between the tax payable on 80 per cent of the taxable turnover for the year of assessment and the tax payable on that estimate must be charged.”; and

(c) by the substitution for subparagraph (7) of the following subparagraph:

“(7) Where the Commissioner is satisfied that the estimate described in subparagraph (4)(a) was not deliberately or negligently understated and was seriously made based on the information available, or is partly so satisfied, the Commissioner must waive the **[additional tax]** penalty charged in terms of subparagraph (6) in full or in part.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2014 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 3 of Act 91 of 1964, as amended by section 114 of Act 60 of 2001, section 42 of Act 30 of 2002, section 132 of Act 45 of 2003 and section 25 of Act 18 of 2009

27. Section 3 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) Any decision made and any notice or communication signed or issued by **[any]** such officer or person may be withdrawn or amended by—

- (i) the officer or person concerned;
- (ii) the branch manager to whom the officer or person in (i) reports;
- (iii) the officer or person in charge of customs operations or excise operations; or
- (iv) the Commissioner personally.

[the Commissioner or by the officer or person concerned] with effect from the date of making such decision or signing or issuing such notice or communication or the date of withdrawal or amendment thereof **[]** and shall, until it has been so withdrawn, be deemed, except for the purposes of this subsection, to have been made, signed or issued by the Commissioner.”.

Continuation of amendments made under section 119A of Act 91 of 1964

28. Any rule made under section 119A of the Customs and Excise Act, 1964, or any amendment or withdrawal of or insertion in such rule during the period 1 August 2011 up to and including 31 July 2012 shall not lapse by virtue of section 119A(3) of that Act.

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

29. Section 20 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (5) of the words preceding paragraph (a) of the following words:

“Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed **[R3 000]** R5 000, a tax invoice (abridged tax invoice) shall be in the currency of the Republic and shall contain the particulars specified in that subsection or the following particulars:”.

(b) deur subparagraaf (6) deur die volgende subparagraaf te vervang:

“(6) Waar die raming beskryf in subparagraaf 4(a) minder is as 80 persent van die belasbare omset vir die jaar van aanslag, moet **[addisionele belasting]** ’n boete wat geag word ’n persentasiegebaseerde boete ingevolge Hoofstuk 15 van die Wet op Belastingadministrasie te wees, gehef word gelyk aan 20 persent van die verskil tussen die belasting betaalbaar op 80 persent van die belasbare omset vir die jaar van aanslag en die belasting wat op daardie raming betaalbaar is.”; en

(c) deur subparagraaf (7) deur die volgende subparagraaf te vervang: 10

“(7) Waar die Kommissaris tevrede is dat die raming beskryf in subparagraaf (4)(a) nie met opset of nalate onderskat is nie en met erns op grond van die beskikbare inligting gedoen is, of gedeeltelik aldus tevrede is, moet die Kommissaris die **[addisionele belasting]** boete gehef ingevolge subparagraaf (6) ten volle of gedeeltelik ophef.”. 15

(2) Subartikel (1)(a) tree op 1 Maart 2014 in werking en is van toepassing op jare van aanslag wat op of na daardie datum in aanvang neem.

Wysiging van artikel 3 van Wet 91 van 1964, soos gewysig deur artikel 114 van Wet 60 van 2001, artikel 42 van Wet 30 van 2002, artikel 132 van Wet 45 van 2003 en artikel 25 van Wet 18 van 2009 20

27. Artikel 3 van die Doeane-en Aksynswet, 1964, word hierby gewysig deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Enige beslissing gegee en enige kennisgewing of mededeling onderteken of uitgereik deur **[enige]** sodanige beampte of persoon kan ingetrek of gewysig word deur— 25

- (i) die betrokke beampte of persoon;
- (ii) die takbestuurder aan wie die beampte of persoon in (i) rapporteer;
- (iii) die beampte of persoon in beheer van doeane-operasies of aksynsoperasies; of
- (iv) die Kommissaris persoonlik, **[die Kommissaris of deur die betrokke beampte of persoon]** met ingang van die datum waarop sodanige beslissing gegee of kennisgewing of mededeling onderteken of uitgereik is, of van die datum van intrekking of wysiging daarvan [] en word, totdat dit aldus ingetrek is, behalwe vir die doeleindes van hierdie subartikel, geag deur die Kommissaris gegee, onderteken of uitgereik te gewees het.”. 30 35

Voortdoring van wysigings kragtens artikel 119A van Wet 91 van 1964 aangebring

28. Enige reël ingevolge artikel 119A van die Doeane- en Aksynswet, 1964, uitgevaardig of enige wysiging of intrekking of invoeging in sodanige reël gedurende die tydperk 1 Augustus 2011 tot en met 31 Julie 2012, verval nie uit hoofde van artikel 119A(3) van daardie Wet nie. 40

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

29. Artikel 20 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die woorde in subartikel (5) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 50

“(5) Ondanks die bepaling van subartikel (4), waar ’n vergoeding in geld hoogstens **[R3 000]** R5 000 is, moet ’n belastingfaktuur (verkorte belastingfaktuur) in die geldeenheid van die Republiek wees en moet dit die besonderhede vermeld in daardie subartikel of die volgende besonderhede bevat.”.

Amendment of section 27 of Act 89 of 1991, as amended by section 34 of Act 136 of 1991, section 28 of Act 136 of 1992, section 78 of Act 30 of 2000, section 11 of Act 10 of 2005, section 50 of Act 9 of 2006, section 1 of Act 3 of 2008, section 25 of Act 4 of 2008 and paragraph 120 of Schedule 1 to Act 28 of 2011

30. (1) Section 27 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (4) of the following subsection: 5

“(4) A vendor shall fall within Category D if—

- (a) (i) the vendor’s enterprise consists solely of agricultural, pastoral or other farming activities or the vendor is a branch, division or separate enterprise which is deemed by subsection (5) of section 23 to be a separate person for the purposes of that section and is as such registered under that section or the vendor is a branch, division or a separate enterprise registered as a separate vendor under section 50(2); 10
 - [(b)](ii) the activities of any such branch, division or separate enterprise consist solely of agricultural, pastoral or other farming activities and activities of that kind are not carried on in any other branch, division or separate enterprise of the vendor or the association not for gain, as the case may be, by whom a written application referred to in [paragraph (e)] subparagraph (v) is made; 15
 - [(c)](iii) the total value of the taxable supplies of the vendor from agricultural, pastoral or other farming activities— 20
 - [(i)](aa) has in the period of 12 months ending on the last day of any month of the calendar year not exceeded R1,5 million; and
 - [(ii)](bb) is not likely to exceed that amount in the period of 12 months commencing at the end of the period referred to in [subparagraph (i)] item (aa); 25
 - [(d)](iv) the vendor does not fall within Category C; and
 - [(e)](v) the vendor whose enterprise consists solely of agricultural, pastoral or other farming activities or the vendor referred to in section 50(2) or the association not for gain referred to in section 23(5), as the case may be, has made a written application to the Commissioner, in such form as the Commissioner may prescribe, for such first-mentioned vendor or the branch, division or separate enterprise in question, as the case may be, to be placed within Category D[.]; or 30
 - (b) the vendor is a micro business that is registered in terms of the Sixth Schedule to the Income Tax Act and has made written application in such form as the Commissioner may prescribe, to be placed in Category D, 35
- and the Commissioner has directed that, with effect from the commencement date or such later date as may be appropriate, the vendor shall fall within Category D: Provided that a vendor falling within Category D shall cease to fall within that Category with effect from the commencement of a future period notified by the Commissioner, if written application is made by the person who made the application referred to in [paragraph (e)] subparagraph (v) for the vendor to be placed within Category A, B, C, E or F or the Commissioner is satisfied that by reason of a change in circumstances that vendor should be placed within Category 40 A, B, C, E or F.”. 45

(2) Subsection (1) is deemed to have come into operation on 1 March 2014 and applies in respect of tax periods commencing on or after that date.

Wysiging van artikel 27 van Wet 89 van 1991, soos gewysig deur artikel 34 van Wet 136 van 1991, artikel 28 van Wet 136 van 1992, artikel 78 van Wet 30 van 2000, artikel 11 van Wet 10 van 2005, artikel 50 van Wet 9 van 2006, artikel 1 van Wet 3 van 2008, artikel 25 van Wet 4 van 2008 en paragraaf 120 van Bylae 1 by Wet 28 van 2011

5

30. (1) Artikel 27 of die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) ’n Ondernemer val in Kategorie D indien—

- (a) (i) die ondernemer se onderneming uitsluitlik uit landbou-, veeboerdery- of ander boerderybedrywighede bestaan of die ondernemer ’n tak, afdeling of afsonderlike onderneming is wat deur subartikel (5) van artikel 23 geag word ’n afsonderlike persoon te wees by die toepassing van daardie artikel en as sodanig ingevolge daardie artikel geregistreer is of die ondernemer ’n tak, afdeling of afsonderlike onderneming is wat as ’n afsonderlike ondernemer ingevolge artikel 50(2) geregistreer is; 10
- [(b)](ii) die bedrywighede van so ’n tak, afdeling of afsonderlike onderneming uitsluitlik uit landbou-, veeboerdery- of ander boerderybedrywighede bestaan en bedrywighede van daardie aard nie bedryf word nie in ’n ander tak, afdeling of afsonderlike onderneming van die ondernemer of vereniging sonder winsoogmerk, na gelang van die geval, deur wie ’n skriftelike aansoek bedoel in [paragraaf (e)] subparagraaf (v) gedoen is; 15
- [(c)](iii) die totale waarde van die belasbare lewerings van die ondernemer uit landbou-, veeboerdery- of ander boerderybedrywighede— 20
- [(i)](aa) in die tydperk van 12 maande wat op die laaste dag van enige maand van die kalenderjaar nie R1,5 miljoen oorskry het nie; 25
- en
- [(ii)](bb) waarskynlik daardie bedrag nie in die tydperk van 12 maande wat aan die einde van die in [subparagraaf (i)] item (aa) bedoelde tydperk begin, sal oorskry nie; 30
- [(d)](iv) die ondernemer nie in Kategorie C val nie; en
- [(e)] (v) die ondernemer wie se onderneming uitsluitlik uit landbou-, veeboerdery- of ander boerderybedrywighede bestaan of die in artikel 50(2) bedoelde ondernemer of die in artikel 23(5) bedoelde vereniging sonder winsoogmerk, na gelang van die geval, ’n skriftelike aansoek, in die vorm deur die Kommissaris voorgeskryf, gedoen het dat eersbedoelde 35
- ondernemer of die tak, afdeling of afsonderlike onderneming, na gelang van die geval, in Kategorie D geplaas word[.]; of
- (b) die ondernemer ’n mikrobeseigtheid is, wat ingevolge die Sesde Bylae by die Inkomstebelastingwet geregistreer is, en ’n skiftelike aansoek, in die vorm deur die Kommissaris voorgeskryf, gedoen het om in Kategorie D geplaas te word, 40

en die Kommissaris opdrag gegee het dat, met ingang van die aanvangsdatum of ’n latere datum wat paslik is, die ondernemer in Kategorie D val: Met dien verstande dat ’n ondernemer wat in Kategorie D val, ophou om in daardie Kategorie te val met ingang van die begin van ’n toekomstige tydperk deur die Kommissaris aangekondig, indien ’n skriftelike aansoek gedoen word deur die persoon wat die in [paragraaf (e)] subparagraaf (v) bedoelde aansoek gedoen het om in Kategorie A, B, C, E of F geplaas te word of die Kommissaris oortuig is dat omrede ’n verandering van omstandighede die ondernemer in Kategorie A, B, C, E of F geplaas behoort te word. 50

(2) Subartikel (1) tree op 1 Maart 2014 in werking en is van toepassing op belastingtydperke wat op of na daardie datum in aanvang neem.

Amendment of section 28 of Act 89 of 1991, as amended by section 29 of Act 136 of 1992, section 79 of Act 30 of 2000, section 44 of Act 5 of 2001, section 158 of Act 60 of 2001, section 118 of Act 74 of 2002, section 179 of Act 45 of 2003, section 37 of Act 32 of 2005, section 32 of Act 36 of 2007, section 41 of Act 61 of 2008, section 31 of Act 8 of 2010 and paragraph 121 of Act 28 of 2011

5

31. Section 28 of the Value-Added Tax Act, 1991, is hereby amended—

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

“**[Subject to subsection (4) every]** Every vendor shall, within the period ending on the twenty-fifth day of the first month commencing after the end of a tax period relating to such vendor or, where such tax period ends on or after the first day and before the twenty-fifth day of a month, within the period ending on such twenty-fifth day—”; and

(b) by the substitution in subsection (1) for paragraph (iii) of the proviso of the following paragraph:

“(iii) a vendor registered with the Commissioner to submit returns electronically is deemed to have submitted the return and made payment within the period contemplated in subsection (1) if the vendor submits the returns and makes full payment of the amount of tax electronically in the prescribed form and manner within the period ending on the last business day of the month during which that twenty-fifth day falls;”.

Amendment of section 10 of Act 4 of 2002

32. Section 10 of the Unemployment Insurance Contributions Act, 2002, is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“**[The] Each** employer contemplated in sections 8 and 9, must, before the seventh day of each month, submit to the **[Commissioner or the]** Unemployment Insurance Commissioner, **whichever is applicable to such employer in terms of section 8 or 9,** such information relating to its employees as the Minister may prescribe by regulation, including details relating to—”.

Amendment of section 19 of Act 29 of 2008, as amended by section 39 of Act 8 of 2010

33. (1) Section 19 of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, is hereby amended—

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

“In respect of a year of assessment an extractor must annually submit to the Minister of Finance a report in the form and manner that the Minister may prescribe advising the Minister of—”; and

(b) by the addition in subsection (1) of the following paragraphs:

“(g) the amounts of the royalty imposed in terms of section 2 of the Royalty Act in respect of refined minerals and unrefined minerals, respectively;

(h) the amount of earnings before interest and taxes determined in accordance with section 5(1) and (2) of the Royalty Act, respectively;

(i) the amount of the royalty that would have been imposed on an extractor in respect of mineral resources transferred had that extractor not been exempt from the royalty in terms of section 7(1)(a) of the Royalty Act;

(j) the amount of the royalty that would have been imposed on an extractor in respect of mineral resources transferred had that

Wysiging van artikel 28 van Wet 89 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1992, artikel 79 van Wet 30 van 2000, artikel 44 van Wet 5 van 2001, artikel 158 van Wet 60 van 2001, artikel 118 van Wet 74 van 2002, artikel 179 van Wet 45 van 2003, artikel 37 van Wet 32 van 2005, artikel 32 van Wet 36 van 2007, artikel 41 van Wet 61 van 2008, artikel 31 van Wet 8 van 2010 en paragraaf 121 van Wet 28 van 2011 5

31. Artikel 28 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur die woorde in subartikel (1) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 10

“Elke ondernemer moet[, **behoudens subartikel (4),**] binne die tydperk eindigende op die vyf-en-twintigste dag van die eerste maand wat begin na die einde van ’n belastingtydperk met betrekking tot daardie ondernemer of, waar sodanige belastingtydperk op of na die eerste dag en voor die vyf-en-twintigste dag van ’n maand eindig, binne die tydperk wat op sodanige vyf-en-twintigste dag eindig—”; en 15

(b) deur paragraaf (iii) van die voorbehoudsbepaling tot subartikel (1) deur die volgende paragraaf te vervang:

“(iii) ’n ondernemer wat by die Kommissaris geregistreer is om opgawes elektronies te doen, word geag die opgawe in te gedien het en betaling te gemaak het binne die tydperk in subartikel (1) beoog, indien die ondernemer die opgawe indien en volle betaling van die belasting maak, elektronies in die voorgeskrewe vorm en wyse, binne die tydperk wat eindig op die laaste besigheidsdag van die maand waarin genoemde vyf-en-twintigste dag val;”. 25

Wysiging van artikel 10 van Wet 4 van 2002

32. Artikel 10 van die “Unemployment Insurance Contributions Act, 2002,” word hierby gewysig deur die woorde in subartikel (3) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Mutholi muñwe na muñwe a no lavhelelwa kha khethekanyo 8 na 9, u fanela uri, musi hu sa athu fhela maḁuvha a sumbe kha ḁwedzi muñwe na muñwe, a ḁise [**kha Khomishinari kana**] kha Khomishinari wa Ndindakhombo ya U Shaya Mushumo [**, zwi tshi ya nga ḁdila iñwe na iñwe ine ya shuma kha mutholi uyo hu tshi tevhelwa khethekanyo 8 kana 9,**] mafhungo a elanaho na vthatholwa vhawe sa zwe u ya nga hune Minisiṯa a nga ta ngaho nga ndangulo, hu tshi katelwa na zwi tevhelaho—”. 30 35

Wysiging van artikel 19 van Wet 29 van 2008, soos gewysig deur artikel 39 van Wet 8 van 2010

33. (1) Artikel 19 van die “Molao wa Royalithi (Tshepedišo) ya Methopo ya Diminerale le Petroliamo, wa 2008,” word hierby gewysig— 40

(a) deur die woorde in subartikel (1) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Mabapi le ngwaga wa tsekatsheko morafi wa moepo o swanetše go romela Tona ya Kgoro ya Ditšhelete pego ngwaga ka ngwaga ka tsela le ka mokgwa wo Tona a ka nyakago ka gonagomme a eletše Tona ka ga—”; 45

(b) deur die volgende paragrawe in subartikel (1) by te voeg:

“(g) ditšhelete tša royalithi tše di beilwego go ya ka karolo ya 2 ya Molao wa Royalithi mabapi le diminerale tše di hlwekišitšwego le ka ga diminerale tše di sego tša hlwekišwa, ka go latelana; 50

(h) ditšhelete tše di hweditšwego bjalo ka letseno pele ga tswala le metšhelo ye e beilwego go latela karolo ya 5(1) le ya (2) Molao wa Royalithi, ka go latelana;

(i) ditšhelete tša royalithi tše di ka bego di beetšwe morafi wa moepo gore a di lefe mabapi le methopo ya diminerale ye e fetišitšwego ge e le gore morafi yoo wa moepo ga se a akaretšwa go se lefe royalithi go ya ka karolo ya 7(1)(a) ya Molao wa Royalithi; 55

(i) ditšhelete tša rovalithi tše di ka bešo di beetšwe morafi wa moeno

- extractor not been exempt from the royalty in terms of section 7(1)(b) of the Royalty Act; and
(k) the amount of the royalty that would have been imposed on an extractor had that extractor not been exempt from the royalty in terms of section 8 of the Royalty Act.”.

(2) Subsection (1) comes into operation on 1 January 2013.

Repeal of section 1 of Act 18 of 2009

34. Section 1 of the Taxation Laws Second Amendment Act, 2009, is hereby repealed.

Amendment of section 1 of Act 25 of 2011

35. (1) Section 1 of the Taxation Laws Second Amendment Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on [1 April 2012 unless a later date is determined by the Minister by notice in the *Gazette*] 1 October 2012 and applies in respect of research and development on or after [1 April 2012, or such later date determined by the Minister by notice in the *Gazette*] 1 October 2012, but on or before 1 [April] October 2022.”.

(2) Subsection (1) is deemed to have come into operation on 14 December 2011.

Amendment of section 1 of Act 28 of 2011

36. Section 1 of the Tax Administration Act, 2011, is hereby amended—

(a) by the insertion of the following definition after the definition of “assessment”:

“‘asset’ includes—

(a) property of whatever nature, whether movable or immovable, corporeal or incorporeal; and

(b) a right or interest of whatever nature to or in the property;”;

(b) by the substitution for the definition of “effective date” of the following definition:

“‘effective date’ is the date described in section 187(3), (4) and (5) of this Act, or the date from when interest is otherwise calculated under a tax Act;”;

(c) by the insertion of the following definition after the definition of “reduced assessment”:

“‘registered tax practitioner’ means a person registered under section 240;”;

(d) by the substitution for paragraph (c) of the definition of “SARS official” of the following paragraph:

“(c) a person contracted or engaged by SARS for purposes of the administration of a tax Act and who carries out the provisions of a tax Act under the control, direction or supervision of the Commissioner;”;

(e) by the substitution for the definition of “shareholder” of the following definition:

“‘shareholder’ means a person who holds a beneficial interest [in a share] in a company as defined in the Income Tax Act;”.

Amendment of section 3 of Act 28 of 2011

37. Section 3 of the Tax Administration Act, 2011, is hereby amended—

(a) by the substitution in subsection (2) for paragraph (f) of the following paragraph:

“(f) investigate whether [an] a tax offence has been committed [in terms of a tax Act], and, if so—

(i) to lay criminal charges; and

(ii) to provide the assistance that is reasonably required for the

e le gore morafi yoo wa moepo ga se a akaretšwa go se lefe royalithi go ya ka karolo ya 7(1)(b) ya Molao wa Royalithi; le
(k) ditšhelete tša royalithi tšeo di ka bego di beetšwe morafi wa moepo gore a di lefe mabapi le methopo ya diminerale ye e fetišitšwego ge e le gore morafi yoo wa moepo ga se a akaretšwa go se lefe royalithi go ya ka karolo ya 8 ya Molao wa Royalithi”.

(2) Subartikel (1) tree op 1 Januarie 2013 in werking.

Herroeping van artikel 1 van Wet 18 van 2009

34. Artikel 1 van die Tweede Wysigingswet op Belastingwette, 2009, word hiermee herroep.

Wysiging van artikel 1 van Wet 25 van 2011

35. (1) Artikel 1 of die Tweede Wysigingswet op Belastingwette, 2011, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Subartikel (1) tree op [**1 April 2012**] 1 Oktober 2012 in werking[, **tensy ’n later datum deur die Minister by kennisgewing in die Staatskoerant bepaal word,**] en is van toepassing ten opsigte van navorsing en ontwikkeling op of na [**1 April 2012 of die latere datum deur die Minister by kennisgewing in die Staatskoerant bepaal**] 1 Oktober 2012, maar op of voor [**1 April**] 1 Oktober 2022.”.

(2) Subartikel (1) word geag op 14 Desember 2011 in werking te getree het.

Wysiging van artikel 1 van Wet 28 van 2011

36. Artikel 1 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van “amptelike publikasie” in te voeg:

“**‘bate’** sluit in—

(a) eiendom van welke aard ookal, roerend of onroerend, liggaamlik of onliggaamlik; en

(b) ’n reg of belang tot of in eiendom van welke aard ookal;”;

(b) deur die omskrywing van “effektiewe datum” deur die volgende omskrywing te vervang:

“**‘effektiewe datum’** die datum in artikel 187(3), (4) en (5) van hierdie Wet beskryf, of die datum vanaf wanneer rente andersins ingevolge ’n Belastingwet bereken word;”;

(c) deur die volgende omskrywing na die omskrywing van “ernstige belastingmisdryf” in te voeg:

“**‘geregistreeerde belastingpraktisyn’** beteken ’n persoon ingevolge artikel 240 geregistreer;”;

(d) deur paragraaf (c) van die omskrywing van ’n “SAID-amptenaar” deur die volgende paragraaf te vervang:

“(c) ’n persoon deur SAID gekontrakteer of indiensgeneem vir die doeleindes van die administrasie van ’n Belastingwet en wat die bepaling van ’n Belastingwet uitvoer onder die beheer, leiding of toesig van die Kommissaris;”;

(e) deur die omskrywing van “aandeelhouer” deur die volgende omskrywing te vervang:

“**‘aandeelhouer’** ’n persoon wat ’n voordelige belang besit in [**’n aandeel in**] ’n maatskappy soos in die Inkomstebelastingwet omskryf;”.

Wysiging van artikel 3 van Wet 28 van 2011

37. Artikel 3 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur in subartikel (2) paragraaf (f) deur die volgende paragraaf te vervang:

“(f) ondersoek in te stel of ’n belastingmisdryf [ingevolge ’n Belastingwet] gepleeg is, en, indien wel—

(i) om strafregtelike aanklagte in te bring; en

(ii) om die bystand te verleen wat redelikerwys benodig word vir

- investigation and prosecution of the tax [offences or related common law offences] offence;” and
- (b) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
- “(a) information, SARS may obtain the information requested for transmission to the competent authority of the other country as if it were relevant material required for purposes of a tax Act and must treat the information obtained as **[if it were]** taxpayer information;”.

Amendment of section 6 of Act 28 of 2011 10

- 38.** Section 6 of the Tax Administration Act, 2011, is hereby amended—
- (a) by the substitution in subsection (3) for paragraph (c) of the following paragraph:
- “(c) a SARS official occupying a post designated by the Commissioner in writing for this purpose.”;
- (b) by the substitution in subsection (4) for paragraph (a) of the following paragraph:
- “(a) **[an]** a SARS official under the control of the Commissioner or a senior SARS official; or”;
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) Powers and duties not specifically required by this Act to be exercised by the Commissioner or by a senior SARS official, may be exercised by a SARS official **[employed or contracted to exercise or perform powers or duties for purposes of the administration of a tax Act]**.”.

Amendment of section 8 of Act 28 of 2011

- 39.** Section 8 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:
- “(1) SARS **[must]** may issue an identity card to each SARS official exercising powers and duties for purposes of the administration of a tax Act.
- (2) When a SARS official exercises a power or duty for purposes of the administration of a tax Act in person outside SARS premises, the official must produce the identity card upon request by a member of the public.”.

Amendment of section 11 of Act 28 of 2011

- 40.** Section 11 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (3) of the following subsection:
- “(3) A **[senior SARS official may lay a criminal charge relating to a tax offence described in section 235]** cost order in favour of SARS resulting from any civil proceedings under this Act constitutes funds of SARS within the meaning of section 24 of the SARS Act.”.

Amendment of section 26 of Act 28 of 2011

- 41.** The Tax Administration Act, 2011, is hereby amended by the substitution for section 26 of the following section:

“Third party returns

- 26. (1)** The Commissioner may by public notice require a person who employs, pays amounts to, receives amounts on behalf of or otherwise transacts with another person, or has control over assets of another person, to submit a return **[with the required information in the prescribed form and manner and]** by the date specified in the notice.
- (2)** A person required under subsection (1) to submit a return must do so in the prescribed form and manner and the return must contain the information prescribed by the Commissioner and must be a full and true

verbandhoudende gemeenregtelike misdrywe] die belastingmisdryf;”; en

- (b) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) inligting, kan SAID die inligting aangevra verkry vir versending aan die bevoegde gesag van die ander land asof dit tersaaklike materiaal is benodig vir die doeleindes van ’n Belastingwet en moet die inligting verkry hanteer word [asof dit] soos belastingpligtige-inligting [is];”.

Wysiging van artikel 6 van Wet 28 van 2011

38. Artikel 6 van die Wet op Belastingadministrasie, 2011, word hierby gewysig— 10
- (a) deur in subartikel (3) paragraaf (c) deur die volgende paragraaf te vervang:
“(c) ’n SAID-amptenaar wat ’n amp beklee deur die Kommissaris skriftelik vir hierdie doel aangewys.”;
- (b) deur in subartikel (4) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) ’n SAID-amptenaar onder beheer van die Kommissaris of ’n senior SAID-amptenaar; of”; en 15
- (c) deur subartikel (5) deur die volgende subartikel te vervang:
“(5) Bevoegdhe en pligte wat nie spesifiek ingeolge hierdie Wet deur die Kommissaris of ’n senior SAID-amptenaar uitgeoefen hoef te word nie, kan uitgeoefen word deur ’n SAID-amptenaar [aangestel of gekontrakteer om die bevoegdhe of pligte uit te oefen of uit te voer vir die doeleindes van die administrasie van ’n Belastingwet].”.

Wysiging van artikel 8 van Wet 28 van 2011

39. Artikel 8 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels, te vervang: 25
- “(1) SAID [moet] kan ’n identiteitskaart uitreik aan elke SAID-amptenaar wat bevoegdhe en pligte vir die doeleindes van die administrasie van ’n Belastingwet uitoefen of uitvoer.
- (2) Wanneer ’n SAID-amptenaar ’n bevoegdheid of plig uitoefen of uitvoer vir doeleindes van die administrasie van ’n Belastingwet buite SAID-persele, moet die amptenaar die identiteitskaart op versoek van ’n lid van die publiek, voorlê.”.

Wysiging van artikel 11 van Wet 28 van 2011

40. Artikel 11 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang: 35
- “(3) ’n [Senior SAID-amptenaar kan ’n strafregtelike klag lê wat met ’n belastingmisdryf beskryf in artikel 235 verband hou] Kostebevel ten gunste van SAID voortspruitend uit enige siviele gedinge ingeolge hierdie Wet stel fondse van SAID binne die betekenis van artikel 24 van die SAID-Wet, daar.”.

Wysiging van artikel 26 van Wet 28 van 2011

41. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 26 deur die volgende artikel te vervang: 40

“Derdepartyopgawes

26. (1) Die Kommissaris kan by openbare kennisgewing vereis dat ’n persoon wat iemand in diens neem of bedrae betaal aan of ontvang namens ’n ander persoon of enigins met ’n ander persoon ’n transaksie aangaan, of beheer oor die bates van ’n ander persoon het, ’n opgawe indien [met die vereiste inligting in die voorgeskrewe vorm en op die voorgeskrewe wyse en] teen die datum in die kennisgewing bepaal. 45

(2) ’n Persoon wat ingeolge subartikel (1) vereis word om ’n opgawe in te dien moet so maak in die voorgeskrewe vorm en wyse en die opgawe moet die inligting deur die Kommissaris voorgeskryf bevat, en moet ’n 50

Amendment of section 27 of Act 28 of 2011

42. The Tax Administration Act, 2011, is hereby amended by the substitution for section 27 of the following section:

“Other returns required

27. (1) SARS may require a person to submit further or more detailed returns regarding any matter for which a return is required or prescribed by a tax Act. 5

(2) A person required under subsection (1) to submit a return must do so in the prescribed form and manner and the return must contain the information prescribed by SARS and must be a full and true return. 10

Amendment of section 29 of Act 28 of 2011

43. Section 29 of the Tax Administration Act, 2011, is hereby amended—

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

“(b) are specifically required under a tax Act or by the Commissioner by public notice; and” 15

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

“The requirements of this Act to keep records, books of account or documents for a tax period apply to a person who—”; and 20

(c) by the substitution for the words in subsection (3) that precede paragraph (a) of the following words:

“Records, books of account or documents need not be retained by the person described in—”.

Amendment of section 32 of Act 28 of 2011 25

44. Section 32 of the Tax Administration Act, 2011, is hereby amended—

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

“(a) records, books of account or documents are relevant to an audit or investigation under Chapter 5 which the person, subject to the audit or investigation has been notified of or is aware of; or” 30

(b) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

“the person must retain the records, books of account or documents relevant to the audit, investigation, objection or appeal until the audit or investigation is concluded or the assessment or the decision becomes final.” 35

Amendment of section 34 of Act 28 of 2011

45. Section 34 of the Tax Administration Act, 2011, is hereby amended by the inclusion of single quotes around the word ‘arrangement’ where they do not appear;”.

Amendment of section 36 of Act 28 of 2011 40

46. Section 36 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1)(a) for the words preceding item (i) of the following words:

“a [**loan, advance or**] debt in terms of which—”.

Amendment of section 37 of Act 28 of 2011

47. Section 37 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 45

Wysiging van artikel 27 van Wet 28 van 2011

42. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 27 deur die volgende artikel te vervang:

“Ander opgawes vereis

27. (1) SAID kan vereis dat ’n persoon verdere of meer volledige opgawes indien aangaande enige aangeleentheid waarvoor ’n opgawe ingevolge ’n Belastingwet vereis of voorgeskryf word. 5

(2) ’n Persoon wat ingevolge subartikel (1) vereis word om ’n opgawe in te dien moet so maak in die voorgeskrewe vorm en wyse en die opgawe moet die inligting deur SAID voorgeskryf bevat, en moet ’n volle en ware opgawe wees.”. 10

Wysiging van artikel 29 van Wet 28 van 2011

43. Artikel 29 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: 15

“(b) uitdruklik kragtens ’n Belastingwet vereis word of deur die Kommissaris by openbare kennisgewing; en”;

(b) deur die woorde in subartikel (2) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die vereistes van hierdie Wet om rekords, rekenkundige rekeninge en dokumente vir ’n belastingtydperk te hou is van toepassing op ’n persoon—”; en 20

(c) deur die woorde in subartikel (3) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“(3) Rekords, rekenkundige rekeninge en dokumente hoef nie behou te word nie deur die persoon beskryf in—”. 25

Wysiging van artikel 32 van Wet 28 van 2011

44. Artikel 32 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur paragraaf (a) deur die volgende paragraaf te vervang:

“(a) rekords, rekenkundige rekeninge en dokumente tersaaklik is vir ’n oudit of ondersoek kragtens Hoofstuk 5 waarvan die persoon onderworpe aan die oudit of ondersoek van in kennis gestel is of bewus is van; of”;

(b) deur die woorde wat paragraaf (b) in subartikel (1) voorafgaan deur die volgende woorde te vervang:

“moet die persoon die rekords, rekenkundige rekeninge en dokumente tersaaklik vir die oudit, ondersoek, beswaar of appèl bewaar totdat die oudit afgehandel is of die aanslag of beslissing finaal word.”. 35

Wysiging van artikel 34 van Wet 28 van 2011

45. Artikel 34 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur enkelaanhalingstekens aan die woord “reëling” aan te bring. 40

Wysiging van artikel 36 van Wet 28 van 2011

46. Artikel 36 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die woorde in subartikel (1)(a) wat item (i) voorafgaan deur die volgende woorde te vervang:

“ ’n [lening, voorskot of] skuld is ingevolge waarvan—”. 45

Wysiging van artikel 37 van Wet 28 van 2011

47. Artikel 37 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die woorde in subartikel (3) wat paragraaf (a) voorafgaan deur die volgende

“A ‘participant’ need not disclose the information [in respect of the ‘arrangement’] if the ‘participant’ obtains a written statement from—”.

Amendment of section 42 of Act 28 of 2011

48. Section 42 of the Tax Administration Act, 2011, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 5
“(1) A SARS official involved in or responsible for an audit under this **[Part] Chapter** must, in the form and in the manner as may be prescribed by the Commissioner by public notice, provide the taxpayer with a report indicating the stage of completion of the audit.”; and
 - (b) by the substitution for subsection (6) of the following subsection: 10
“(6) SARS may under the circumstances described in subsection (5) issue the assessment or make the decision referred to in section 104(2) resulting from the audit and the grounds of the assessment or decision must be provided to the taxpayer within 21 business days of the assessment or the decision **[referred to in section 104(2)]**, or the further 15
period that may be required based on the complexities of the audit or the decision.”.

Amendment of section 43 of Act 28 of 2011

49. Section 43 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively: 20
- “(1) If at any time before or during the course of an audit it appears that a **[person] taxpayer** may have committed a serious tax offence, the investigation of the offence must be referred to a senior SARS official responsible for criminal investigations for a decision as to whether a criminal investigation should be pursued. 25
 - (2) Relevant material **[gathered during an audit] obtained under this Chapter from the taxpayer** after the referral, must be kept separate from the criminal investigation **[and may not be used in criminal proceedings instituted in respect of the offence]**.”.

Amendment of section 46 of Act 28 of 2011 30

50. Section 46 of the Tax Administration Act, 2011, is hereby amended—
- (a) by the substitution for subsection (3) of the following subsection: 35
“(3) A request by SARS for relevant material from a person other than the taxpayer is limited to relevant information related to the records maintained or that should reasonably be maintained by the person in relation to the taxpayer.”; and
 - (b) by the substitution for subsection (5) of the following subsection: 40
“(5) If reasonable grounds for an extension are submitted by the person, SARS may extend the period within which the relevant material must be submitted [on good cause shown].”.

Amendment of section 49 of Act 28 of 2011

51. Section 49 of the Tax Administration Act, 2011, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 45
“The person on whose premises an audit or criminal investigation is carried out and any other person on the premises, must provide such reasonable assistance as is required by SARS to conduct the audit or investigation, including—”; and
 - (b) by the substitution for subsection (3) of the following subsection: 50
“(3) The person may recover from SARS after completion of the audit or criminal investigation (or, at the person’s request, on a monthly basis) the cost for the use of photocopying facilities in accordance with the fees

“ ’n ‘Deelnemer’ hoef nie die inligting [**ten opsigte van die ‘reëling’**] openbaar te maak nie indien die ‘deelnemer’ ’n skriftelike verklaring verkry van—”.

Wysiging van artikel 42 van Wet 28 van 2011

48. Artikel 42 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang: 5
“(1) ’n SAID-amptenaar betrokke by of verantwoordelik vir ’n oudit kragtens hierdie [**Deel**] Hoofstuk moet, in die vorm en op die wyse deur die Kommissaris by openbare kennisgewing voorgeskryf, die belastingpligtige van ’n verslag voorsien, wat die stadium van voltooiing van die oudit aandui.”; en 10
- (b) deur subartikel (6) deur die volgende subartikel te vervang:
“(6) SAID kan onder die omstandighede in subartikel (5) beskryf, die aanslag uitreik of die beslissing bedoel in artikel 104(2) maak voortspruitend uit die oudit en die gronde vir die aanslag of beslissing moet aan die belastingpligtige verskaf word binne 21 besigheidsdae vanaf die aanslag of beslissing [**bedoel in artikel 104(2)**] of die verdere tydperk wat vereis word gebaseer op die ingewikkeldheid van die oudit of beslissing.”. 15

Wysiging van artikel 43 van Wet 28 van 2011

49. Artikel 43 van die Wet op Belastingadministrasie, 2011, word hierby gewysig 20
deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:
- “(1) Indien dit op enige tyd voor of gedurende ’n oudit blyk dat ’n [**persoon**] belastingpligtige moontlik ’n ernstige belastingmisdryf gepleeg het, moet die ondersoek van die misdryf na ’n senior SAID-amptenaar verantwoordelik vir strafregtelike ondersoeke verwys word vir ’n besluit of ’n strafregtelike ondersoek 25
onderneem moet word.
- (2) Tersaaklike materiaal [**gedurende ’n oudit maar**] ingevolge hierdie Hoofstuk van die belastingpligtige ná die verwysing verkry moet apart gehou word van die strafregtelike ondersoek [**en kan nie in strafregtelike gedinge met betrekking tot die misdryf ingestel, gebruik word nie**].” 30

Wysiging van artikel 46 van Wet 28 van 2011

50. Artikel 46 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
- (a) deur subartikel (3) deur die volgende subartikel te vervang:
“(3) ’n Versoek deur SAID vir die tersaaklike materiaal van ’n persoon anders as die belastingpligtige word beperk tot tersaaklike 35
materiaal wat verband hou met die rekords met betrekking tot die belastingpligtige bygehou, of wat redelikerwys deur sodanige persoon bygehou behoort te word.”; en
- (b) deur subartikel (5) deur die volgende subartikel te vervang:
“(5) Indien redelike gronde vir ’n verlenging deur die persoon 40
ingedien word, kan SAID [kan] die tydperk verleng waarbinne die tersaaklike materiaal verskaf moet word [**verleng indien daar goeie redes bestaan**].”.

Wysiging van artikel 49 van Wet 28 van 2011

51. Artikel 49 van die Wet op Belastingadministrasie, 2011, word hierby gewysig— 45
- (a) deur die woorde in subartikel (1) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
“Die persoon op wie se perseel ’n oudit of strafregtelike ondersoek plaasvind en enige ander persoon op die perseel, moet die redelike bystand verskaf soos wat deur SAID vereis word ten einde die oudit of 50
ondersoek uit te voer, insluitend om—”; en
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
“(3) Die persoon kan, na afhandeling van die oudit of strafregtelike 50
ondersoek (of, op die persoon se versoek, op ’n maandelikse grondslag)

prescribed in section 92(1)(b) of the Promotion of Access to Information Act.”.

Amendment of section 61 of Act 28 of 2011

52. Section 61 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) A SARS official exercising a power under a warrant referred to in section 60 must produce the warrant, and if the owner or person in control of the premises is not present, the SARS official must affix a copy of the warrant to the premises in a prominent and visible place.”.

Amendment of section 63 of Act 28 of 2011 10

53. Section 63 of the Tax Administration Act, 2011, is hereby amended by the addition of the following subsection:

“(5) If the owner or person in control of the premises is not present, the SARS official must inform such person of the circumstances referred to in subsection (2) as soon as reasonably possible after the execution of the search and seizure.”. 15

Amendment of section 71 of Act 28 of 2011

54. Section 71 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) the information will likely be [critical] material to the prosecution of the offence or avoidance of the risk; and” 20

Amendment of section 72 of Act 28 of 2011

55. The Tax Administration Act, 2011, is hereby amended by the substitution for section 72 of the following section:

“Self incrimination

72. (1) A taxpayer may not refuse to comply with his or her obligations 25
in terms of legislation to complete and file a return or an application on the grounds that to do so might incriminate him or her, and an admission by the taxpayer contained in a return, application, or other document submitted to SARS by a taxpayer is admissible in criminal proceedings against the taxpayer for [an] a tax offence [under a tax Act], unless a competent court 30
directs otherwise.

(2) An admission by the taxpayer of the commission of [an] a tax offence [under a tax Act] obtained from a taxpayer under Chapter 5 is not admissible in criminal proceedings against the taxpayer, unless a competent 35
court directs otherwise.”.

Amendment of section 79 of Act 28 of 2011

56. Section 79 of the Tax Administration Act, 2011, is hereby amended—

(a) by the deletion in subsection (4) of the word “and” after paragraph (l); and

(b) by the addition in subsection (4) of the following paragraphs:

“(n) a statement confirming that the ‘applicant’ complied with any 40
registration requirements under a tax Act, with regard to any tax for which the ‘applicant’ is liable, unless the ‘application’ concerns a ruling to determine if the ‘applicant’ must register under a tax Act; and

(o) a statement confirming that all returns required to be rendered by 45
that ‘applicant’ in terms of a tax Act have been rendered and any tax

in ooreenstemming met die gelde wat in artikel 92(1)(b) van die Wet op Bevordering van Toegang tot Inligting voorgeskryf word.”.

Wysiging van artikel 61 van Wet 28 van 2011

52. Artikel 61 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 5

“(1) ’n SAID-amptenaar wat ’n bevoegdheid kragtens ’n lasbrief bedoel in artikel 60 uitoefen, moet die lasbrief toon en indien die eienaar of persoon in beheer van die perseel nie teenwoordig is nie, moet die SAID-amptenaar ’n afskrif van die lasbrief op die perseel op ’n prominente en sigbare plek, vassit.”.

Wysiging van artikel 63 van Wet 28 van 2011 10

53. Artikel 63 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die volgende subartikel by te voeg:

“(5) Indien die eienaar of persoon in beheer van die perseel nie teenwoordig is nie, moet die SAID-amptenaar daardie persoon aangaande die omstandighede in subartikel (2) na verwys inlig, so spoedig as redelikerwys moontlik na die uitvoering van die deursoeking en beslaglegging.” 15

Wysiging van artikel 71 van Wet 28 van 2011

54. Artikel 71 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) die inligting waarskynlik [**deurslaggewend**] wesenlik sal wees met 20
betrekking tot die vervolging van die misdryf of die vermyding van die risiko;
en”.

Wysiging van artikel 72 van Wet 28 van 2011

55. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 72 deur die volgende artikel te vervang: 25

“Selfinkriminering

72. (1) ’n Belastingpligtige mag nie weier om sy of haar verpligtinge ingevolge wetgewing om ’n opgawe of aansoek te voltooi en in te dien na te kom nie op die grondslag dat deur dit te doen hy of sy geïnkrimineer kan word, en ’n erkenning deur die belastingpligtige bevat in ’n opgawe, 30
aansoek, of enige ander dokument deur ’n belastingpligtige aan SAID verskaf, is toelaatbaar in strafregtelike gedinge teen die belastingpligtige vir ’n belastingmisdryf [kragtens ’n Belastingwet], tensy ’n bevoegde hof andersins bepaal.

(2) ’n Erkenning deur die belastingpligtige van die pleeg van ’n 35
belastingmisdryf [kragtens ’n Belastingwet], verkry van ’n belastingpligtige kragtens Hoofstuk 5, is nie toelaatbaar in strafregtelike gedinge teen die belastingpligtige nie, tensy ’n bevoegde hof andersins bepaal.”.

Wysiging van artikel 79 van Wet 28 van 2011

56. Artikel 79 van die Wet op Belastingadministrasie, 2011, word hierby gewysig— 40
(a) deur in subartikel (4) die woord “en” aan die einde van paragraaf (l) te skrap;
en

(b) deur die volgende paragrawe tot subartikel (4) by te voeg:
“(n) ’n verklaring wat bevestig dat die ‘aansoeker’ enige 45
registrasievereistes ingevolge ’n Belastingwet, met betrekking tot
enige belasting waarvoor die ‘aansoeker’ aanspreeklik is, nagekom
het, tensy die aansoek ’n beslissing behels ten einde te bepaal of die
aansoeker ingevolge ’n Belastingwet moet registreer, al dan nie; en
(o) ’n verklaring wat bevestig dat alle opgawes wat vereis word deur

has been paid or arrangements acceptable to SARS have been made for the submission of any outstanding returns or for the payment of any outstanding tax.”.

Amendment of section 80 of Act 28 of 2011

57. Section 80 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1)(a) for item (vi) of the following item: 5

“(vi) a matter which can be resolved by SARS issuing a directive under the Fourth Schedule or the Seventh Schedule to the Income Tax Act;”.

Amendment of section 91 of Act 28 of 2011

58. Section 91 of the Tax Administration Act, 2011, is hereby amended— 10

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

“(5) If a tax Act requires a taxpayer to submit a return—

(a) the making of an assessment under subsection (4) does not detract from the obligation to submit a return; **[and]**

(b) the taxpayer in respect of whom the assessment has been issued may, within **[the period described in section 104]** 30 business days from the date of assessment, request SARS to issue a reduced assessment or additional assessment by submitting a complete and correct return[.]; and 15

(c) an assessment under subsection (4) is not subject to objection or appeal unless the taxpayer submits the return and SARS does not issue a reduced or additional assessment.”; and 20

(b) by the addition of the following subsection:

“(6) A senior SARS official may extend the period referred to in subsection (5)(b) within which the return must be submitted, for a period not exceeding the period for which a penalty may be automatically increased under section 211(2).”.

Amendment of section 99 of Act 28 of 2011

59. Section 99 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1)(d)(i) for item (aa) of the following item: 30

“(aa) amount which should have been assessed to tax under the preceding assessment was, in accordance with the practice generally prevailing at the date of the preceding assessment, not assessed to tax; or”.

Amendment of section 107 of Act 28 of 2011

60. Section 107 of the Tax Administration Act, 2011, is hereby amended by the addition of the following subsection: 35

“(7) SARS may concede an appeal in whole or in part before—

(a) the matter is heard by the tax board or the tax court; or

(b) an appeal against a judgment of the tax court or higher court is heard.”.

Amendment of section 130 of Act 28 of 2011 40

61. Section 130 of the Tax Administration Act, 2011, is hereby amended by the deletion of subsection (3).

Amendment of section 135 of Act 28 of 2011

62. Section 135 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) If an intending appellant wishes to appeal against a decision of the tax court to the Supreme Court of Appeal, the ‘registrar’ must submit the notice of intention to appeal lodged under section 134(1) to the president of the tax court, who must

ingedien is en enige belasting betaal is of die nodige reëlings, |
aanvaarbaar vir SAID, vir die indien van enige uitstaande opgawes |
of die betaling van enige uitstaande belasting, gemaak is.”.

Wysiging van artikel 80 van Wet 28 van 2011

57. Artikel 80 van die Wet op Belastingadministrasie, 2011, word hierby gewysig 5
deur in subartikel (1)(a) item (vi) deur die volgende item te vervang:

“(vi) ’n aangeleentheid wat deur SAID opgelos kan word deur ’n aanwysing
krachtens die Vierde Bylae of die Sewende Bylae by die Inkomstebelastingwet
uit te reik;”.

Wysiging van artikel 91 van Wet 28 van 2011

58. Artikel 91 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—
(a) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Indien ’n Belastingwet van ’n belastingpligte vereis om ’n
opgawe in te dien—

(a) doen die maak van ’n aanslag krachtens subartikel (4) nie afbreuk 15
aan die verpligting om ’n opgawe in te dien nie; [en]

(b) mag die belastingpligte ten opsigte van wie die aanslag uitgereik
is, binne [die tydperk in artikel 104 beskryf] 30 besigheidsdae
vanaf die datum van aanslag, SAID versoek om ’n verminderde
aanslag of addisionele aanslag uit te reik deur ’n volledige en 20
korrekte opgawe in te dien[.]; en

(c) is ’n aanslag krachtens subartikel (4) nie onderhewig aan beswaar en
appèl tensy die belastingpligte die opgawe indien en SAID nie ’n
verminderde of addisionele aanslag uitreik nie.”; en

(b) deur die volgende subartikel by te voeg: 25

“(6) ’n Senior SAID-amptenaar kan die tydperk in subartikel (5)(b) na
verwys, waarbinne die opgawe ingedien moet word verleng, vir ’n
tydperk wat nie die tydperk waarvoor ’n boete outomaties krachtens
artikel 211(2) verhoog mag word, oorskry nie.”.

Wysiging van artikel 99 van Wet 28 van 2011

59. Artikel 99 van die Wet op Belastingadministrasie, 2011, word hierby gewysig
deur in subartikel (1)(d)(i) item (aa) deur die volgende item te vervang:

“(aa) bedrag wat aan belasting onderhewig moes wees ingevolge die
voorafgaande aanslag, in ooreenstemming met die algemeen heersende
praktyk van toepassing op die datum van die voorafgaande aanslag, nie 35
aangeslaan is nie; of”.

Wysiging van artikel 107 van Wet 28 van 2011

60. Artikel 107 van die Wet op Belastingadministrasie, 2011, word hierby gewysig
deur die volgende subartikel by te voeg:

“(7) SAID kan ’n appèl in geheel of gedeeltelik toegee alvorens— 40

(a) die aangeleentheid deur die belastingraad of belastinghof verhoor word; of
(b) ’n appèl teen die belissing van die belastinghof of Hoë Hof aangehoor word.”.

Wysiging van artikel 130 van Wet 28 van 2011

61. Artikel 130 van die Wet op Belastingadministrasie, 2011, word hierby gewysig
deur subartikel (3) te skrap. 45

Wysiging van artikel 135 van Wet 28 van 2011

62. Artikel 135 van die Wet op Belastingadministrasie, 2011, word hierby gewysig
deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien ’n voornemende appellante verlang om te appelleer teen ’n beslissing
van die belastinghof na die Appèlhof, moet die ‘griffier’ die kennisgewing van 50

make an order granting or refusing leave to appeal having regard to the grounds of the intended appeal as indicated in the notice.”.

Amendment of section 142 of Act 28 of 2011

63. Section 142 of the Tax Administration Act, 2011, is hereby amended by the substitution for the definition of ‘settle’ of the following definition: 5

“ ‘settle’ means[, after the lodging of an appeal under this Chapter,] to resolve a ‘dispute’ by compromising a disputed liability, otherwise than by way of either SARS or the person concerned accepting the other party’s interpretation of the facts or the law applicable to those facts or of both the facts and the law, and ‘settlement’ must be construed accordingly.”. 10

Amendment of section 164 of Act 28 of 2011

64. Section 164 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (5) for paragraph (d) of the following paragraph:

“(d) there is a material change in any of the factors referred to in subsection (3), upon which the decision to suspend payment of the amount involved was based.”. 15

Amendment of section 166 of Act 28 of 2011

65. Section 166 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 20

“Despite anything to the contrary contained in a tax Act, SARS may allocate payment made in terms of a tax Act against an amount of penalty or interest or the oldest amount of outstanding tax at the time of the payment, other than amounts—”.

Amendment of section 187 of Act 28 of 2011 25

66. Section 187 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for paragraph (d) of the following paragraph:

“(d) a fixed amount penalty referred to in section 210, is the date [**for payment specified in the notice**] of assessment of the penalty, and in relation to an increment of the penalty under section 211(2), the date of the increment.”. 30

Amendment of section 189 of Act 28 of 2011

67. Section 189 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) If interest is payable under this Chapter and the rate at which the interest is payable has with effect from any date been altered, and the interest is payable in respect of any [**tax**] period or portion thereof which commenced before the said date, the interest to be determined in respect of— 35

- (a) the[**tax**] period or portion thereof which ended immediately before the said date; or
- (b) the portion of the [**tax**] period which was completed before the said date, must 40 be calculated as if the rate had not been altered.”.

Amendment of section 192 of Act 28 of 2011

68. Section 192 of the Tax Administration Act, 2011, is hereby amended by the deletion of the definition of “asset”.

van die belastinghof voorlê, wat 'n bevel moet uitreik waarin verlov tot appèl toegestaan of geweier word met inagneming van die gronde van die voorgenome appèl soos in die kennisgewing aangedui.”.

Wysiging van artikel 142 van Wet 28 van 2011

63. Artikel 142 of die Belastingadministrasie Wet, 2011, word hierby gewysig deur die omskrywing van “skik” deur die volgende omskrywing te vervang: 5

“ ‘skik’ om [na die aantekens van 'n appèl kragtens hierdie Hoofstuk,] 'n ‘geskil’ op te los deur 'n aanspreeklikheid wat betwis word toe te gee, anders as by wyse van die aanvaarding deur óf SAID óf die betrokke persoon van die ander party se vertolking van die feite of die reg van toepassing op daardie feite of van beide die feite en die reg, en ‘skikking’ en ‘geskik’ moet dienooreenkomstig uitgelê word.”. 10

Wysiging van artikel 164 van Wet 28 van 2011

64. Die Engelse weergawe van artikel 164 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur paragraaf (d) in subartikel (5) deur die volgende paragraaf te vervang: 15

“(d) there is a material change in any of the factors referred to in subsection (3), upon which the decision to suspend payment of the amount involved was based.”.

Wysiging van artikel 166 van Wet 28 van 2011

65. Artikel 166 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die woorde in subartikel (1) wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 20

“Ondanks enige andersluidende bepaling vervat in 'n Belastingwet, kan SAID enige betaling ingevolge 'n Belastingwet gemaak, toeken aan 'n bedrag boete of rente of die oudste bedrag van belasting uitstaande op die tydstip van die betaling, behalwe bedrae—”. 25

Wysiging van artikel 187 van Wet 28 van 2011

66. Artikel 187 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (3) paragraaf (d) deur die volgende paragraaf te vervang: 30

“(d) vastebedragboete bedoel in artikel 210, is die datum [**vir betaling vermeld in die kennisgewing**] van aanslag van die boete, en met betrekking tot 'n verhoging van die boete kragtens artikel 211(2), die datum van die verhoging;”. 30

Wysiging van artikel 189 van Wet 28 van 2011

67. Artikel 189 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang: 35

“(5) Indien rente kragtens hierdie Hoofstuk betaalbaar is en die koers waarteen die rente betaalbaar is verander is vanaf 'n sekere datum, en die rente betaalbaar is ten opsigte van enige [**belastingtydperk**] tydperk of gedeelte daarvan wat voor die genoemde datum begin het, moet die rente wat bereken moet word ten opsigte van— 40

- (a) die [**belastingtydperk**] tydperk of gedeelte daarvan wat onmiddellik voor genoemde datum geëindig het; of
- (b) die gedeelte van die [**belastingtydperk**] tydperk wat voor die genoemde datum voltooi is, bereken word asof die koers nie verander het nie.”. 45

Wysiging van artikel 192 van Wet 28 van 2011

68. Artikel 192 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die omskrywing van “bate” te skrap.

Amendment to Chapter 14 of Act 28 of 2011

69. Chapter 14 of the Tax Administration Act, 2011, is hereby amended by the deletion of single quotes from the word 'asset'.

Amendment of section 210 of Act 28 of 2011

70. The Tax Administration Act, 2011, is hereby amended by the substitution for section 210 of the following section: 5

“Non-compliance subject to penalty

210. (1) If SARS is satisfied that non-compliance by a person referred to in subsection (2) exists, **[excluding the non-compliance referred to in section 213,]** SARS must impose the appropriate 'penalty' in accordance with the Table in section 211. 10

(2) Non-compliance is failure to comply with an obligation that is imposed by or under a tax Act and is listed in a public notice issued by the Commissioner, other than—

- (a) the failure to pay tax subject to a percentage based penalty under Part C; **[or]** 15
- (b) non-compliance **[subject to]** in respect of which an understatement penalty under Chapter 16 has been imposed; or
- (c) the failure to disclose information subject to a reportable arrangement penalty under section 212.” 20

Amendment of section 211 of Act 28 of 2011

71. Section 211 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) the date of **[the delivery of the 'penalty']** assessment^['] of the penalty, if SARS is in possession of the current address of the person and is able to deliver the assessment, but is limited to 35 months from the date of the **[delivery]** assessment; or” 25

Amendment of section 217 of Act 28 of 2011

72. Section 217 of the Tax Administration Act, 2011, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 30

“(a) a 'first incidence' of **[the]** non-compliance **[described in section 210, 212 or 213];** or”;

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

“(3) **[In the case of a penalty]** If a 'penalty' has been imposed under section 213, SARS may remit the 'penalty' or a portion thereof, if SARS is satisfied that— 35

- (a) the 'penalty' has been imposed in respect of a 'first incidence' of **[the]** non-compliance **[described in section 210, 212 or 213]**, or involved an amount of less than R2 000; 40
- (b) reasonable grounds for the non-compliance exist; and
- (c) the non-compliance in issue has been remedied.” 40

Amendment of section 223 of Act 28 of 2011

73. Section 223 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for paragraph (b) of the following paragraph: 45

“(b) was in possession of an opinion by a registered tax practitioner^[, as defined in section 239,] that—

- (i) was issued by no later than the date that the relevant return was due;
- (ii) **[took account of the specific facts and circumstances of the arrangement]** was based upon full disclosure of the specific facts and circumstances of the arrangement and, in the case of any opinion 50
regarding the applicability of the substance over form doctrine or the

Wysiging van Hoofstuk 14 van Wet 28 van 2011

69. Hoofstuk 14 van die Wet op Belastingadministrasie Wet, 2011, word hierby gewysig deur die enkelaanhalingstekens van die woord 'bate' te skrap.

Wysiging van artikel 210 van Wet 28 van 2011

70. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 210 5
deur die volgende artikel te vervang:

“Nienakoming onderhewig aan boete

210. (1) Indien SAID oortuig is dat nienakoming deur 'n persoon bedoel in subartikel (2) bestaan, **[uitgesluit die nienakoming bedoel in artikel 213,]** moet SAID die toepaslike 'boete' oplê ooreenkomstig die Tabel in 10
artikel 211.

(2) Nienakoming is versuim om 'n verpligting na te kom wat deur of kragtens 'n Belastingwet opgelê word en gelys word in 'n openbare kennisgewing deur die Kommissaris uitgereik, anders as—

(a) versuim om belasting onderhewig aan 'n persentasie gebaseerde boete 15
kragtens Deel C, te betaal; **[of]**

(b) nienakoming **[onderhewig aan] ten opsigte waarvan** 'n onder-
stellingsboete kragtens Hoofstuk 16 opgelê is; of

(c) die versuim om inligting onderhewig aan 'n rapporteerbare reëling 20
boete kragtens artikel 212 bloot te lê.”

Wysiging van artikel 211 van Wet 28 van 2011

71. Artikel 211 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) die datum van die **[lewering] aanslag** van die **[“boete-aanslag”,] boete** indien SAID in besit is van die huidige adres van die persoon en in staat is om die 25
aanslag te lewer, maar beperk tot 35 maande na die datum van **[lewering] aanslag; of**”.

Wysiging van artikel 217 van Wet 28 van 2011

72. Artikel 217 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: 30
“(a) 'n 'eerste geval' van **[die] nienakoming [beskryf in artikel 210, 212 of 213]; of**”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) **[In die geval van 'n 'boete'] Indien 'n boete kragtens artikel 213 opgelê is, kan SAID die 'boete' of 'n gedeelte daarvan kwytskeld, indien 35
SAID oortuig is dat—**

(a) die boete opgelê is ten opsigte van 'n 'eerste geval' van **[die] nienakoming [in artikel 210, 212 of 213 beskryf]**, of 'n bedrag van minder as R2 000 behels;

(b) redelike gronde vir die nienakoming bestaan; en 40

(c) die betrokke nienakoming reggestel is.”

Wysiging van artikel 223 van Wet 28 van 2011

73. Artikel 223 van die Wet op Belastingadministrasie Wet, 2011, word hierby gewysig deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) in besit was van 'n mening van 'n geregistreerde belastingpraktisyn, **soos in 45
artikel 239 omskryf,]** wat—

(i) nie later nie as die datum waarop die tersaaklike opgawe verskuldig was, uitgereik is nie;

(ii) **[die spesifieke feite en omstenighede van die reëling in ag geneem 50
het] gebaseer is op volle openbaarmaking van die spesifieke feite en omstandighede van die reëling en, in die geval van enige mening**

- anti-avoidance provisions of a tax Act, this requirement cannot be met unless the taxpayer is able to demonstrate that all of the steps in or parts of the arrangement were fully disclosed to the tax practitioner, whether or not the taxpayer was a direct party to the steps or parts in question; and
- (iii) confirmed that the taxpayer's position is more likely than not to be upheld if the matter proceeds to court.”. 5

Amendment of section 224 of Act 28 of 2011

74. The Tax Administration Act, 2011, is hereby amended by the substitution for section 224 of the following section:

“Objection and appeal against decision not to remit understatement penalty 10

224. A decision by SARS not to remit an understatement penalty under section 223(3) is subject to objection and appeal under Chapter 9.”.

Amendment of section 229 of Act 28 of 2011

75. Section 229 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraph (a) of the following paragraph: 15

“(a) not pursue criminal prosecution for a [statutory] tax offence [under a tax Act] arising from the ‘default’ [or a related common law offence];”.

Amendment of section 231 of Act 28 of 2011

76. Section 231 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph: 20

“(c) pursue criminal prosecution for a [statutory] tax offence [under a tax Act or a related common law offence].”.

Amendment of section 234 of Act 28 of 2011

77. Section 234 of the Tax Administration Act, 2011, is hereby amended— 25

(a) by the substitution for paragraph (g) of the following paragraph:
“(g) issues an erroneous, incomplete or false document required to be issued under a tax Act [to be issued] to another person;”; and

(b) by the addition after paragraph (o) of the following paragraph:
“(p) fails or neglects to withhold and pay to SARS an amount of tax as and when required under a tax Act;”. 30

Amendment of section 235 of Act 28 of 2011

78. Section 235 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (3) of the following subsection: 35

“(3) A senior SARS official may lay a complaint with the South African Police Service or the National Prosecuting Authority regarding an offence [contemplated in subsection (1)] under this section.”.

Amendment of section 237 of Act 28 of 2011

79. The Tax Administration Act, 2011, is hereby amended by the substitution for section 237 of the following section: 40

- teenvermydingsbepalings van 'n Belastingwet, kan hierdie vereiste nie nagekom word tensy die belastingpligtige en in staat is om te bewys dat alle stappe in of gedeeltes van die reëling ten volle aan die belastingpraktisyn geopenbaar is, ongeag of die belastingpligtige 'n direkte party tot die stappe of gedeeltes ter sprake was al dan nie; en
- (iii) bevestig het dat die belastingpligtige se standpunt waarskynlik gehandhaaf sal word, indien die aangeleentheid voor 'n hof sou kom.”. 5

Wysiging van artikel 224 van Wet 28 van 2011

74. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 224 deur die volgende artikel te vervang: 10

“Beswaar en appèl teen besluit om onderstellingsboete nie kwyt te skeld nie

224. 'n Besluit deur SAID om nie 'n onderstellingsboete kragtens artikel 223(3) kwyt te skeld nie is onderhewig aan beswaar en appèl kragtens Hoofstuk 9.”. 15

Wysiging van artikel 229 van Wet 28 van 2011

75. Artikel 229 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

“(a) nie strafregtelike vervolging vir 'n [statutêre] belastingmisdryf [kragtens 'n Belastingwet] wat uit die 'nienakoming' voortspruit [of 'n verwante gemeenregtelike misdryf], voortsit nie;”.

Wysiging van artikel 231 van Wet 28 van 2011

76. Artikel 231 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:

“(c) strafregtelike vervolging voort te sit vir 'n [statutêre] belastingmisdryf [kragtens 'n Belastingwet of 'n verwante gemeenregtelike misdryf].”.

Wysiging van artikel 234 van Wet 28 van 2011

77. Artikel 234 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur paragraaf (g) deur die volgende paragraaf te vervang:

“(g) 'n foutiewe, onvolledige of vals dokument soos vereis word om uitgereik te word kragtens 'n Belastingwet, aan 'n ander persoon uitreik;”;

(b) deur die volgende paragraaf na paragraaf (o) by te voeg:

“(p) versuim of nalaat om terug te hou of enige bedrag belasting aan SAID te betaal soos en wanneer ingevolge 'n Belastingwet vereis;”.

Wysiging van artikel 235 van Wet 28 van 2011

78. Artikel 235 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) 'n Senior SAID-amptenaar kan 'n klag lê by die Suid-Afrikaanse Polisie diens of die Nasionale Vervolgingsgesag aangaande 'n misdryf [beoog in subartikel (1)] kragtens hierdie artikel.”.

Wysiging van artikel 237 van Wet 28 van 2011

79. Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 237 deur die volgende artikel te vervang:

“Criminal offences relating to filing return without authority

237. A person who—

- (a) submits a return or other document to SARS under a forged signature;
 - (b) uses an electronic or digital signature of another person in an electronic communication to SARS without the person’s consent and authority; or
 - (c) otherwise submits to SARS a communication on behalf of another person without the person’s consent and authority,
- [**without the person’s consent and authority**,] is guilty of an offence and, upon conviction, is subject to a fine or to imprisonment for a period not exceeding two years.”

Amendment of heading of Chapter 18 of Act 28 of 2011

80. (1) Chapter 18 of the Tax Administration Act, 2011, is hereby amended by the substitution for the heading of the following heading:

“REGISTRATION OF TAX PRACTITIONERS AND REPORTING OF UNPROFESSIONAL CONDUCT”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act.

Amendment of section 239 of Act 28 of 2011

81. (1) Section 239 of the Tax Administration Act, 2011, is hereby amended—

- (a) by the insertion of the following definition after the definition of ‘controlling body’:
“‘recognised controlling body’ means a ‘controlling body’ recognised by the Commissioner under section 240A.”; and

- (b) by the deletion of the definition of “registered tax practitioner”:

(2) Subsection (1) comes into operation on the date of promulgation of this Act.

Amendment of section 240 of Act 28 of 2011

82. (1) Section 240 of the Tax Administration Act, 2011, is hereby amended—

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

“(b) completes or assists in completing a [document to be submitted to SARS] return by another person [in terms of a tax Act],”;

- (b) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

“must—

- (i) register with or fall under the jurisdiction of a ‘recognised controlling body’ by the later of 1 July 2013 or 21 business days after the date on which that person for the first time provides the advice or completes or assists in completing the return; and
- (ii) register with SARS as a tax practitioner[,] in [such] the prescribed form and manner [as the Commissioner may determine], within[30] 21 business days after the date on which that person for the first time provides the advice or completes or assists in completing [any such document] the return.”;

- (c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) provides the advice or completes or assists in completing a [document] return solely for no consideration to that person or his or her employer or a connected person in relation to that employer or that person;”;

“Strafregtelike misdrywe betreffende indiening van opgawe sonder magtiging

237. ’n Persoon wie—

- (a) ’n opgawe of ander dokument aan SAID verskaf onder ’n vervalste handtekening; 5
 - (b) ’n elektroniese of digitale handtekening van ’n ander persoon in ’n elektroniese kommunikasie aan SAID gebruik sonder die persoon se toestemming en goedkeuring; of
 - (c) andersins aan SAID ’n kommunikasie namens ’n ander persoon sonder die persoon se toestemming en goedkeuring, verskaf, 10
- [**sonder die persoon se toestemming en goedkeuring,**] is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete of met gevangenisstraf vir ’n tydperk van hoogstens twee jaar.”.

Wysiging van opskrif van Hoofstuk 18 van Wet 28 van 2011

80. (1) Hoofstuk 18 van die Wet op Belastingadministrasie, 2011, word hierby 15
gewysig deur die opskrif deur die volgende opskrif te vervang:

**“REGISTRASIE VAN BELASTINGPRAKTISYNS EN RAPPORTERING
VAN ONPROFESSIONELE GEDRAG”.**

(2) Subartikel (1) tree op datum van afkondiging van hierdie Wet, in werking.

Wysiging van artikel 239 van Wet 28 van 2011 20

81. (1) Artikel 239 van die Wet op Belastingadministrasie, 2011, word hierby
gewysig—

(a) deur die volgende omskrywing na die omskrywing van “beheerliggaam” in te
voeg:

“‘erkende beheerliggaam’ beteken ’n ‘beheerliggaam’ deur die 25
Kommissaris kragtens artikel 240A erken.”;

(b) deur die omskrywing van “geregistreeerde belastingpraktisyn” te skrap.

(2) Subartikel (1) tree op datum van promulgasie van hierdie Wet, in werking.

Wysiging van artikel 240 van Wet 28 van 2011

82. (1) Artikel 240 van die Wet op Belastingadministrasie, 2011, word hierby 30
gewysig—

(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) ’n [dokument] opgawe van ’n ander persoon voltooi of bystand
verleen om dit te voltooi [**waar die dokument deur ’n ander**
persoon ingevolge ’n Belastingwet by SAID ingedien moet
word,”;

(b) deur in subartikel (1) die woorde wat volg op paragraaf (b) deur die volgende
woorde te vervang:

“moet—

(i) registreer by of onder die jurisdiksie van ’n ‘erkende beheer- 40
liggaam’ val teen nie later nie as 1 Julie 2013 of 21 besigheidsdae
na die datum waarop daardie persoon vir die eerste keer die advies
verskaf of die opgawe voltooi of bystand verleen om dit te
voltooi; en

(ii) by SAID as ’n belastingpraktisyn registreer[.] in die 45
voorgeskrewe vorm en wyse [wat die Kommissaris bepaal],
binne [**30 dae**] 21 besigheidsdae na die datum waarop daardie
persoon vir die eerste keer advies gee of [**enige sodanige**
dokument] die opgawe voltooi of bystand verleen om dit te
voltooi.”; 50

(c) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) advies gee of ’n [dokument] opgawe voltooi of bystand verleen om
dit te voltooi, alleenlik vir geen vergoeding aan daardie persoon of
sy of haar werkgewer of ’n verbonde persoon met betrekking tot
daardie werkgewer of daardie persoon;”;

55

- (d) by the substitution in subsection (2) for paragraph (d) of the following paragraph:
“(d) provides the advice or completes or assists in completing a **[document]return** solely—
- (i) to or in respect of the employer by whom that person is employed on a full-time basis or to or in respect of **[that] the** employer and connected persons in relation to **[that] the** employer; or
 - (ii) under the direct supervision of a person who is a registered **[as a] tax practitioner [in terms of subsection (1)].**”;
- (e) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
“(a) during the preceding five years has been removed from a related profession by a ‘controlling body’ for serious misconduct; **[and] or**”.
- (2) Subsection (1) comes into operation on the date of promulgation of this Act.

Insertion of section 240A in Act 28 of 2011

83. (1) The Tax Administration Act, 2011, is hereby amended by the insertion of the following section after section 240:

“Recognition of controlling bodies

- 240A.** (1) The Commissioner must recognise as a ‘recognised controlling body’—
- (a) the Independent Regulatory Board for Auditors established in terms of section 3 of the Auditing Professions Act, 2005 (Act No. 26 of 2005);
 - (b) a Law Society established in terms of Chapter 3 of the Attorneys Act, 1979 (Act No. 53 of 1979);
 - (c) the General Council of the Bar of South Africa, a Bar Council and a Society of Advocates referred to in section 7 of the Admission of Advocates Act, 1964 (Act No. 74 of 1964); and
 - (d) a statutory body that the Minister is satisfied is similar to the statutory bodies in this subsection and the details of which are published in the *Gazette*.
- (2) The Commissioner may recognise a ‘controlling body’, for natural persons who provide advice with respect to the application of a tax Act or complete returns, as a ‘recognised controlling body’ if the body—
- (a) maintains relevant and effective—
 - (i) minimum qualification and experience requirements;
 - (ii) continuing professional education requirements;
 - (iii) codes of ethics and conduct; and
 - (iv) disciplinary codes and procedures;
 - (b) is approved in terms of section 30B of the Income Tax Act for purposes of section 10(1)(d)(iv) of the Act; and
 - (c) has at least 1 000 members when applying for recognition or reasonable prospects of having 1 000 members within a year of applying.
- (3) A body recognised under subsection (2) must submit a report on its members and compliance with this Chapter within the time period and in the form and manner as prescribed by the Commissioner.
- (4) The Minister may appoint a panel of retired judges or persons of similar stature and competence one or more of whom may decide, on behalf of a body recognised under subsection (2), complaints lodged under section 241—
- (a) at the request of the body; or
 - (b) if the Minister is satisfied that the body’s disciplinary process is ineffective.
- (5) The costs of the panel in deciding complaints will be borne equally by such a body and SARS.
- (6) If a body recognised under subsection (2) no longer meets the listed requirements, the Commissioner must notify it that if it does not take

- (d) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:
“(d) advies gee of ’n **[dokument]** opgawe voltooi of bystand verleen om dit te voltooi alleenlik—
(i) aan of ten opsigte van die werkgewer by wie daardie persoon op ’n voltydse grondslag in diens is of aan of ten opsigte van **[daardie]** die werkgewer en verbonde persone met betrekking tot **[daardie]** die werkgewer; of
(ii) onder die direkte toesig van ’n persoon wie **[ingevolge subartikel (1) as]** ’n geregistreeerde belastingpraktisyn **[geregistreeer]** is.”; en
- (e) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) gedurende die voorafgaande vyf jaar deur ’n ‘beheerliggaam’ weens ernstige wangedrag uit ’n verwante beroep verwyder is; **[en]** of”.
- (2) Subartikel (1) tree op datum van afkondiging van hierdie Wet, in werking.

Invoeging van artikel 240A in Wet 28 van 2011 15

83. (1) Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur die volgende artikel na artikel 240 in te voeg:

“Erkenning van beheerliggame

- 240A.** (1) Die Kommissaris moet as ’n ‘erkende beheerliggaam’ erken—
- (a) die ‘Independent Regulatory Board for Auditors’ ingestel ingevolge artikel 3 van die ‘Auditing Professions Act, 2005’ (Wet No. 26 van 2005);
- (b) ’n Prokureursorde ingestel kragtens Hoofstuk 3 van die Wet op Prokureurs, 1979 (Wet No. 53 van 1979);
- (c) die Algemene Raad van die Balie van Suid-Afrika, ’n Balieraad en ’n Vereniging van Advokate in artikel 7 van die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), na verwys; en
- (d) ’n statutêre liggaam wat die Minister tevrede is soortgelyk is aan die statutêre liggame in hierdie subartikel en waarvan die besonderhede in die *Staatskoerant* gepubliseer is.
- (2) Die Kommissaris kan ’n ‘beheerliggaam’ vir natuurlike persone wat advies verskaf ten opsigte van die toepassing van ’n Belastingwet of opgawes voltooi, as ’n ‘erkende beheerliggaam’ erken indien die liggaam—
- (a) tersaaklike en effektiewe—
- (i) minimum kwalifikasie- en ondervindingsvereistes;
- (ii) voortgesette professionele opleidingsvereistes;
- (iii) etiese- en gedragskodes; en
- (iv) dissiplinêre kodes en prosedures, handhaaf;
- (b) ingevolge artikel 30B van die Inkomstebelastingwet, goedgekeur is vir doeleindes van artikel 10(1)(d)(iv) van die Wet; en
- (c) ten minste 1 000 lede het wanneer die liggaam om erkenning aansoek doen of die redelike vooruitsig het om 1 000 lede binne ’n jaar vanaf aansoek te hê.
- (3) ’n Liggaam ingevolge subartikel (2) erken, moet ’n verslag aangaande die liggaam se lede en nakoming van hierdie Hoofstuk verskaf binne die tydperk en in die vorm en wyse deur die Kommissaris voorgeskryf.
- (4) Die Minister kan ’n paneel van afgetrede regters of persone van gelykstaande status en bevoegdheid aanstel, een of meer waarvan namens ’n liggaam ingevolge subartikel (2) erken, oor klagtes ingevolge artikel 241 ingedien, mag beslis—
- (a) op versoek van die liggaam; of
- (b) indien die Minister tevrede is dat die liggaam se dissiplinêre proses oneffektief is.
- (5) Die koste van die paneel wat beslis aangaande klagtes sal gelykop deur die liggaam en SAID gedra word.
- (6) Indien die liggaam ingevolge subartikel (2) erken nie langer aan die gelyste vereistes voldoen nie, moet die Kommissaris die liggaam in kennis

corrective steps within the period specified in the notice, its recognition will be withdrawn at the end of the period.”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act.

Substitution of section 241 of Act 28 of 2011

84. (1) The Tax Administration Act, 2011, is hereby amended by the substitution for section 241 of the following section: 5

“Complaint to controlling body [of tax practitioner]

241. (1) A senior SARS official may lodge a complaint with a ‘controlling body’ if a [‘**registered tax practitioner**’ or] person who carries on a profession governed by the ‘controlling body’, did or omitted to do anything with respect to the affairs of a taxpayer, including that person’s affairs, that in the opinion of the official— 10

- (a) was intended to assist the taxpayer to avoid or unduly postpone the performance of an obligation imposed on the taxpayer under a tax Act;
- (b) by reason of negligence on the part of the person resulted in the avoidance or undue postponement of the performance of an obligation imposed on the taxpayer under a tax Act; [or] 15
- (c) constitutes a contravention of a rule or code of conduct for the profession which may result in disciplinary action being taken against the [‘**registered tax practitioner**’ or] person by the body[.]; or 20
- (d) constitutes conduct under subsection (2) by a registered tax practitioner. 20

(2) A senior SARS official may lodge a complaint with a ‘recognised controlling body’ if a registered tax practitioner has, in the opinion of the official— 25

- (a) without exercising due diligence prepared or assisted in the preparation, approval or submission of any return, affidavit or other document relating to matters affecting the application of a tax Act;
- (b) unreasonably delayed the finalisation of any matter before SARS;
- (c) given an opinion contrary to clear law, recklessly or through gross incompetence, with regard to any matter relating to a tax Act; 30
- (d) been grossly negligent with regard to any work performed as a registered tax practitioner;
- (e) knowingly given false or misleading information in connection with matters affecting the application of a tax Act or participated in such activity; or 35
- (f) directly or indirectly attempted to influence a SARS official with regard to any matter relating to a tax Act by the use of threats, false accusations, duress, or coercion, or by offering gratification as defined in the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).” 40

(2) Subsection (1) comes into operation on the date of promulgation of this Act.

Amendment of section 244 of Act 28 of 2011

85. Section 244 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph: 45

“(a) reasonable grounds exist for the delay and the application is submitted within 21 business days of the deadline; or”.

kennisgewing vermeld nie, die liggaam se erkenning aan die einde van die tydperk teruggetrek sal word.”.

(2) Subartikel (1) tree op datum van afkondiging van hierdie Wet, in werking.

Wysiging van artikel 241 van Wet 28 van 2011

84. (1) Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 241 deur die volgende artikel te vervang:

“Klagte aan beheerliggaam van belastingpraktisyn

241. (1) ’n Senior SAID-amptenaar kan ’n klagte indien by ’n ‘beheerliggaam’ waar ’n [‘geregistreeerde belastingpraktisyn’ of] persoon wie ’n beroep beoefen wat deur ’n ‘beheerliggaam’ beheer word, met betrekking tot die sake van ’n belastingpligtige, ingesluit daardie persoon se sake, iets doen of versuim om iets te doen wat na die mening van die amptenaar—

- (a) bedoel was om die belastingpligtige te help om die nakoming van ’n verpligting te vermy of onbehoorlik uit te stel, wat kragtens ’n Belastingwet op die belastingpligtige gelê word;
- (b) vanweë die nalatigheid van die persoon gelei het tot die vermyding of onbehoorlike uitstel van die nakoming van ’n verpligting wat kragtens ’n Belastingwet op die belastingpligtige gelê is; [of]
- (c) ’n oortreding uitmaak van ’n reël of gedragskode van die beroep wat kan lei tot tugstappe deur die liggaam teen die [‘geregistreeerde belastingpraktisyn’ of] persoon[.]; of
- (d) optrede deur ’n geregistreeerde belastingpraktisyn ingevolge subartikel (2) daarstel.

(2) ’n Senior SAID-amptenaar kan ’n klagte indien by ’n ‘erkende beheerliggaam’ indien ’n geregistreeerde belastingpraktisyn, na mening van die amptenaar—

- (a) sonder om behoorlike sorg aan die dag te lê ’n opgawe voorberei het of bystand verleen het met die voorbereiding, goedkeuring of indien van enige opgawe, verklaring of ander dokument wat verband hou met aangeleenthede wat die toepassing van ’n Belastingwet raak;
- (b) onredelikerwys die finalisering van enige aangeleentheid met SAID vertraag het;
- (c) ’n mening gegee het teenstrydig met duidelike reg, nalatiglik of deur growwe onbevoegdheid met betrekking tot enige aangeleentheid wat met ’n Belastingwet verband hou, gegee het;
- (d) grof nalatig was met betrekking tot enige werk as geregistreeerde belastingpraktisyn verrig;
- (e) willens en wetens onwaar of misleidende inligting met betrekking tot aangeleenthede wat die toepassing van ’n Belastingwet raak, gee of in sodanige aktiwiteit deelgeneem het; of
- (f) direk of indirek gepoog het om ’n SAID-amptenaar te beïnvloed met betrekking tot enige aangeleentheid wat met ’n Belastingwet verband hou, deur die gebruik van dreigemente, valse beskuldigings, geweld, of dwang of deur beloning soos omskryf in die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), aan te bied.”.

(2) Subartikel (1) tree op datum van afkondiging van hierdie Wet, in werking.

Wysiging van artikel 244 van Wet 28 van 2011

85. Artikel 244 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) redelike gronde vir die vertraging bestaan en die aansoek binne 21 besigheidsdae na die spertyd ingedien word; of”.

Amendment of section 246 of Act 28 of 2011

86. Section 246 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) A company [**covered by this section**] that has not appointed a public officer is subject to a tax Act[, **the same**] as if a tax Act did not require the public officer to be appointed.”. 5

Amendment of section 252 of Act 28 of 2011

87. Section 252 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) [**delivered**] handed to the public officer of the company;”. 10

Amendment of section 255 of Act 28 of 2011

88. Section 255 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Commissioner may by public notice make rules prescribing—
- (a) the procedures for submitting a return in electronic format, electronic record retention and [**for**] other electronic communications between SARS and other persons; [**and**]
 - (b) requirements for an electronic or digital signature of a return or communication; and
 - (c) the procedures for electronic record retention by SARS.” 15 20

Substitution of section 256 of Act 28 of 2011

89. (1) The Tax Administration Act, 2011, is hereby amended by the substitution for section 256 of the following section:

“Tax clearance certificate

256. (1) A taxpayer may apply to SARS for a tax clearance certificate in the prescribed form and manner. 25

(2) SARS must issue or decline to issue the certificate within 21 business days from the date the application is [**duly filed**] submitted or such longer period as may reasonably be required if a senior SARS official is satisfied that the issuing of a tax clearance certificate may prejudice the efficient and effective collection of revenue. 30

(3) A senior SARS official may provide a taxpayer with confirmation of the taxpayer’s tax compliance status and may confirm that the taxpayer is tax compliant by issuing a tax clearance certificate only if satisfied that the taxpayer is registered for tax and does not have any— 35

(a) tax debt outstanding, excluding a tax debt contemplated in section 167 or 204 or a tax debt that has been suspended under section 164 or does not exceed the amount referred to in section 169(4); or

(b) outstanding return unless an arrangement acceptable to SARS has been made for the submission of the return. 40

(4) A tax clearance certificate must be in the prescribed form and include at least—

(a) the original date of issue of the tax clearance certificate [**reference number assigned to the certificate and reflected in the records of SARS**]; 45

(b) the name, taxpayer reference number, address and identity number or company registration number of the taxpayer;

(c) the date of the application for a certificate;

(d) a statement that the taxpayer [**has no outstanding tax debts**] is tax compliant as [**at**] determined on the original date of issue of the certificate; and 50

Wysiging van artikel 246 van Wet 28 van 2011

86. Artikel 246 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) ’n Maatskappy [**wat deur hierdie artikel gedek word en**] wat nie ’n openbare amptenaar aangestel het nie, is [**op dieselfde wyse**] onderhewig aan ’n Belastingwet asof ’n Belastingwet nie die aanstelling van ’n openbare amptenaar vereis het nie.”. 5

Wysiging van artikel 252 van Wet 28 van 2011

87. Artikel 252 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang: 10

“(a) aan die openbare amptenaar van die maatskappy [**afgelewer**] oorhandig; of”.

Wysiging van artikel 255 van Wet 28 van 2011

88. Artikel 255 van die Wet op Belastingadministrasie, 2011, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 15

“(1) Die Kommissaris kan by openbare kennisgewing reëls uitvaardig wat—
(a) prosedures voorskryf vir die indiening van ’n opgawe in elektroniese formaat, elektroniese rekordhouding en [vir] ander elektroniese kommunikasie tussen SAID en ander persone; [en] 15
(b) vereistes voorskryf vir ’n elektroniese of digitale handtekening van ’n opgawe of kommunikasie; en 20
(c) die prosedures vir elektroniese rekordhouding deur SAID.”.

Wysiging van artikel 256 van Wet 28 van 2011

89. (1) Die Wet op Belastingadministrasie, 2011, word hierby gewysig deur artikel 256 deur die volgende artikel te vervang:

“**Belastingklaringsertifikaat** 25

256. (1) ’n Belastingpligtige kan, in die voorgeskrewe vorm en op die voorgeskrewe wyse, by SAID aansoek doen om ’n belastingklaringsertifikaat.

(2) SAID moet die sertifikaat binne 21 besigheidsdae vanaf die datum waarop die aansoek [**behoorlik**] ingedien is of sodanige langer tydperk as wat redelikerwys benodig mag word indien ’n senior SAID-amptenaar oortuig is dat die uitreik van ’n belastingklaringsertifikaat die effektiewe en doeltreffende invordering van belasting sal verhinder, uitreik of afkeur. 30

(3) ’n Senior SAID-amptenaar kan ’n belastingpligtige van bevestiging van die belastingpligtige se belastingnakomingstatus voorsien en kan bevestig dat die belastingpligtige belastingnakomend is deur [van] ’n belastingklaringsertifikaat [voorsien] uit te reik slegs indien oortuig dat die belastingpligtige vir belasting geregistreer is en nie enige— 35

(a) uitstaande belastingskuld het nie, uitgesluit ’n belastingskuld in artikel 167 of 204 beoog, of ’n belastingskuld wat kragtens artikel 164 opgeskort is, of nie die bedrag bedoel in artikel 169(4) oorskry nie; of 40

(b) uitstaande opgawe het nie, tensy ’n reëling wat vir SAID aanvaarbaar is vir die indien van die opgawe getref is.

(4) ’n Belastingklaringsertifikaat moet in die voorgeskrewe vorm wees en ten minste insluit— 45

(a) die oorspronklike datum van uitreiking van die [verwysingsnommer van die] belastingklaringsertifikaat [aan die sertifikaat toegeken en in die rekords van SAID aangetoon];

(b) die naam, belastingpligtige-verwysingsnommer, adres en identiteitsnommer of maatskappyregistrasienumer van die belastingpligtige; 50

(c) die datum van die aansoek om ’n sertifikaat;

(d) ’n verklaring dat die belastingpligtige [**geen uitstaande belastingskulde**] belastingnakomend is soos vassgestel op die

(e) the expiry date of the certificate.

(5) Despite the provisions of Chapter 6, SARS may confirm the taxpayer's tax compliance status **[validity and expiry date of the certificate upon]** as at the date of a request by a sphere of government, [or] parastatal or other person to whom the taxpayer has presented the certificate. 5

(6) SARS may withdraw a certificate with effect from the date of the issue thereof if the certificate—

(a) was issued in error; or

(b) was obtained on the basis of fraud, misrepresentation or non-disclosure of material facts. 10

(7) A certificate is invalid for the period commencing on the date that the taxpayer no longer complies with a requirement under subsection (3) and ending on the date that the taxpayer remedies the non-compliance.”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act. 15

Amendment of section 257 of Act 28 of 2011

90. Section 257 of the Tax Administration Act, 2011, is hereby amended—

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

“the limitations on the **[jurisdiction]mandate** of the Tax Ombud, having regard to—”;

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

“(2A) For purposes of the issue of a tax clearance certificate under section 256, the Minister may make regulations regarding—

(a) the circumstances when a tax clearance certificate may be required from a person or be issued by SARS; 25

(b) the period of validity of a tax clearance certificate; or

(c) any procedure to further regulate the issue or withdrawal of a tax clearance certificate.”.

Amendment of section 269 of Act 28 of 2011 30

91. Section 269 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Rules, notices and regulations issued under the provisions of a tax Act repealed by this Act that are in force immediately before the commencement date of this Act, remain in force as if they were issued under **[section 103 or 257, respectively,]** the equivalent provisions of this Act, to the extent consistent with this Act, until new rules, notices and regulations are issued under such provisions.”. 35

Deletion of paragraph 78 of Schedule 1 to Act 28 of 2001

92. Paragraph 78 of Schedule 1 to the Tax Administration Act, 2011, is hereby deleted. 40

Amendment of paragraph 167 of Schedule 1 to Act 28 of 2011

93. Paragraph 167 of Schedule 1 to the Tax Administration Act, 2011, is hereby amended—

(a) by the substitution for paragraph (c) of the following paragraph:

“(c) by the addition after subsection **[(1)](2)** of the following subsection: 45
‘**[(2)] (3)** Unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Tax Administration Act bears that meaning for purposes of this Act.’ ”; and

(b) by the deletion of paragraph (d). 50

(e) die vervaldatum van die sertifikaat.

(5) Ondanks die bepalings van Hoofstuk 6 kan SAID die belastingpligtige se belastingnakomingstatus bevestig [geldigheid en vervaldatum van die sertifikaat bevestig op] soos op die datum van 'n versoek van 'n 5
regeringsfeer, [of] parastatale liggaam, of ander persoon aan wie die belastingpligtige die sertifikaat voorgelê het.

(6) SAID kan 'n sertifikaat, met ingang van die datum van die uitreiking daarvan terugtrek, indien die sertifikaat—

(a) foutiewelik uitgereik is; of

(b) op die grondslag van bedrog, wanvoorstelling of nie-openbaarmaking 10
van wesentliche feite verkry is.

(7) 'n Sertifikaat is ongeldig vir die tydperk wat begin op die datum wat die belastingpligtige nie langer aan die vereistes onder subartikel (3) 15
voldoen nie, en eindig op die datum wat die belastingpligtige die nie-nakoming regstel.”.

(2) Subartikel (1) tree op datum van afkondiging van hierdie Wet, in werking.

Wysiging van artikel 257 van Wet 28 van 2011

90. Artikel 257 van die Wet op Belastingadministrasie, 2011, word hierby gewysig—

(a) deur in subartikel (2)(b) die woorde wat subparagraaf (i) voorafgaan deur die 20
volgende woorde te vervang:

“die beperkings op die [regsbevoegdheid] mandaat van die Belasting-
ombud, met inagneming van—”; en

(b) deur die volgende subartikel na subartikel (2) in te voeg:

“(2A) Vir doeleindes van die uitreik van 'n belastingklaringsertifikaat 25
kragtens artikel 256, kan die Minister regulasies maak aangaande—

(a) die omstandighede wanneer 'n belastingklaringsertifikaat van 'n
persoon vereis kan word of deur SAID uitgereik kan word;

(b) die tydperk van geldigheid van 'n belastingklaringsertifikaat; of

(c) enige prosedure om die uitreik of intrekking van 'n 30
belastingklaringsertifikaat verder te reguleer.”.

Wysiging van artikel 269 van Wet 28 van 2011

91. Artikel 269 van die Wet op Belastingadministrasie, 2011, word hierby gewysig
deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Reëls, kennisgewings en regulasies uitgereik kragtens die bepalings van 'n 35
Belastingwet deur hierdie Wet herroep, wat onmiddellik voor die inwerking-
treddingsdatum van hierdie Wet van krag is, bly van krag asof hulle kragtens
[artikel 103 of 257, onderskeidelik,] die soortgelyke bepalings van hierdie Wet
uitgereik is, in die mate waarin dit met hierdie Wet bestaanbaar is, totdat nuwe
reëls, kennisgewings en regulasies kragtens die relevante bepalings uitgereik is.”.

Skraping van paragraaf 78 van Bylae 1 by Wet 28 van 2001 40

92. Paragraaf 78 van Bylae 1 by die Wet op Belastingadministrasie, 2011, word hierby
geskrap.

Wysiging van paragraaf 167 van Bylae 1 by Wet 28 van 2011

93. Paragraaf 167 van Bylae 1 by die Wet op Belastingadministrasie, 2011, word 45
hierby gewysig—

(a) deur paragraaf (c) deur die volgende paragraaf te vervang:

“(c) deur die volgende subartikel na subartikel [(1)] (2) in te voeg:

‘[(2)] (3) Ntle ga go re bokao bo supese sengwe, lefoko lengwe le 50
lengwe kgotsa thagiso le le filweng thaloso mo Molaong wa
Tsamaiso ya Lekgetho, le rwala bokao boo mo mabakeng a Molao
o.’ ”; en

(b) deur paragraaf (d) te skrap.

Short title and commencement

94. (1) This Act is called the Tax Administration Laws Amendment Act, 2012.

(2) Save in so far as is otherwise provided for in this Act, amendments to the Tax Administration Act, 2011, will be deemed to have come into operation on 1 October 2012.

(3) Subject to subsection (2), and save in so far as is otherwise provided for in this Act, or the context otherwise indicates, the amendments effected by this Act come into operation on the date of promulgation of this Act.

Kort titel en inwerkingtreding

- 94.** (1) Hierdie Wet heet die Wysigingswet op Belastingadministrasiewette, 2012.
(2) Wysigings tot die Wet op Belastingadministrasie, 2011, word geag op 1 Oktober 2012 in werking te getree het.
(3) Behoudens subartikel (2), en tensy hierdie Wet anders bepaal of dit uit die 5
samehang anders blyk, tree die wysigings wat deur hierdie Wet aangebring word op die
datum van afkondiging van hierdie Wet in werking.

