

(1 August 2021 – to date)

[This is the **current** version and applies as from **1 August 2021**, i.e. the date of commencement of Government Notice No. R. 369 – to date]

VALUE-ADDED TAX ACT 89 OF 1991

(Government Notice No. 1342 in Government Gazette No. 13307, dated 12 June 1991. Commencement date: 30 September 1991)

as amended by:

Taxation Laws Amendment Act 136 of 1991 – Government Notice 1662 in Government Gazette 13412, dated 17 July 1991. Commencement date: 17 July 1991, unless otherwise indicated.

Taxation Laws Amendment Act 136 of 1992 – Government Notice 1923 in Government Gazette 14139, dated 15 July 1992. Commencement date: 15 July 1992, unless otherwise indicated.

Government Notice 2244 in Government Gazette 14208, dated 31 July 1992. Commencement date: 31 July 1992, unless otherwise indicated.

Value-Added Tax Amendment Act 61 of 1993 – Government Notice 787 in Government Gazette 14790, dated 7 May 1993. Commencement date: 1 June 1993, unless otherwise indicated.

Taxation Laws Amendment Act 97 of 1993 – Government Notice 1193 in Government Gazette 14936, dated 9 July 1993. Commencement date: 9 July 1993, unless otherwise indicated.

Revenue Laws Amendment Act 140 of 1993 – Government Notice 1859 in Government Gazette 15167, dated 13 October 1993. Commencement date: 13 October 1993, unless otherwise indicated.

Taxation Laws Amendment Act 20 of 1994 – Government Notice 2009 in Government Gazette 16104, dated 25 November 1994. Commencement date: 25 November 1994, unless otherwise indicated.

Taxation Laws Amendment Act 37 of 1996 – Government Notice 1102 in Government Gazette 17311, dated 3 July 1996. Commencement date: 3 July 1996, unless otherwise indicated.

Revenue Laws Amendment Act 46 of 1996 – Government Notice 1586 in Government Gazette 17463, dated 30 September 1996. Commencement date: 30 September 1996, unless otherwise indicated.

Taxation Laws Amendment Act 27 of 1997 – Government Notice 916 in Government Gazette 18113, dated 4 July 1997. Commencement date: 4 July 1997, unless otherwise indicated.

Prepared by:

South African Revenue Service Act 34 of 1997 – Government Notice 1165 in Government Gazette 18257, dated 5 September 1997. Commencement date: 1 October 1997 [Proclamation R67, Gazette No. 18338, dated 1 October 1997]

Taxation Laws Amendment Act 30 of 1998 – Government Notice 884 in Government Gazette 19013, dated 29 June 1998. Commencement date: 29 June 1998, unless otherwise indicated.

Government Notice 1505 in Government Gazette 19496, dated 20 November 1998. Commencement date: 1 December 1998.

Government Notice 541 in Government Gazette 20008, dated 22 April 1999. Commencement date: 1 May 1999.

Government Notice 1065 in Government Gazette 20452, dated 1 September 1999. Commencement date: 1 September 1999.

Revenue Laws Amendment Act 53 of 1999 – Government Notice 1404 in Government Gazette 17463, dated 30 September 1996. Commencement date: 30 September 1996, unless otherwise indicated.

Government Notice 184 in Government Gazette 20897, dated 25 February 2000. Commencement date: 1 March 2000.

Taxation Laws Amendment Act 30 of 2000 – Government Notice 744 in Government Gazette 21390, dated 19 July 2000. Commencement date: 19 July 2000, unless otherwise indicated.

Revenue Laws Amendment Act 59 of 2000 – Government Notice 1320 in Government Gazette 21848, dated 6 December 2000. Commencement date: 1 January 2001, unless otherwise indicated.

Taxation Laws Amendment Act 5 of 2001 – Government Notice 550 in Government Gazette 22389, dated 20 June 2001. Commencement date: 20 June 2001, unless otherwise indicated.

Revenue Laws Amendment Act 19 of 2001 – Government Notice 709 in Government Gazette 22532, dated 27 July 2001. Commencement date: 27 July 2001, unless otherwise indicated.

Second Revenue Laws Amendment Act 60 of 2001 – Government Notice 1333 in Government Gazette 22923, dated 12 December 2001. Commencement date: 12 December 2001, unless otherwise indicated.

Taxation Laws Amendment Act 30 of 2002 – Government Notice 1047 in Government Gazette 23709, dated 5 August 2002. Commencement date: 5 August 2002, unless otherwise indicated.

Government Notice 1160 in Government Gazette 23817, dated 13 September 2002. Commencement date: 1 October 2002.

Revenue Laws Amendment Act 74 of 2002 – Government Notice 1581 in Government Gazette 24181, dated 13 December 2002. Commencement date: 13 December 2002, unless otherwise indicated.

Government Notice 111 in Government Gazette 24274, dated 17 January 2003. Commencement date: 17 January 2003.

Exchange Control Amnesty and Amendment of Taxation Laws Act 12 of 2003 – Government Notice 730 in Government Gazette 25047, dated 31 May 2003. Commencement date: 31 May 2003, unless otherwise indicated.

Revenue Laws Amendment Act 45 of 2003 – Government Notice 1844 in Government Gazette 25864, dated 22 December 2003. Commencement date: 22 December 2003, unless otherwise indicated.

Taxation Laws Amendment Act 16 of 2004 – Government Notice 895 in Government Gazette 26612, dated 27 July 2004. Commencement date: 27 July 2004, unless otherwise indicated.

Revenue Laws Amendment Act 32 of 2004 – Government Notice 46 in Government Gazette 27188, dated 24 January 2005. Commencement date: 24 January 2005, unless otherwise indicated.

Second Revenue Laws Amendment Act 34 of 2004 – Government Notice 47 in Government Gazette 27189, dated 24 January 2005. Commencement date: 24 January 2005, unless otherwise indicated.

Taxation Laws Second Amendment Act 10 of 2005 – Government Notice 698 in Government Gazette 27786, dated 13 July 2005. Commencement date: 13 July 2005, unless otherwise indicated.

Taxation Laws Amendment Act 9 of 2005 – Government Notice 743 in Government Gazette 27815, dated 19 July 2005. Commencement date: 19 July 2005, unless otherwise indicated.

Revenue Laws Amendment Act 31 of 2005 – Government Notice 102 in Government Gazette 28450, dated 1 February 2006. Commencement date: 1 February 2006, unless otherwise indicated.

Revenue Laws Second Amendment Act 32 of 2005 – Government Notice 103 in Government Gazette 28451, dated 1 February 2006. Commencement date: 1 February 2006, unless otherwise indicated.

National Credit Act 34 of 2005 – Government Notice 230 in Government Gazette 28619, dated 15 March 2006. Commencement date: 1 June 2006 [Proclamation 22 in Gazette No. 28824, dated 11 May 2006].

Small Business Tax Amnesty and Amendment of Taxation Laws Act 9 of 2006 – Government Notice 749 in Government Gazette 29068, dated 25 July 2006. Commencement date: 25 July 2006, unless otherwise indicated.

Second Small Business Tax Amnesty and Amendment of Taxation Laws Act 10 of 2006 – Government Notice 750 in Government Gazette 29069, dated 25 July 2006. Commencement date: 25 July 2006, unless otherwise indicated.

Revenue Laws Amendment Act 20 of 2006 – Government Notice 110 in Government Gazette 29603, dated 7 February 2007. Commencement date: 7 February 2007, unless otherwise indicated.

Revenue Laws Second Amendment Act 21 of 2006 – Government Notice 111 in Government Gazette 29604, dated 7 February 2007. Commencement date: 7 February 2007, unless otherwise indicated.

Taxation Laws Amendment Act 8 of 2007 – Government Notice 707 in Government Gazette 30157, dated 8 August 2007. Commencement date: 8 August 2007, unless otherwise indicated.

Taxation Laws Second Amendment Act 9 of 2007 – Government Notice 708 in Government Gazette 30158, dated 8 August 2007. Commencement date: 8 August 2007, unless otherwise indicated.

Government Notice R958 in Government Gazette 30370, dated 12 October 2007. Commencement date: 12 October 2007.

Revenue Laws Amendment Act 35 of 2007 – Government Notice 39 in Government Gazette 30656, dated 8 January 2008. Commencement date: 8 January 2008, unless otherwise indicated.

Revenue Laws Second Amendment Act 36 of 2007 – Government Notice 40 in Government Gazette 30657, dated 8 January 2008. Commencement date: 8 January 2008, unless otherwise indicated.

Taxation Laws Second Amendment Act 4 of 2008 – Government Notice 721 in Government Gazette 31208, dated 3 July 2008. Commencement date: 3 July 2008, unless otherwise indicated.

Taxation Laws Amendment Act 3 of 2008 – Government Notice 781 in Government Gazette 31267, dated 22 July 2008. Commencement date: 22 July 2008, unless otherwise indicated.

Revenue Laws Amendment Act 60 of 2008 – Government Notice 14 in Government Gazette 31781, dated 8 January 2009. Commencement date: 8 January 2009, unless otherwise indicated.

Revenue Laws Second Amendment Act 61 of 2008 – Government Notice 15 in Government Gazette 31782, dated 8 January 2009. Commencement date: 8 January 2009, unless otherwise indicated.

Government Notice R766 in Government Gazette 32416, dated 24 July 2009. Commencement date: 24 July 2009.

Taxation Laws Amendment Act 17 of 2009 – Government Notice 944 in Government Gazette 32610, dated 30 September 2009. Commencement date: 30 September 2009, unless otherwise indicated.

Taxation Laws Second Amendment Act 18 of 2009 – Government Notice 945 in Government Gazette 32611, dated 30 September 2009. Commencement date: 30 September 2009, unless otherwise indicated.

Taxation Laws Amendment Act 7 of 2010 – Government Notice 1024 in Government Gazette 33726, dated 2 November 2010. Commencement date: 2 November 2010, unless otherwise indicated.

Voluntary Disclosure Programme and Taxation Laws Second Amendment Act 8 of 2010 – Government Notice 1025 in Government Gazette 33727, dated 2 November 2010. Commencement date: 2 November 2010, unless otherwise indicated.

Government Notice R154 in Government Gazette 34046, dated 1 March 2011. Commencement date: 1 March 2011.

Government Notice R157 in Government Gazette 34046, dated 1 March 2011. Commencement date: 1 March 2011.

Taxation Laws Amendment Act 24 of 2011 – Government Notice 16 in Government Gazette 34927, dated 10 January 2012. Commencement date: 10 January 2012, unless otherwise indicated.

Government Notice R187 in Government Gazette 35102, dated 2 March 2012. Commencement date: 2 March 2012.

Government Notice R506 in Government Gazette 35481, dated 6 July 2012. Commencement date: 6 July 2012.

Tax Administration Act 28 of 2011 – Government Notice 591 in Government Gazette 35491, dated 4 July 2012. Commencement date: 1 October 2012, except for any provisions relating to interest [Proclamation 51 in Gazette No. 35687, dated 14 September 2012]

Government Notice R1072 in Government Gazette 36002, dated 14 December 2012. Commencement date: 1 November 2012.

Government Notice 995 in Government Gazette 35932, dated 7 December 2012. Commencement date: 7 December 2012.

Tax Administration Laws Amendment Act 21 of 2012 – Government Notice 1107 in Government Gazette 36036, dated 20 December 2012. Commencement date: 20 December 2012, unless otherwise indicated.

Taxation Laws Amendment Act 22 of 2012 – Government Notice 71 in Government Gazette 36122, dated 1 February 2013. Commencement date: 1 February 2013, unless otherwise indicated.

Taxation Laws Amendment Act 31 of 2013 – Government Notice 1001 in Government Gazette 37158, dated 12 December 2013. Commencement date: 12 December 2013, unless otherwise indicated.

Tax Administration Laws Amendment Act 39 of 2013 – Government Notice 14 in Government Gazette 37236, dated 16 January 2014. Commencement date: 16 January 2014, unless otherwise indicated.

Government Notice R288 in Government Gazette 37554, dated 17 April 2014. Commencement date: 17 April 2014.

Taxation Laws Amendment Act 43 of 2014 – Government Notice 21 in Government Gazette 38405, dated 20 January 2015. Commencement date: 20 January 2015, unless otherwise indicated.

Tax Administration Laws Amendment Act 44 of 2014 – Government Notice 22 in Government Gazette 38406, dated 20 January 2015. Commencement date: 20 January 2015, unless otherwise indicated.

Tax Administration Laws Amendment Act 23 of 2015 – Government Notice 20 in Government Gazette 39586, dated 8 January 2016. Commencement date: 8 January 2016, unless otherwise indicated.

Taxation Laws Amendment Act 25 of 2015 – Government Notice 22 in Government Gazette 395886, dated 8 January 2016. Commencement date: 8 January 2016, unless otherwise indicated.

Government Notice R723 in Government Gazette 39100, dated 14 August 2015. Commencement date: 9 February 2016.

Government Notice R558 in Government Gazette 40004, dated 20 May 2016. Commencement date: 20 May 2016.

Taxation Laws Amendment Act 15 of 2016 – Government Notice 40 in Government Gazette 40562, dated 19 January 2017. Commencement date: 19 January 2017, unless otherwise indicated.

Tax Administration Laws Amendment Act 16 of 2016 – Government Notice 41 in Government Gazette 40563, dated 19 January 2017. Commencement date: 19 January 2017, unless otherwise indicated.

Taxation Laws Amendment Act 25 of 2015 – Government Notice 22 in Government Gazette 395886, dated 8 January 2016. Commencement date of section 128(1)(g), section 129(1) and section 132(1)(e): 1 April 2017.

Taxation Laws Amendment Act 15 of 2016 – Government Notice 40 in Government Gazette 40562, dated 19 January 2017. Commencement date of sections 83 and 85: 1 April 2017.

Rates and Monetary Amounts and Amendment of Revenue Laws Act 14 of 2017 - Government Notice 1426 in Government Gazette 41323, dated 14 December 2017. Commencement date: 14 December 2017, unless otherwise indicated.

Taxation Laws Amendment Act 17 of 2017 – Government Notice 1451 in Government Gazette 41342, dated 18 December 2017. Commencement date: 18 December 2017, unless otherwise indicated.

Taxation Laws Amendment Act 17 of 2017 – Government Notice 1451 in Government Gazette 41342, dated 18 December 2017. Commencement date of certain sections: 1 April 2018.

Rates and Monetary Amounts and Amendment of Revenue Laws Act 21 of 2018 - Government Notice 18 in Government Gazette 42171, dated 17 January 2019. Commencement date: 17 January 2019, unless otherwise indicated.

Tax Administration Laws Amendment Act 22 of 2018 – Government Notice 16 in Government Gazette 42169, dated 17 January 2019. Commencement date: 17 January 2019, unless otherwise indicated

Taxation Laws Amendment Act 23 of 2018 – Government Notice 19 in Government Gazette 42172, dated 17 January 2018. Commencement date: 17 January 2019, unless otherwise indicated

Rates and Monetary Amounts and Amendment of Revenue Laws Act 21 of 2018 - Government Notice 18 in Government Gazette 42171, dated 17 January 2019. Commencement date of sections 8, 11, 12 and 14(1)(b): 1 April 2019.

Taxation Laws Amendment Act 23 of 2018 – Government Notice 19 in Government Gazette 42172, dated 17 January 2018. Commencement date of sections 90(1) and 91(1): 1 April 2019

Tax Administration Laws Amendment Act 33 of 2019 – Government Notice 23 in Government Gazette 42952, dated 15 January 2020. Commencement date: 15 January 2020, unless otherwise indicated

Taxation Laws Amendment Act 34 of 2019 – Government Notice 21 in Government Gazette 42951 dated 15 January 2020. Commencement date: 15 January 2020, unless otherwise indicated

Government Notice R226 in Government Gazette 43051 dated 28 February 2020. Commencement date: 28 February 2020.

Taxation Laws Amendment Act 34 of 2019 – Government Notice 21 in Government Gazette 42951 dated 15 January 2020. Commencement date of sections 66, 67, 68 and 72: 1 April 2020.

Government Notice R1069 in Government Gazette 43781 dated 9 October 2020. Commencement date: 9 October 2020.

Tax Administration Laws Amendment Act 24 of 2020 - Government Notice 22 in Government Gazette 44080 dated 20 January 2021. Commencement date: 20 January 2021.

Taxation Laws Amendment Act 23 of 2020 – Government Notice 25 in Government Gazette 44083 dated 20 January 2021. Commencement date: 1 April 2021.

Government Notice R369 in Government Gazette 44473 dated 23 April 2021. Commencement date: 1 August 2021 [Original commencement date postponed by GNR 526 in Gazette 44705 dated 14 June 2021]

Publisher's Notes:

The Act has been amended by section 33 of Act 37 of 1996 by the substitution for the words "State Revenue Fund", wherever they appear, of the words "National Revenue Fund".

The Act has been amended by section 271 read with paragraph 107 of Schedule 1 of Act 28 of 2011 by the substitution for the term "officer", where used in the context of a person who is engaged by the Commissioner in carrying out the provisions of the Act, of the term "SARS official".

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 State President.)

(Assented to 5 June 1991.)

ACT

To provide for taxation in respect of the supply of goods and services and the importation of goods; to amend the Transfer Duty Act, 1949, so as to provide for an exemption; to amend the Stamp Duties Act, 1968, so as to provide for an exemption from stamp duty and to discontinue the levying of certain stamp duties; to repeal the Sales Tax Act, 1978; and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

ARRANGEMENT OF SECTIONS

1. Definitions
2. Financial services
3. Determination of "open market value"

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Administration

4. Administration of Act
5. Exercise of powers and performance of duties

Prepared by:

6.

PART II
Value-added tax

7. Imposition of value-added tax
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- 8A. Sharia compliant financing arrangements
9. Time of supply
10. Value of supply of goods or services
11. Zero rating
12. Exempt supplies
13. Collection of tax on importation of goods, determination of value thereof and exemptions from tax
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15. Accounting basis
16. Calculation of tax payable
17. Permissible deductions in respect of input tax
18. Change in use adjustments
- 18A. Adjustments in consequence of acquisition of going concern wholly or partly for purposes other than making taxable supplies
- 18B. Temporary letting of residential fixed property
- 18C. Adjustments for leasehold improvements
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20. Tax invoices
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22. Irrecoverable debts

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Registration

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25. Vendor to notify change of status
26. Liabilities not affected by person ceasing to be vendor

PART IV
Returns, payments and assessments

27. Tax period
28. Returns and payments of tax
29. Special records and payments

Prepared by:

- 30.
- 31. Assessments
- 31A.
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PART V
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- 32. Objections to certain decisions
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Payment, recovery and refund of tax

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- 40C. Liability of bargaining councils or political parties for tax and limitation of refunds
- 40D. Liability for tax and limitation of refunds in respect of National Housing Programmes
- 41. Liability for tax in respect of certain past supplies or importations
- 41A.
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- 83. Amendment of Item 15 of Schedule 1 to Act 77 of 1968
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- 85. Repeal of laws
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- 86A. Provisions relating to industrial development zones
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Schedule 1

EXEMPTION: CERTAIN GOODS IMPORTED INTO THE REPUBLIC

Schedule 2

ZERO RATE: SUPPLY OF GOODS USED OR CONSUMED FOR AGRICULTURAL, PASTORAL OR OTHER FARMING PURPOSES

Schedule 3

LAWS REPEALED

1. Definitions

- (1) In this Act, unless the context otherwise indicates-

“adjusted cost”, means the cost of any goods or services where tax has been charged or would have been charged if section 7 of this Act had been applicable prior to the commencement date, in respect of the supply of goods and services or if the vendor was or would have been entitled to an input tax deduction in terms of paragraph (b) of the definition of "input tax";

(Definition of “adjusted cost” in section 1 inserted by section 164(a) of Act 45 of 2003)

“ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services and storage of transported goods or goods to be transported;

"association not for gain" means –

- (a) any religious institution of a public character; or
- (b) any other society, association or organization, whether incorporated or not (other than an educational institution in respect of which the provisions of paragraph (c) apply), which-
 - (i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and
 - (ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that society, association or organisation –
 - (aa) required to utilize any property or income solely in the furtherance of its aims and objects; and
 - (bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the society, association or organization for any services actually rendered to such society, association or organization; and
 - (cc) upon the winding-up or liquidation of such society, association or organization, obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other society, association or organization with objects similar to those of the said society, association or organization; or

(Paragraph (b) of the definition of “association not for gain” in section 1 substituted by section 23(1)(a) of Act 27 of 1997)

- (c) any educational institution of a public character, whether incorporated or not, which-
 - (i) is carried on otherwise than for the purposes of profit or gain to any proprietor, member or shareholder; and
 - (ii) is, in terms of its memorandum, articles of association, written rules or other document constituting or governing the activities of that educational institution-
 - (aa) required to utilize any property or income solely in the furtherance of its aims and objects; and
 - (bb) prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith

of reasonable remuneration to any officer or employee of the educational institution for any services actually rendered to such institution;

(Paragraph (c) of the definition of “association not for gain” in section 1 added by section 23(1)(b) of Act 27 of 1997)

"business day"

(Definition of “business day” in section 1 deleted by section 271 read with paragraph 108(a) of Schedule 1 of Act 28 of 2011)

"cash value", in relation to the supply of goods supplied under an instalment credit agreement or by a surrender of goods as defined in this section, means-

(Words in the definition of “cash value” in section 1 preceding paragraph (a) substituted by section 165(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

- (a) where the seller or lessor is a banker or financier, an amount equal to or exceeding the sum of the cost to the banker or financier of the goods, including any cost of erection, construction, assembly or installation of the goods borne by the banker or financier and the tax leviable under section 7(1)(a) in respect of such supply by the banker or financier; or
- (b) where the seller or lessor is a dealer, an amount equal to or exceeding the price (including tax) at which the goods are normally sold by him for cash or may normally be acquired from him for cash (including tax) and any charge (including tax) made by the seller or lessor in respect of the erection, construction, assembly or installation of the goods if such charge is financed by the seller or lessor under the instalment credit agreement;

“Chief Executive Officer”

(Definition of “Chief Executive Officer” in section 1 inserted by section 18(a) of Act 37 of 1996)

(Definition of “Chief Executive Officer” in section 1 deleted by section 34 (Schedule 3) of Act 34 of 1997)

"close corporation" means a close corporation within the meaning of the Close Corporations Act, 1984 (Act No. 69 of 1984);

"commencement date" means 30 September 1991;

(Definition of “commencement date” in section 1 substituted by section 21(a) of Act 136 of 1991)

“commercial accommodation” means-

- (a) lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guest house, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat, or similar

establishment, which is regularly or systematically supplied but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof;

(Paragraph (a) of the definition of “commercial accommodation” in section 1 substituted by section 47 of Act 12 of 2003)

(Paragraph (a) of the definition of “commercial accommodation” in section 1 substituted by section 81(a) of Act 8 of 2007)

(Paragraph (a) of the definition of “commercial accommodation” in section 1 substituted by section 68 of Act 3 of 2008)

(Paragraph (a) of the definition of “commercial accommodation” in section 1 substituted by section 128(1)(a) of Act 25 of 2015 with effect from 1 April 2016)

- (b) lodging or board and lodging in a home for the aged, children, physically or mentally handicapped persons; and
- (c) lodging or board and lodging in a hospice;

(Definition of “commercial accommodation” in section 1 inserted by section 65(1)(a) of Act 19 of 2001 with effect from 1 October 2001)

(Definition of “commercial accommodation” in section 1 substituted by section 148(1)(a) of Act 60 of 2001 with effect from 7 November 2001)

“commercial rental establishment”

(Definition of “commercial rental establishment” in section 1 substituted by section 12(1) of Act 136 of 1992)

(Definition of “commercial rental establishment” in section 1 amended by section 81 of Act 53 of 1999)

(Definition of “commercial rental establishment” in section 1 deleted by section 65(1)(b) of Act 19 of 2001 with effect from 1 October 2001)

“Commissioner” means the Commissioner for the South African Revenue Service appointed in terms of section 6 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997), or the Acting Commissioner designated in terms of section 7 of that Act;

(Definition of “Commissioner” in section 1 substituted by section 34 (Schedule 3) of Act 34 of 1997)

(Definition of “Commissioner” in section 1 substituted by section 271 read with paragraph 108(b) of Schedule 1 of Act 28 of 2011)

“company” means a company as defined in section 1 of the Income Tax Act;

“connected persons” means –

- (a) any natural person (including the estate of a natural person if such person is deceased or insolvent) and –

- (i) any relative of that natural person (being a relative as defined in section 1 of the Income Tax Act) or the estate of any such relative if the relative is deceased or insolvent; or
- (ii) any trust fund in respect of which any such relative or such estate of such relative is or may be a beneficiary; or

(Paragraph (a) of the definition of “connected person” in section 1 substituted by section 22(a) of Act 97 of 1993)

- (b) any trust fund and any person who is or may be a beneficiary in respect of that fund; or
- (c) any partnership or close corporation and –
 - (i) any member thereof; or
 - (ii) any other person where that person and a member of such partnership or close corporation, as the case may be, are connected persons in terms of this definition; or
- (d) any company (other than a close corporation) and –
 - (i) any person (other than a company) where that person, his spouse or minor child or any trust fund in respect of which that person, his spouse or minor child is or may be a beneficiary, is separately interested or two or more of them are in the aggregate interested in 10 per cent or more of the company's paid-up capital or 10 per cent or more of the company's equity shares (as defined in section 1 of the Income Tax Act) or 10 per cent or more of the voting rights of the shareholders of the company, whether directly or indirectly; or

(Paragraph (d)(i) of the definition of “connected person” in section 1 substituted by section 165(1)(b) of Act 31 of 2013 with effect from 1 April 2012)

- (ii) any other company the shareholders in which are substantially the same persons as the shareholders in the first-mentioned company, or which is controlled by the same persons who control the first-mentioned company; or

(Paragraph (d)(ii) of the definition of “connected person” in section 1 substituted by section 128(1)(b) of Act 25 of 2015 with effect from 1 April 2012 [Commencement date amended by section 106 of Act 15 of 2016])

- (iii) any person where that person and the person referred to in subparagraph (i) or his spouse or minor child or the trust fund referred to in that subparagraph or the other company referred to in subparagraph (ii) are connected persons in terms of this definition; or

(e) any separate enterprise, branch or division of a vendor which is separately registered as a vendor under the provisions of section 50 and any other such enterprise, branch or division of the vendor;
or

(f) any branch, division or separate enterprise of an association not for gain which is deemed by subsection (5) of section 23 to be a separate person for the purposes of that section and any other branch, division or separate enterprise of that association, whether or not such other branch, division or separate enterprise is a vendor; or

(Paragraph (f) of the definition of "connected person" in section 1 amended by section 23(1)(c) of Act 27 of 1997)

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

(Paragraph (g) of the definition of "connected person" in section 1 added by section 23(1)(d) of Act 27 of 1997)

"consideration", in relation to the supply of goods or services to any person, includes any payment made or to be made (including any deposit on any returnable container and tax), whether in money or otherwise, or any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of any goods or services, whether by that person or by any other person, but does not include any payment made by any person as a donation to any association not for gain: Provided that a deposit (other than a deposit on a returnable container), whether refundable or not, given in respect of a supply of goods or services shall not be considered as payment made for the supply unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;

(Definition of "consideration" in section 1 substituted by section 92(1)(a) of Act 32 of 2004)

(Definition of "consideration" in section 1 amended by section 8(1) of Act 10 of 2005 with effect from 24 January 2005)

"consideration in money" includes consideration expressed as an amount of money;

"Controller" has the meaning assigned thereto in section 1 of the Customs and Excise Act;

(Definition of "Controller" in section 1 inserted by section 101(a) of Act 31 of 2005)

"Customs and Excise Act" means the Customs and Excise Act, 1964 (Act No. 91 of 1964);

"customs controlled area" has the meaning assigned thereto in section 21A(1) of the Customs and Excise Act;

(Definition of "customs controlled area" in section 1 inserted by section 164(c) of Act 45 of 2003 with effect from 1 January 2005 [Proc. R62 in Gazette 27139 dated 22 December 2004])

(Definition of "customs controlled area" in section 1 substituted by section 165(c) of Act 31 of 2013 with effect from 9 February 2016)

(Definition of “customs controlled area” in section 1 substituted by section 23(1)(a) of Act 16 of 2016 with effect from 9 February 2016)

“customs controlled area enterprise” has the meaning assigned thereto in section 21A(1) of the Customs and Excise Act;

(Definition of “customs controlled area enterprise” in section 1 inserted by section 164(c) of Act 45 of 2003 with effect from 1 January 2005 [Proc. R62 in Gazette 27139 dated 22 December 2004])

(Definition of “customs controlled area enterprise” in section 1 substituted by section 165(g) of Act 31 of 2013 with effect from 9 February 2016)

(Definition of “customs controlled area enterprise” in section 1 substituted by section 23(1)(b) of Act 16 of 2016 with effect from 9 February 2016)

“designated entity” means a vendor—

(i) to the extent that its supplies of goods and services of an activity carried on by that vendor are in terms of (b)(i) of the definition of 'enterprise' treated as supplies made in the course or furtherance of an enterprise;

(ii) which is a major public entity, national government business enterprise or provincial government business enterprise listed in Schedule 2 or Part B or D of Schedule 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), respectively;

(Paragraph (ii) of the definition of “designated entity” in section 1 amended by section 40(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(iii) which is a party to a 'Public Private Partnership Agreement' as defined in Regulation 16 of the Treasury Regulations issued in terms of section 76 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the extent that that party supplies goods or services in terms of that Agreement to the 'institution' defined in that Regulation;

(Paragraph (iii) of the definition of “designated entity” in section 1 amended by section 40(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(Paragraph (iii) of the definition of “designated entity” in section 1 substituted by section 104(1)(a) of Act 60 of 2008)

(Paragraph (iii) of the definition of “designated entity” in section 1 substituted by section 26 of Act 8 of 2010)

(iv) which is a welfare organisation;

(Paragraph (iv) of the definition of “designated entity” in section 1 amended by section 40(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

(Paragraph (iv) of the definition of “designated entity” in section 1 amended by section 77(a) of Act 20 of 2006)

- (v) which is a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or

(Paragraph (v) of the definition of “designated entity” in section 1 added by section 40(1)(c) of Act 9 of 2006 with effect from 1 July 2006)

(Paragraph (v) of the definition of “designated entity” in section 1 amended by section 77(a) of Act 20 of 2006)

- (vi) which has powers similar to those of any water board listed in Part B of Schedule 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), which would have complied with the definition of ‘local authority’ in section 1 prior to the deletion of that definition on 1 July 2006;

(Paragraph (vi) of the definition of “designated entity” in section 1 inserted by section 77(b) of Act 20 of 2006)

(Definition of “designated entity” in section 1 inserted by section 164(c) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

"domestic goods and services" means goods and services provided in any enterprise supplying commercial accommodation, including –

- (a) cleaning and maintenance;

- (b) electricity, gas, air conditioning or heating;

- (c) a telephone, television set, radio or other similar article;

- (d) furniture and other fittings;

(Paragraph (d) of the definition of “domestic goods and services” in section 1 amended by section 92(1)(b) of Act 32 of 2004)

- (e) meals;

- (f) laundry;

(Paragraph (f) of the definition of “domestic goods and services” in section 1 added by section 92(1)(c) of Act 32 of 2004)

(Paragraph (f) of the definition of “domestic goods and services” in section 1 amended by section 128(1)(c) of Act 25 of 2015 with effect from 1 April 2016)

- (g) nursing services; or

(Paragraph (g) of the definition of “domestic goods and services” in section 1 added by section 92(1)(c) of Act 32 of 2004)

(Paragraph (g) of the definition of “domestic goods and services” in section 1 amended by section 128(1)(d) of Act 25 of 2015 with effect from 1 April 2016)

(h) water

(Paragraph (h) of the definition of “domestic goods and services” in section 1 added by section 128(1)(e) of Act 25 of 2015 with effect from 1 April 2016)

(Definition of “domestic goods and services” in section 1 substituted by section 65(1)(c) of Act 19 of 2001 with effect from 1 October 2001)

(Definition of “domestic goods and services” in section 1 substituted by section 148(1)(c) of Act 60 of 2001 with effect from 7 November 2001)

"donated goods or services" means goods or services which are donated to an association not for gain and are intended for use in the carrying on or carrying out of the purposes of that association;

“donation” means a payment whether in money or otherwise voluntarily made to any association not for gain for the carrying on or the carrying out of the purposes of that association and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods or services to the person making that payment or in the form of a supply of goods or services to any other person who is a connected person in relation to the person making the payment, but does not include any payment made by a public authority or a municipality;

(Definition of “donation” in section 1 inserted by section 92(1)(d) of Act 32 of 2004)

(Definition of “donation” in section 1 substituted by section 40(1)(d) of Act 9 of 2006 with effect from 1 July 2006)

"dwelling" means, except where it is used in the supply of commercial accommodation, any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person or which is intended for use predominantly as a place of residence or abode of any natural person, including fixtures and fittings belonging thereto and enjoyed therewith;

(Definition of “dwelling” in section 1 substituted by section 12(1)(b) of Act 136 of 1992)

(Definition of “dwelling” in section 1 substituted by section 65(1)(d) of Act 19 of 2001 with effect from 1 October 2001)

(Definition of “dwelling” in section 1 substituted by section 148(1)(d) of Act 60 of 2001 with effect from 7 November 2001)

“electronic services” means those electronic services prescribed by the Minister by regulation in terms of this Act;

(Definition of “electronic services” in section 1 inserted by section 165(1)(d) of Act 31 of 2013 with effect from 1 April 2014)

“employee organization” means an organization in which a number of employees in any particular undertaking, industry, trade, occupation or profession are associated together for the purpose of regulating relations between themselves or some of them and their employers or some of their employers or mainly for that purpose, disregarding the provision of sickness, accident or unemployment

benefits for the members of the organization or for the widows, children, dependants or nominees of deceased members;

(Definition of “employee organization” in section 1 inserted by section 12(1)(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

"enterprise" means –

- (a) in the case of any vendor, any enterprise or activity which is carried on continuously or regularly by any person in the Republic or partly in the Republic and in the course or furtherance of which goods or services are supplied to any other person for a consideration, whether or not for profit, including any enterprise or activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing, municipal or professional concern or any other concern of a continuing nature or in the form of an association or club;

(Paragraph (a) of the definition of “enterprise” in section 1 substituted by section 40(1)(e) of Act 9 of 2006 with effect from 1 July 2006)

- (b) without limiting the applicability of paragraph (a) in respect of any activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing or professional concern –

- (i) the making of supplies by any public authority of goods or services which the Minister, having regard to the circumstances of the case, is satisfied are of the same kind or are similar to taxable supplies of goods or services which are or might be made by any person other than such public authority in the course or furtherance of any enterprise, if the Commissioner, in pursuance of a decision of the Minister under this subparagraph, has notified such public authority that its supplies of such goods or services are to be treated as supplies made in the course or furtherance of an enterprise;

- (ii) the activities of any welfare organization as respects activities referred to in the definition of “welfare organization” in this section;

- (iii) the activities of any share block company (other than the services in respect of which section 12(f) applies) where such company has applied for registration as a vendor under the provisions of section 23(3) and has been registered as such;

(Paragraph (b)(iii) of the definition of “enterprise” in section 1 added by section 12(1)(d) of Act 136 of 1992 with effect from 9 July 1993 [GN 1259 in Government Gazette 14966 dated 9 July 1993])

Publisher’s Note:

Paragraph (b)(iv) of the definition of “enterprise” in section 1 to be inserted by section 23(1)(e) of Act 27 of 1997 with effect from a date fixed by the President by proclamation in the Gazette

- (v) the activities of an implementing agency carried on in the course of implementing, operating, administering or managing a foreign donor funded project;

Prepared by:

(Paragraph (b)(v) of the definition of “enterprise” in section 1 added by section 101(b) of Act 31 of 2005)

(Paragraph (b)(v) of the definition of “enterprise” in section 1 substituted by section 66(1)(a) of Act 34 of 2019 with effect from 1 April 2020)

(vi) the supply of electronic services by a person from a place in an export country, where at least two of the following circumstances are present:

(aa) The recipient of those electronic services is a resident of the Republic;

(bb) any payment to that person in respect of such electronic services originates from a bank registered or authorised in terms of the Banks Act, 1990 (Act No. 94 of 1990);

(cc) the recipient of those electronic services has a business address, residential address or postal address in the Republic;

(Paragraph (b)(vi) of the definition of “enterprise” in section 1 added by section 165(1)(e) of Act 31 of 2013 with effect from 1 April 2014)

(Paragraph (b)(vi) of the definition of “enterprise” in section 1 substituted by section 95(1)(a) of Act 43 of 2014 with effect from 1 April 2015)

(Paragraph (b)(vi) of the definition of “enterprise” in section 1 amended by section 8(1)(a) of Act 21 of 2018 with effect from 1 April 2019)

(vii) the activities of an intermediary:

(Paragraph (b)(vii) of the definition of “enterprise” in section 1 added by section 8(1)(a) of Act 21 of 2018 with effect from 1 April 2019)

(c)

(Paragraph (c) of the definition of “enterprise” in section 1 amended by section 22(b) of Act 97 of 1993)

(Paragraph (c) of the definition of “enterprise” in section 1 amended by section 9(1)(a) of Act 20 of 1994)

(Paragraph (c) of the definition of “enterprise” in section 1 deleted by section 40(1)(f) of Act 9 of 2006 with effect from 1 July 2006)

(Words in the definition of “enterprise” in section 1 preceding the proviso substituted by section 21(b) of Act 136 of 1991)

Provided that –

(i) anything done in connection with the commencement or termination of any such enterprise or activity shall be deemed to be done in the course or furtherance of that enterprise or activity;

(ii) any branch or main business of an enterprise permanently situated at premises outside the Republic shall be deemed to be carried on by a person separate from the vendor, if-

(aa) the branch or main business can be separately identified; and

(bb) an independent system of accounting is maintained by the concern in respect of the branch or main business;

(Paragraph (ii) of the proviso to the definition of "enterprise" in section 1 substituted by section 22(c) of Act 97 of 1993)

(Paragraph (ii) of the proviso to the definition of "enterprise" in section 1 substituted by section 9(1)(b) of Act 20 of 1994)

(Paragraph (ii) of the proviso to the definition of "enterprise" in section 1 substituted by section 92(1)(e) of Act 32 of 2004)

(iii)

(aa) the rendering of services by an employee to his employer in the course of his employment or the rendering of services by the holder of any office in performing the duties of his office, shall not be deemed to be the carrying on of an enterprise to the extent that any amount constituting remuneration as contemplated in the definition of "remuneration" in paragraph 1 of the Fourth Schedule to the Income Tax Act is paid or is payable to such employee or office holder, as the case may be;

(Paragraph (iii)(aa) of the proviso to the definition of "enterprise" in section 1 substituted by section 164(f) of Act 45 of 2003)

(bb) subparagraph (aa) of this paragraph shall not apply in relation to any employment or office accepted by any person in carrying on any enterprise carried on by him independently of the employer or concern by whom the amount of remuneration is paid or payable;

(iv) any activity carried on by a natural person essentially as a private or recreational pursuit or hobby or any activity carried on by a person other than a natural person which would, if it were carried on by a natural person, be carried on essentially as a private or recreational pursuit or hobby shall not be deemed to be the carrying on of an enterprise;

(v) any activity shall to the extent to which it involves the making of exempt supplies not be deemed to be the carrying on of an enterprise;

(vi) the activity of underwriting insurance business by Underwriting Members of Lloyd's of London, to the extent that contracts of insurance are concluded in the Republic, shall be deemed to be the carrying on of an enterprise;

(Paragraph (vi) of the proviso to the definition of "enterprise" in section 1 added by section 12(1)(e) of Act 136 of 1992 and deemed to have come into operation on 30 September 1991)

(Paragraph (vi) of the proviso to the definition of “enterprise” in section 1 substituted by section 81(1)(e) of Act 53 of 1999 with effect from 1 January 2001)

(vii)

(Paragraph (vii) of the proviso to the definition of “enterprise” in section 1 added by section 9(1)(c) of Act 20 of 1994 with effect from 30 September 1991)

(Paragraph (vii) of the proviso to the definition of “enterprise” in section 1 substituted by section 114(1)(a) of Act 74 of 2002)

(Paragraph (vii) of the proviso to the definition of “enterprise” in section 1 deleted by section 104(1)(b) of Act 60 of 2008)

(viii) the making of supplies by a constitutional institution listed in Schedule 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), shall be deemed not to be the carrying on of an enterprise;

(Paragraph (viii) of the proviso to the definition of “enterprise” in section 1 inserted by section 164(g) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(ix) where a person carries on or intends carrying on an enterprise or activity supplying commercial accommodation as contemplated in paragraph (a) of the definition of “commercial accommodation” in section 1, and the total value of taxable supplies made by that person in respect of that enterprise or activity in the preceding period of 12 months or which it can reasonably be expected that that person will make in a period of 12 months, as the case may be, will not exceed R120 000, shall be deemed not to be the carrying on of that enterprise;

(Paragraph (ix) of the proviso to the definition of “enterprise” in section 1 inserted by section 92(1)(f) of Act 32 of 2004)

(Paragraph (ix) of the proviso to the definition of “enterprise” in section 1 substituted by section 128(1)(f) of Act 25 of 2015 with effect from 1 April 2016)

(Paragraph (ix) of the proviso to the definition of “enterprise” in section 1 substituted by section 83(1)(a) of Act 15 of 2016 with effect from 1 April 2017)

(x) where the Minister is satisfied that an activity of the municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), is of a regulatory nature and if the Commissioner, in pursuance of a decision of the Minister, has notified that ‘municipal entity’ of that decision, the supply of goods or services in respect of that activity by the municipal entity shall be deemed not to be the carrying on of an enterprise;

(Paragraph (x) of the proviso to the definition of “enterprise” in section 1 inserted by section 40(1)(g) of Act 9 of 2006 with effect from 1 July 2006)

(xi) the supply of services by a mutual association licensed in terms of section 30 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), to carry on the business of insurance of employers against their liabilities to employees in terms of that Act in respect of which that mutual association pays compensation that is no greater than compensation that would

have been paid in similar circumstances in terms of that Act shall be deemed not to be the carrying on of an enterprise;

(Paragraph (xi) of the proviso to the definition of “enterprise” in section 1 added by section 129(1)(a) of Act 24 of 2011)

(xii) any activity carried on by a trust contemplated in the definition of ‘sukuk’ in section 24JA(1) of the Income Tax Act shall be deemed not to be the carrying on of an enterprise;

(Paragraph (xii) of the proviso to the definition of “enterprise” in section 1 added by section 129(1)(b) of Act 24 of 2011 with effect from 1 January 2013 [Effective date as substituted by section 178 of Act 22 of 2012])

(xiii) where a person is neither a resident of the Republic, nor a registered vendor and that person supplies or intends to supply to a recipient solely the use or the right of use of ships, aircraft and rolling stock under any rental agreement, that activity shall be deemed not to be the carrying on of an enterprise, notwithstanding that those goods are supplied for use in the Republic, if—

(aa) the supply is made to a recipient that is a resident of the Republic;

(bb) such goods are supplied for use by the recipient wholly or partly in the Republic; and

(cc) the recipient and supplier have agreed in writing that the recipient shall—

(A) in terms of the Customs and Excise Act, enter such goods for home consumption and be liable for the payment of the tax imposed in accordance with section 7(1)(b) and section 13 of this Act; and

(B) not be reimbursed by the supplier of the movable goods in respect of the tax imposed under section 7(1)(b) of this Act;

(Paragraph (xiii) of the proviso to the definition of “enterprise” in section 1 added by section 61(1) of Act 23 of 2020, with effect from 1 April 2021)

"entertainment" means the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor whether directly or indirectly to anyone in connection with an enterprise carried on by him;

"exempt supply" means a supply that is exempt from tax under section 12;

"export country" means any country other than the Republic and includes any place which is not situated in the Republic: Provided that the President may by notice in the *Gazette* determine that a specific country or territory shall from a date and to the extent indicated in the notice, be deemed not to be an export country;

(Definition of “export country” in section 1 substituted by section 12(1)(f) of Act 136 of 1992)

(Definition of "export country" in section 1 substituted by section 9(1)(d) of Act 20 of 1994)

"exported", in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means –

- (a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or
- (b) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (a) or (c) of the definition of "foreign-going ship" or to a foreign-going aircraft when such ship or aircraft is going to a destination in an export country and such goods are for use or consumption in such ship or aircraft, as the case may be; or

(Paragraph (b) of the definition of "exported" in section 1 substituted by section 119(1)(a) of Act 7 of 2010)

- (c) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (b) of the definition of "foreign-going ship" for use in such ship; or

- (d) removed from the Republic by the recipient or recipient's agent for conveyance to an export country in accordance with any regulation made by the Minister in terms of this Act;

(Paragraph (d) of the definition of "exported" in section 1 amended by section 22(d) of Act 97 of 1993)

(Paragraph (d) of the definition of "exported" in section 1 substituted by section 9(1)(e) of Act 20 of 1994)

(Paragraph (d) of the definition of "exported" in section 1 substituted by section 165(1)(f) of Act 31 of 2013 with effect from 1 April 2014)

"financial services" means the activities which are deemed by section 2 to be financial services;

"fixed property" means land (together with improvements affixed thereto), any unit as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), any share in a share block company which confers a right to or an interest in the use of immovable property, and, in relation to a property time-sharing scheme, any time-sharing interest as defined in section 1 of the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), and any real right in any such land, unit, share or time-sharing interest;

(Definition of "fixed property" in section 1 substituted by section 12(1)(g) of Act 136 of 1992 and deemed to have come into operation on 30 September 1991)

"foreign donor funded project" means a project established in terms of an official development assistance agreement to supply goods or services to beneficiaries, to which the government of the Republic is a party, and which—

- (a) is binding on the Republic in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996;
- (b) provides that the international donor funding must not be subject to tax; and
- (c) has been approved by the Minister of Finance as a foreign donor funded project for the purposes of the definition;

(Definition of "foreign donor funded project" in section 1 inserted by section 101(c) of Act 31 of 2005)

(Definition of "foreign donor funded project" in section 1 substituted by section 77(c) of Act 20 of 2006)

(Definition of "foreign donor funded project" in section 1 substituted by section 66(1)(b) of Act 34 of 2019 with effect from 1 April 2020)

"foreign-going aircraft" means any –

- (a) aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between airports in the Republic and airports in export countries or between airports in export countries; or
- (b) foreign military aircraft;
(Definition of "foreign-going aircraft" in section 1 substituted by section 9(1)(f) of Act 20 of 1994)
(Definition of "foreign-going aircraft" in section 1 substituted by section 119(1)(b) of Act 7 of 2010)

"foreign-going ship" means –

- (a) any ship or other vessel engaged in the transportation for reward of passengers or goods wholly or mainly on voyages between ports in the Republic and ports in export countries or between ports in export countries;
(Paragraph (a) of the definition of "foreign-going ship" in section 1 amended by section 119(1)(c) of Act 7 of 2010)
- (b) any ship or other vessel registered in an export country where such ship or vessel is utilized for the purposes of a commercial, fishing or other concern conducted outside the Republic by a person who is not a vendor and is not a resident of the Republic; or
(Definition of "foreign-going ship" in section 1 substituted by section 9(1)(g) of Act 20 of 1994)
(Paragraph (b) of the definition of "foreign-going ship" in section 1 amended by section 119(1)(d) of Act 7 of 2010)
- (c) any foreign naval ship;
(Paragraph (c) of the definition of "foreign-going ship" in section 1 added by section 119(1)(e) of Act 7 of 2010)

"goods" means corporeal movable things, fixed property, any real right in any such thing or fixed property, and electricity, but excluding –

(Words in the definition of "goods" in section 1 preceding paragraph (a) substituted by section 104(1)(c) of Act 60 of 2008)

- (a) money;
- (b) any right under a mortgage bond or pledge of any such thing or fixed property; and
- (c) any stamp, form or card which has a money value and has been sold or issued by the State for the payment of any tax or duty levied under any Act of Parliament, except when subsequent to its original sale or issue it is disposed of or imported as a collector's piece or investment article;

"grant" means any appropriation, grant in aid, subsidy or contribution transferred, granted or paid to a vendor by a public authority, municipality or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), but does not include-

- (a) a payment made for the supply of any goods or services to that public authority or municipality, including all goods or services supplied to a public authority, municipality or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999) in accordance with a procurement process prescribed-
 - (i) in terms of the Regulations issued under section 76(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
 - (ii) in terms of Chapter 11 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), or any other similar process; or

- (b) a payment contemplated in section 8(23);

(Paragraph (b) of the definition of "grant" in section 1 substituted by section 128(1)(g) of Act 25 of 2015 with effect from 1 April 2017)

(Paragraph (b) of the definition of "grant" in section 1 substituted by section 77(1)(a) of Act 17 of 2017 with effect from 1 April 2017)

(Definition of "grant" in section 1 inserted by section 92(1)(g) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

(Definition of "grant" in section 1 substituted by section 40(1)(h) of Act 9 of 2006 with effect from 1 July 2006)

"implementing agency" means—

- (a) the government of the Republic in the national, provincial or local sphere; or

- (b) any institution or body established and appointed by a foreign government, as contemplated in section 10(1)(bA)(ii) of the Income Tax Act; or
- (c) any person who has entered into a contract directly with the party contemplated in paragraph (a) or (b),

to implement, operate, administer or manage a foreign donor funded project;

(Definition of "implementing agency" in section 1 inserted by section 66(1)(c) of Act 34 of 2019 with effect from 1 April 2020)

"imported services" means a supply of services that is made by a supplier who is resident or carries on business outside the Republic to a recipient who is a resident of the Republic to the extent that such services are utilized or consumed in the Republic otherwise than for the purpose of making taxable supplies;

"inbound duty and tax free shop" means an inbound duty and tax free shop as contemplated in the Customs and Excise Act;

(Definition of "inbound duty and tax free shop" in section 1 inserted by section 104(1)(d) of Act 60 of 2008)

"inbound insurance policy" means a travel policy which provides insurance cover in respect of a passenger transported from an export country into the Republic or between two places in the Republic as part of an international journey;

(Definition of "inbound insurance policy" in section 1 inserted by section 77(1)(b) of Act 17 of 2017 with effect from 1 April 2018)

(Definition of "inbound insurance policy" in section 1 substituted by section 89(a) of Act 23 of 2018)

"Income Tax Act" means the Income Tax Act, 1962 (Act No. 58 of 1962);

"IDZ"

(Definition of "Industrial Development Zone" in section 1 inserted by section 148(1)(e) of Act 60 of 2001 with effect from 1 January 2005 [Proc. R62 in Gazette 27139 dated 22 December 2004])

(Definition of "Industrial Development Zone (IDZ)" substituted for "Industrial Development Zone" by section 164(i) of Act 45 of 2003 with effect from 1 January 2005)

(Definition of "Industrial Development Zone (IDZ)" in section 1 substituted by section 165(g) of Act 31 of 2013 with effect from 9 February 2016)

(Definition of "IDZ" substituted for "Industrial Development Zone (IDZ)" in section 1 by section 19(1)(i) of Act 44 of 2014 as amended by section 82(1) of Act 16 of 2014 with effect from 9 February 2016)

(Definition of "IDZ" in section 1 deleted by section 23(1)(c) of Act 16 of 2016 with effect from 9 February 2016)

“IDZ operator”

(Definition of “Industrial Development Zone operator” in section 1 inserted by section 164(1)(i) of Act 45 of 2003 with effect from 1 January 2005 [Proc. R62 in Gazette 27139 dated 22 December 2004])

(Definition of “Industrial Development Zone (IDZ) operator” in section 1 substituted by section 165(g) of Act 31 of 2013 with effect from 9 February 2016)

(Definition of “IDZ operator” substituted for “Industrial Development Zone (IDZ) operator” in section 1 by section 19(1)(j) of Act 44 of 2014 as amended by section 82(1) of Act 16 of 2014 with effect from 9 February 2016)

(Definition of “IDZ operator” in section 1 deleted by section 23(1)(c) of Act 16 of 2016 with effect from 9 February 2016)

“input tax”, in relation to a vendor, means –

(a) tax charged under section 7 and payable in terms of that section by –

- (i) a supplier on the supply of goods or services made by that supplier to the vendor; or
- (ii) the vendor on the importation of goods by that vendor; or

(Paragraph (a)(ii) of the definition of “input tax” in section 1 substituted by section 19(1)(k) of Act 44 of 2014)

(iii) the vendor under the provisions of section 7(3);

(b) an amount equal to the tax fraction (being the tax fraction applicable at the time the supply is deemed to have taken place) of the lesser of any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic (other than a person or diplomatic or consular mission of a foreign country established in the Republic that was granted relief, by way of a refund of tax as contemplated in section 68) of any second-hand goods situated in the Republic;

(Paragraph (b) of the definition of “input tax” in section 1 substituted by section 12(1)(h) of Act 136 of 1992 and deemed to have come into operation on 30 September 1991)

(Paragraph (b) of the definition of “input tax” in section 1 amended by section 22(e) of Act 97 of 1993)

(Paragraph (b) of the definition of “input tax” in section 1 substituted by section 9(1)(h) of Act 20 of 1994)

(Paragraph (b) of the definition of “input tax” in section 1 amended by section 23(1) of Act 27 of 1997)

(Paragraph (b) of the definition of “input tax” in section 1 amended by section 104(1) of Act 35 of 2007)

(Paragraph (b) of the definition of “input tax” in section 1 amended by section 129(1)(c) of Act 24 of 2011)

(c) an amount equal to the tax fraction of the consideration in money deemed by section 10(16) to be for the supply (not being a taxable supply) by a debtor to the vendor of goods repossessed under an instalment credit agreement or a surrender of goods:

(Words in paragraph (c) of the definition of “input tax” in section 1 preceding the proviso substituted by section 165(1)(h) of Act 31 of 2013 with effect from 1 April 2014)

Provided that the tax fraction applicable under this paragraph shall be the tax fraction applicable at the time of supply of the goods to the debtor under such agreement as contemplated in section 9(3)(c),

where the goods or services concerned are acquired by the vendor wholly for the purpose of consumption, use or supply in the course of making taxable supplies or, where the goods or services are acquired by the vendor partly for such purpose, to the extent (as determined in accordance with the provisions of section 17) that the goods or services concerned are acquired by the vendor for such purpose;

"instalment credit agreement" means any agreement entered into on or after the commencement date whereby any goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable –

- (a) are supplied under a sale under which –
 - (i) the goods are sold by the seller to the purchaser against payment by the purchaser to the seller of a stated or determinable sum of money at a stated or determinable future date or in whole or in part in instalments over a period in the future; and
 - (ii) such sum of money includes finance charges stipulated in the agreement of sale; and
 - (iii) the aggregate of the amounts payable by the purchaser to the seller under such agreement exceeds the cash value of the supply; and
 - (iv)
 - (aa) the purchaser does not become the owner of those goods merely by virtue of the delivery to or the use, possession or enjoyment by him thereof; or
 - (bb) the seller is entitled to the return of those goods if the purchaser fails to comply with any term of that agreement; or
- (b) are supplied under a lease under which –
 - (i) the rent consists of a stated or determinable sum of money payable at a stated or determinable future date or periodically in whole or in part in instalments over a period in the future; and
 - (ii) such sum of money includes finance charges, including any amount determined with reference to the time value of money, stipulated in the lease; and

(Paragraph (b)(ii) of the definition of "instalment credit agreement" in section 1 substituted by section 145(1)(a) of Act 22 of 2012 with effect from 1 January 2013)

- (iii) the aggregate of the amounts payable under such lease by the lessee to the lessor for the period of such lease (disregarding the right of any party thereto to terminate the lease before the end of such period) and any residual value of the leased goods on termination of the lease, as stipulated in the lease, exceeds the cash value of the supply; and
- (iv) the lessee is entitled to the possession, use or enjoyment of those goods for a period of at least 12 months; and
- (v)
 - (aa) the lessee accepts the full risk of destruction or loss of, or other disadvantage to, those goods and assumes all obligations of whatever nature arising in connection with the insurance, maintenance and repair of those goods while the agreement remains in force; or
 - (bb)
 - (A) the lessor accepts the full risk of destruction or loss of, or other disadvantage to those goods and assumes all obligations of whatever nature arising in connection with the insurance of those goods; and
 - (B) the lessee accepts the full risk of maintenance and repair of those goods and reimburses the lessor for the insurance of those goods,

while the agreement remains in force;

(Paragraph (b)(v) of the definition of "instalment credit agreement" in section 1 substituted by section 145(1)(b) of Act 22 of 2012 with effect from 1 January 2013)

"insurance" means insurance or guarantee against loss, damage, injury or risk of any kind whatever, whether pursuant to any contract or law, and includes reinsurance; and **"contract of insurance"** includes a policy of insurance, an insurance cover, and a renewal of a contract of insurance: Provided that nothing in this definition shall apply to any insurance specified in section 2;

"intermediary" means a person who facilitates the supply of electronic services supplied by the electronic services supplier and who is responsible for issuing the invoices and collecting payment for the supply;

(Definition of "intermediary" in section 1 inserted by section 8(1)(b) of Act 21 of 2018 with effect from 1 April 2019)

“international journey” means a journey commencing from the ‘point of departure’ in the Republic to a destination outside the Republic (and *vice versa*), including (where applicable) stopovers en route to the destination, time spent in the destination country and the return journey;

(Definition of “international journey” in section 1 inserted by section 77(1)(c) of Act 17 of 2017 with effect from 1 April 2018)

(Definition of “international journey” in section 1 substituted by section 89(b) of Act 23 of 2018)

"invoice" means a document notifying an obligation to make payment;

“licensed customs and excise storage warehouse” means a warehouse licensed by the Commissioner at any place appointed for that purpose under the provisions of the Customs and Excise Act, which has been approved by the Commissioner for the storage of goods as he may approve in respect of that warehouse;

(Definition of “licensed customs and excise storage warehouse” in section 1 inserted by section 101(d) of Act 31 of 2005)

"local authority"

(Definition of “local authority” in section 1 amended by section 64(a) of Act 59 of 2000)

(Definition of “local authority” in section 1 deleted by section 40(1)(i) of Act 9 of 2006 with effect from 1 July 2006)

"Minister" means the Minister of Finance;

"money" means –

(a) coins (other than coins made wholly or mainly from a precious metal other than silver) which the South African Reserve Bank has issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section, and any paper currency which under the said Act is a legal tender;

(b)

(i) any coin (other than a coin made wholly or mainly from a precious metal) or paper currency of any country other than the Republic which is used or circulated or is intended for use or circulation as currency;

(ii) any bill of exchange, promissory note, bank draft, postal order or money order,

except when disposed of or imported as a collector's piece, investment article or item of numismatic interest;

“month” means any of the twelve portions into which any calendar year is divided;

(Definition of “month” in section 1 inserted by section 164(k) of Act 45 of 2003)

“motor car” includes a motor car, station wagon, minibus, double cab light delivery vehicle and any other motor vehicle of a kind normally used on public roads, which has three or more wheels and is constructed or converted wholly or mainly for the carriage of passengers, but does not include-

(Words in the definition of “motor car” in section 1 preceding paragraph (a) substituted by section 76 of Act 30 of 2000)

(Words in the definition of “motor car” in section 1 preceding paragraph (a) substituted by section 92(1)(h) of Act 32 of 2004)

(a) vehicles capable of accommodating only one person or suitable for carrying more than 16 persons; or

(b) vehicles of an unladen mass of 3 500 kilograms or more; or

(c) caravans and ambulances;

(Paragraph (c) of the definition of “motor car” in section 1 amended by section 92(1)(i) of Act 32 of 2004)

(d) vehicles constructed for a special purpose other than the carriage of persons and having no accommodation for carrying persons other than such as is incidental to that purpose;

(e) game viewing vehicles (other than sedans, station wagons, minibuses or double cab light delivery vehicles) constructed or permanently converted for the carriage of seven or more passengers for game viewing in national parks, game reserves, sanctuaries or safari areas and used exclusively for that purpose, other than use which is merely incidental and subordinate to that use; or

(Paragraph (e) of the definition of “motor car” in section 1 added by section 92(1)(j) of Act 32 of 2004)

(f) vehicles, constructed as or permanently converted into hearses for the transport of deceased persons and used exclusively for that purpose;

(Paragraph (f) of the definition of “motor car” in section 1 added by section 92(1)(j) of Act 32 of 2004)

“municipality” means a municipality as defined in section 1 of the Income Tax Act;

(Definition of “municipality” in section 1 inserted by section 40(1)(j) of Act 9 of 2006 with effect from 1 July 2006)

(Definition of “municipality” in section 1 substituted by section 77(d) of Act 20 of 2006 and repealed by section 108 of Act 8 of 2007)

(Definition of “municipality” in section 1 substituted by section 81(b) of Act 8 of 2007)

“municipal rate” means a rate levied by a municipality in terms of section 2 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), on ‘rateable property’ of an ‘owner’ as defined in section 1 of that Act respectively: Provided that a municipal rate does not include—

- (a) a single charge levied by that municipality for rates and other supplies of goods or services such as—
- (i) electricity, gas, water; or
 - (ii) drainage, removal or disposal of sewage or garbage; or
 - (iii) goods or services that are incidental to, or necessary for the supply of those goods or services,
- to that owner; or
- (b) a rate levied in respect of supplies of goods or services contemplated in paragraph (a);
(Definition of “municipal rate” in section 1 inserted by section 40(1)(j) of Act 9 of 2006 with effect from 1 July 2006)

"open market value" in relation to the supply of goods or services, means the open market value thereof determined in accordance with the provisions of section 3;

"outbound insurance policy" means a travel policy which provides insurance cover in respect of a passenger transported from the Republic to a destination in an export country or from a place outside the Republic to another destination outside the Republic as part of an international journey;
(Definition of “outbound insurance policy” in section 1 inserted by section 77(1)(d) of Act 17 of 2017 with effect from 1 April 2018)
(Definition of “outbound insurance policy” in section 1 substituted by section 89(c) of Act 23 of 2018)

"output tax", in relation to any vendor, means the tax charged under section 7(1)(a) in respect of the supply of goods and services by that vendor;

"person" includes any public authority, any municipality, any company, any body of persons (corporate or unincorporated), the estate of any deceased or insolvent person and any trust fund;
(Definition of “person” in section 1 substituted by section 101(e) of Act 31 of 2005)
(Definition of “person” in section 1 substituted by section 40(1)(k) of Act 9 of 2006 with effect from 1 July 2006)
(Definition of “person” in section 1 substituted by section 66(1)(d) of Act 34 of 2019 with effect from 1 April 2020)

"precious metals" means gold, silver, platinum, iridium and any other metals of the platinum group, and any other metal which the State President has by proclamation in the *Gazette* declared to be a precious metal for the purpose of this Act;

“prescribed rate” in relation to any interest payable in terms of this Act means a rate equal to the rate fixed from time to time by the Minister by notice in the *Gazette* in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999): Provided that where the Minister fixes a new rate in terms of that Act, that new rate applies for purposes of this Act from the first day of the second month following the date on which that new rate came into operation;

(Definition of “prescribed rate” in section 1 inserted by section 1 of Act 61 of 1993)

(Definition of “prescribed rate” in section 1 amended by section 9(1) of Act 20 of 1994)

(Definition of “prescribed rate” in section 1 amended by Government Notice 1505 of 1998)

(Definition of “prescribed rate” in section 1 amended by Government Notice 541 of 1999)

(Definition of “prescribed rate” in section 1 amended by Government Notice 1065 of 1999)

(Definition of “prescribed rate” in section 1 amended by Government Notice 184 of 2000)

(Definition of “prescribed rate” in section 1 amended by Government Notice 1160 of 2002)

(Definition of “prescribed rate” in section 1 substituted by section 114(1)(b) of Act 74 of 2002 with effect from 1 April 2003 [Proc. R29 in Gazette 24639 dated 1 April 2003])

(Definition of “prescribed rate” in section 1 substituted by section 43(a) of Act 16 of 2004)

Publisher’s Note:

Definition of “prescribed rate” is to be substituted by section 271 read with paragraph 108(c) of Schedule 1 of the Tax Administration Act (Act No. 28 of 2011), with effect from a date to be determined by the President by proclamation in the Gazette. This date has not yet been determined to the extent that Schedule 1 amends or repeals a provision relating to interest: (See Proclamation No. 51 in Gazette No. 35687 dated 14 September 2012)

“prescribed tax rate”

(Definition of “prescribed tax rate” in section 1 deleted by section 21(c) of Act 136 of 1991)

“public authority” means –

- (i) any department or division of the public service as listed in Schedules 1, 2 or 3 of the Public Service Act, 1994 (Act No. 103 of 1994); or
- (ii) any public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
- (iii) any other public entity designated by the Minister for the purposes of this Act to be a public authority;

(Definition of “public authority” in section 1 substituted by section 148(1)(f) of Act 60 of 2001)

(Definition of “public authority” in section 1 substituted by section 92(1)(k) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

“recipient”, in relation to any supply of goods or services, means the person to whom the supply is made;

"registration number"

(Definition of "registration number" in section 1 deleted by section 43(b) of Act 16 of 2004)

"rental agreement" means –

- (a) any agreement entered into before, on or after the commencement date for the letting of goods, other than a lease referred to in paragraph (b) of the definition of "instalment credit agreement" in this section or a financial lease as defined in the Sales Tax Act, 1978 (Act No. 103 of 1978), prior to its repeal; and
- (b) any rental agreement, as defined in the said Act where such agreement is in force on or after the commencement date;

"Republic", in the geographical sense, means the territory of the Republic of South Africa and includes the territorial waters, the contiguous zone and the continental shelf referred to respectively in sections 4, 5 and 8 of the Maritime Zones Act, 1994 (Act No. 15 of 1994);

(Definition of "Republic" in section 1 substituted by section 18(b) of Act 37 of 1996)

"residential rental establishment"

(Definition of "residential rental establishment" in section 1 substituted by section 12(1)(i) of Act 136 of 1992)

(Definition of "residential rental establishment" in section 1 deleted by section 65(1)(e) of Act 19 of 2001 with effect from 1 October 2001)

"resident of the Republic" means a resident as defined in section 1 of the Income Tax Act:

(Words in the definition of "resident of the Republic" in section 1 preceding the proviso substituted by section 64(b) of Act 59 of 2000)

Provided that any other person or any other company shall be deemed to be a resident of the Republic to the extent that such person or company carries on in the Republic any enterprise or other activity and has a fixed or permanent place in the Republic relating to such enterprise or other activity;

"returnable container" means any container belonging to a class of containers in relation to which, at the time of delivery of the contents thereof, ownership of that container is not transferred to the recipient of the contents and a specifically identified amount is usually charged as a deposit by the supplier of the contents upon the express undertaking of the supplier that upon the return of that container such deposit will be refunded or allowed as a credit to such recipient or any other person returning such container;

"sale" means an agreement of purchase and sale and includes any transaction or act whereby or in consequence of which ownership of goods passes or is to pass from one person to another;

"second-hand goods" means –

- (a) goods which were previously owned and used; or
- (b) in respect of the transfer of a unit in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act, such unit, but does not include –

- (i) animals;

(Paragraph (b)(i) of the definition of "second-hand goods" in section 1 amended by section 164(l) of Act 45 of 2003 and again by section 43(c) of Act 16 of 2004 and deemed to have come into operation on 1 May 2004)

- (ii)

- (aa) goods consisting solely of gold unless acquired for the sole purpose of supplying such goods in the same state without any further processing;

- (bb) gold coins contemplated in section 11(1)(k); or

- (cc) any other goods containing gold unless those goods are acquired for the sole purpose of supplying those goods in the same or substantially the same state to another person;

(Paragraph (b)(ii) of the definition of "second-hand goods" in section 1 amended by section 164(l) of Act 45 of 2003 and again by section 43(c) of Act 16 of 2004 and deemed to have come into operation on 1 May 2004)

(Paragraph (b)(ii) of the definition of "second-hand goods" in section 1 substituted by section 95(1)(b) of Act 43 of 2014 with effect from 1 April 2015)

(Paragraph (b)(ii) of the definition of "second-hand goods" in section 1 substituted by section 83(1)(b) of Act 15 of 2016 with effect from 1 April 2017)

- (iii) any prospecting right, mining right, exploration right, production right, mining permit, retention permit or reconnaissance permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), or any reconnaissance permission contemplated in section 14 of that Act granted or renewed in terms of that Act or received upon conversion pursuant to Schedule II, except when that prospecting right, mining right, exploration right, production right or interest in that right is transferred, ceded, let, sublet, alienated, varied or otherwise disposed of as contemplated in section 11 of the Mineral and Petroleum Resources Development Act, 2002;

(Paragraph (b)(iii) of the definition of "second-hand goods" in section 1 added by section 164(m) of Act 45 of 2003 with effect from 1 May 2004)

(Paragraph (b)(iii) of the definition of "second-hand goods" in section 1 substituted by section 43(d) of Act 16 of 2004 and deemed to have come into operation on 1 May 2004)

(Definition of “second-hand goods” in section 1 substituted by section 12(1)(j) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Definition of “second-hand goods” in section 1 substituted by section 9(1)(j) of Act 20 of 1994)

“service enterprise”

(Definition of “service enterprise” in section 1 inserted by section 164(n) of Act 45 of 2003)

(Definition of “service enterprise” in section 1 deleted by section 165(1)(i) of Act 31 of 2013 with effect from 1 April 2014)

“services” means anything done or to be done, including the granting, assignment, cession or surrender of any right or the making available of any facility or advantage, but excluding a supply of goods, money or any stamp, form or card contemplated in paragraph (c) of the definition of “goods”;

(Definition of “services” in section 1 substituted by section 12(1)(k) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

“SEZ operator” means an operator defined in section 1 of the Special Economic Zones Act;

(Definition of “SEZ operator” in section 1 inserted by section 23(1)(d) of Act 16 of 2016 with effect from 9 February 2016)

“share block company” means a share block company as defined in section 1 of the Share Blocks Control Act;

(Definition of “share block company” in section 1 inserted by section 12(1)(l) of Act 136 of 1992)

(Definition of “share block company” in section 1 substituted by section 9(1)(k) of Act 20 of 1994)

“Share Blocks Control Act” means the Share Blocks Control Act, 1980 (Act No. 59 of 1980);

(Definition of “Share Blocks Control Act” in section 1 inserted by section 9(1)(l) of Act 20 of 1994)

“shareholder” —

- (a) in relation to any company referred to in paragraph (a), (b) or (d) of the definition of ‘company’ in section 1(1) of the Income Tax Act, means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether by virtue of any provision in the memorandum or articles of association of the company or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits, income or capital attaching to the share so registered, that other person shall, to the extent that such person is entitled to such benefit, also be deemed to be a shareholder; or
- (b) in relation to any close corporation, means a member of such corporation; or
- (c) in relation to any co-operative, means a member of such co-operative;

(Definition of “shareholder” in section 1 inserted by section 128(1)(h) of Act 25 of 2015 with effect from 1 April 2012 [Commencement date as amended by section 106 of Act 15 of 2016])

“South African Revenue Service” means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997;

(Definition of “South African Revenue Service” in section 1 substituted by section 34 (Schedule 3) of Act 34 of 1997)

“Special Economic Zone” or **“SEZ”** has the meaning assigned thereto in section 21A(1) of the Customs and Excise Act;

(Definition of “Special Economic Zone” or “SEZ” in section 1 inserted by section 23(1)(d) of Act 16 of 2016 with effect from 9 February 2016)

“Special Economic Zones Act” means the Special Economic Zones Act, 2014 (Act No. 16 of 2014);

(Definition of “Special Economic Zones Act” inserted in section 1 by section 19(1)(n) of Act 44 of 2014 as amended by section 82(1) of Act 16 of 2014 with effect from 9 February 2016)

“specified country”

(Definition of “specified country” in section 1 deleted by section 9(1)(m) of Act 20 of 1994)

“Stamp Duties Act” means the Stamp Duties Act, 1968 (Act No. 77 of 1968);

(Definition of “Stamp Duties Act” in section 1 inserted by section 9(1)(n) of Act 20 of 1994)

“supplier”, in relation to any supply of goods or services, means the person supplying the goods or services;

“supply” includes performance in terms of a sale, rental agreement, instalment credit agreement and all other forms of supply, whether voluntary, compulsory or by operation of law, irrespective of where the supply is effected, and any derivative of 'supply' shall be construed accordingly;

(Definition of “supply” in section 1 substituted by section 81(f) of Act 53 of 1999)

“surrender of goods” means the termination of any instalment credit agreement by the debtor and subsequent obligation on the creditor, to that agreement, to take possession of any goods previously supplied under that agreement;

(Definition of “surrender of goods” in section 1 inserted by section 165(1)(j) of Act 31 of 2013 with effect from 1 April 2014)

“tax” means the tax chargeable under this Act;

(Definition of “tax” in section 1 substituted by section 12(1)(m) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

“Tax Administration Act” means the Tax Administration Act, 2011;

(Definition of “Tax Administration Act” in section 1 inserted by section 271 read with paragraph 108(d) of Schedule 1 of Act 28 of 2011)

"taxable supply" means any supply of goods or services which is chargeable with tax under the provisions of section 7(1)(a), including tax chargeable at the rate of zero per cent under section 11;

"tax fraction" means the fraction calculated in accordance with the formula:

$$\frac{r}{100 + r},$$

in which formula "r" is the rate of tax applicable under section 7(1);

"tax invoice" means a document provided as required by section 20;

"tax period"

(Definition of "tax period" in section 1 deleted by section 271 read with paragraph 108(e) of Schedule 1 of Act 28 of 2011)

"this Act" includes the regulations;

"Transfer Duty Act" means the Transfer Duty Act, 1949 (Act No. 40 of 1949);

(Definition of "Transfer Duty Act" in section 1 inserted by section 9(1)(o) of Act 20 of 1994)

"transfer payment"

(Definition of "transfer payment" in section 1 inserted by section 12(1)(n) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Definition of "transfer payment" in section 1 substituted by section 23(1)(g) of Act 27 of 1997)

(Definition of "transfer payment" in section 1 substituted by section 148(1)(g) of Act 60 of 2001)

(Definition of "transfer payment" in section 1 deleted by section 164(o) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

"transitional metropolitan council" means a transitional metropolitan council as defined in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993);

(Definition of "transitional metropolitan council" in section 1 inserted by section 9(1)(p) of Act 20 of 1994)

"trust fund" means any fund consisting of cash or other assets the administration and control of which is entrusted to any person acting in a fiduciary capacity by any person, whether under a deed of trust or by agreement, or by a deceased person under a will made by that person;

(Definition of "trust fund" in section 1 substituted by section 21(d) of Act 136 of 1991)

"unconditional gift"

(Definition of "unconditional gift" in section 1 deleted by section 92(1)(l) of Act 32 of 2004)

“VAT registration number”, in relation to any vendor, means the number allocated to that vendor by the Commissioner in terms of section 24 of the Tax Administration Act;

(Definition of “VAT registration number” in section 1 inserted by section 43(e) of Act 16 of 2004)

(Definition of “VAT registration number” in section 1 substituted by section 271 read with paragraph 108(f) of Schedule 1 of Act 28 of 2011)

“vendor” means any person who is or is required to be registered under this Act:

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

(Proviso to the definition of “vendor” in section 1 substituted by section 23(1)(h) of Act 27 of 1997)

“welfare organisation” means any public benefit organisation contemplated in paragraph (a) of the definition of ‘public benefit organisation’ in section 30(1) of the Income Tax Act that has been approved by the Commissioner in terms of section 30(3) of that Act, if it carries on or intends to carry on any welfare activity determined by the Minister for purposes of this Act, relating to those activities that fall under the headings-

(Words in the definition of “welfare organisation” in section 1 preceding paragraph (a) substituted by section 77(e) of Act 20 of 2006)

- (a) welfare and humanitarian;
- (b) health care;
- (c) land and housing;
- (d) education and development; or
- (e) conservation, environment and animal welfare.

(Definition of “welfare organization” in section 1 substituted by section 21(e) of Act 136 of 1991)

(Definition of “welfare organization” in section 1 substituted by section 12(1)(o) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Definition of “welfare organization” in section 1 substituted by section 81(g) of Act 53 of 1999)

(Definition of “welfare organisation” in section 1 substituted by section 148(1)(h) of Act 60 of 2001)

(Definition of “welfare organisation” in section 1 amended by section 114(1)(c) of Act 74 of 2002)

(Definition of “welfare organisation” in section 1 substituted by section 92(1)(m) of Act 32 of 2004)

(Section 1 renumbered to 1(1) by section 271 read with paragraph 108(g) of Schedule 1 of Act 28 of 2011)

- (2) 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.

(Section 1(2) inserted by section 271 read with paragraph 108(h) of Schedule 1 of Act 28 of 2011)

2. Financial services

- (1) For the purposes of this Act, the following activities shall be deemed to be financial services:
- (a) The exchange of currency (whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise);
 - (b) the issue, payment, collection or transfer of ownership of a cheque or letter of credit;
 - (c) the issue, allotment, drawing, acceptance, endorsement or transfer of ownership of a debt security;
 - (d) the issue, allotment or transfer of ownership of an equity security or a participatory security;
 - (e)
(Section 2(1)(e) deleted by section 19(1)(a) of Act 37 of 1996 with effect from 1 October 1996)
 - (f) the provision by any person of credit under an agreement by which money or money's worth is provided by that person to another person who agrees to pay in the future a sum or sums exceeding in the aggregate the amount of such money or money's worth;
(Section 2(1)(f) substituted by section 19(1)(b) of Act 37 of 1996 with effect from 1 October 1996)
 - (g)
(Section 2(1)(g) deleted by section 19(1)(c) of Act 37 of 1996 with effect from 1 October 1996)
 - (h)
(Section 2(1)(h) deleted by section 19(1)(c) of Act 37 of 1996 with effect from 1 October 1996)
 - (i) the provision, or transfer of ownership, of a long-term insurance policy, the provision or transfer of ownership of reinsurance in respect of any such policy:
(Words in section 2(1)(i) preceding the proviso substituted by section 67(1) of Act 34 of 2019 with effect from 1 April 2020)
- Provided that such an activity shall not be deemed to be a financial service to the extent that it includes the management of a superannuation scheme;
(Section 2(1)(i) substituted by section 19(1)(d) of Act 37 of 1996 with effect from 1 October 1996)
- (j) the provision, or transfer of ownership, of an interest in a superannuation scheme;
(Section 2(1)(j) substituted by section 19(1)(e) of Act 37 of 1996 with effect from 1 October 1996)

- (k) the buying or selling of any derivative or the granting of an option:
(Words in section 2(1)(k) preceding the proviso substituted by section 93(a) of Act 32 of 2004)
(Words in section 2(1)(k) preceding the proviso substituted by section 41 of Act 9 of 2006)

Provided that where a supply of the underlying goods or services takes place, that supply shall be deemed to be a separate supply of goods or services at the open market value thereof:

Provided further that the open market value of those goods or services shall not be deemed to be consideration for a financial service as contemplated in this paragraph;
(Section 2(1)(k) substituted by section 13(1)(a) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)
(Section 2(1)(k) substituted by section 82(a) of Act 53 of 1999)

- (l)
(Section 2(1)(l) deleted by section 44 of Act 16 of 2004)

- (m)
(Section 2(1)(m) deleted by section 10(1)(a) of Act 20 of 1994 with effect from 1 April 1995)

- (n)
(Section 2(1)(n) substituted by section 10(1)(b) of Act 20 of 1994 with effect from 1 April 1995)
(Section 2(1)(n) deleted by section 19(1)(f) of Act 37 of 1996 with effect from 1 October 1996)

- (o) the issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency:
(Section 2(1)(o) added by section 90(1)(a) of Act 23 of 2018 with effect from 1 April 2019)

Provided that the activities contemplated in paragraphs (a), (b), (c), (d), (f) and (o) shall not be deemed to be financial services to the extent that the consideration payable in respect thereof is any fee, commission, merchant's discount or similar charge, excluding any discount cost.

(Proviso to section 2(1) added by section 19(1)(g) of Act 37 of 1996 with effect from 1 October 1996)
(Proviso to section 2(1) substituted by section 87(1)(d) of Act 30 of 1998 with effect from 1 March 1999)

(Proviso to section 2(1) substituted by section 90(1)(b) of Act 23 of 2018 with effect from 1 April 2019)

- (2) For the purposes of subsection (1) –

- (i) **"cheque"** means a bill drawn on a bank payable on demand, a postal order, a money order, a traveller's cheque, or any order or authorisation (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;

(Definition of "cheque" in section 2(2) substituted by section 10(1)(c) of Act 20 of 1994)
(Section 2(2)(i) substituted by section 93(b) of Act 32 of 2004)

(ii) **"currency"** means any banknote or other currency of any country, other than when used as a collector's piece, investment article, item of numismatic interest, or otherwise than as a medium of exchange;

(iii) **"debt security"** means –

(aa) an interest in or right to be paid money; or

(bb) an obligation or liability to pay money

that is, or is to be, owing by any person, but does not include a cheque;

(Definition of "debt security" in section 1 substituted by section 149 of Act 60 of 2001)

(iiiA) **"derivative"** means a derivative as defined in International Accounting Standard 39 of the International Accounting Standards issued by the International Accounting Standards Board;

(Section 2(2)(iiiA) inserted by section 93(c) of Act 32 of 2004)

(Section 2(2)(iiiA) substituted by section 130(1)(a) of Act 24 of 2011)

(iv) **"equity security"** means any interest in or right to a share in the capital of a juristic person or the interest in a close corporation of a member thereof;

(v) **"long-term insurance policy"** means any policy of insurance issued in the ordinary course of carrying on long-term insurance business as defined in section 1(1) of the Long-term Insurance Act, 1998 (Act 52 No. of 1998);

(Definition of "life insurance policy" in section 2(2) substituted by section 22(a) of Act 136 of 1991)

(Definition of "long-term insurance policy" in section 2(2) substituted for "life insurance policy" by section 19(1)(h) of Act 37 of 1996 with effect from 1 October 1996)

(Definition of "long-term insurance policy" in section 2(2) substituted by section 82(b) of Act 53 of 1999)

(vA) **"merchant's discount"** means a charge made to merchants for accepting a credit or debit card as payment for the supply of goods or services, or a similar charge made by a buying organisation;

(Definition of "merchant's discount" in section 2(2) inserted by section 87(1)(b) of Act 30 of 1998 with effect from 1 March 1999)

(vi) **"participatory security"** means a participatory interest as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), but does not include an equity security, a debt security, money or a cheque;

(Section 2(2)(vi) substituted by section 115 of Act 74 of 2002)

(Section 2(2)(vi) substituted by section 78 of Act 20 of 2006)

- (vii) **"superannuation scheme"** means a scheme whereby provision is made for the payment or granting of benefits by a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as defined in section 1 of the Income Tax Act.

(Section 2(2)(vii) substituted by section 10(1)(d) of Act 20 of 1994)

(Section 2(2)(vii) substituted by section 130(1)(a) of Act 24 of 2011)

- (3) Notwithstanding subsection (2), the terms "debt security", "equity security" and "participatory security" do not include any of the following:

- (a) A long-term insurance policy or any other policy of insurance;

(Section 2(3)(a) substituted by section 19(1)(i) of Act 37 of 1996 with effect from 1 October 1996)

- (b) any ownership or interest in land, other than an interest as mortgagee;

- (c) a share in the share capital of a share block company;

(Section 2(3)(c) amended by section 13(1)(b) of Act 136 of 1992)

- (d) any interest of a member of a close corporation which confers on the member a time-sharing interest as defined in section 1 of the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), on the terms and conditions contained in the association agreement of such close corporation;

- (e) an interest in a superannuation scheme.

- (4) Notwithstanding anything in this section, the term 'financial services' does not include –

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

(Section 2(4)(a) substituted by section 24 of Act 27 of 1997)

- (b)

(Section 2(4)(b) deleted by section 105(1) of Act 60 of 2008 deemed to have come into operation on 21 October 2008)

- (c) the transfer of any interest in or right to be paid money that is, or is to be, owing by a share block company under its loan obligation, as defined in section 1 of the Share Blocks Control Act, to any person who is or will be a shareholder of such share block company.

(Section 2(4)(c) added by section 13(1)(c) of Act 136 of 1992 with effect from 9 July 1993

[Government Notice 1260 in Government Gazette 14966, dated 9 July 1993])

(Section 2(4)(c) substituted by section 10(1)(e) of Act 20 of 1994)

(Section 2(4) deleted by section 22(b) of Act 136 of 1991)

(Section 2(4) added by section 13(1)(c) of Act 136 of 1992)

3. Determination of "open market value"

- (1) For the purposes of this section –
 - (a) “similar supply”, in relation to a supply of goods or services, means any other supply of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that supply of goods or services;
 - (b) the open market value of a supply shall include any tax charged under section 7(1)(a) on that supply.
- (2) For the purposes of this Act, the open market value of any supply of goods or services at any date shall be the consideration in money which the supply of those goods or services would generally fetch if supplied in similar circumstances at that date in the Republic, being a supply freely offered and made between persons who are not connected persons.
- (3) Where the open market value of any supply of goods or services cannot be determined under subsection (2), the open market value shall be the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in the Republic, being a supply freely offered and made between persons who are not connected persons.
- (4) Where the open market value of any supply of goods or services cannot be determined in terms of subsection (2) or (3), the open market value shall be determined in accordance with a method approved by the Commissioner which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply of those goods or services.
- (5) For the purposes of this Act the open market value of any consideration, not being consideration in money, for a supply of goods or services shall be ascertained in the same manner, with any necessary modifications, as the open market value of any supply of goods or services is ascertained under the provisions of this section.

PART I

Administration

4. Administration of Act

Prepared by:

- (1) The Commissioner is responsible for carrying out the provisions of this Act.
- (2) Administrative requirements and procedures for purposes of the performance of any duty, power or obligation or the exercise of any right in terms of this Act are, to the extent not regulated in this Act, regulated by the Tax Administration Act.

(Section 4 amended by section 34 (Schedule 3) of Act 34 of 1997)

(Section 4 substituted by section 271 read with paragraph 109 of Schedule 1 of Act 28 of 2011)

5. Exercise of powers and performance of duties

- (1) The powers conferred and the duties imposed upon the Commissioner by or in terms of the provisions of this Act or any amendment thereof may be exercised or performed by the Commissioner, or by any SARS official.

(Section 5(1) substituted by section 271 read with paragraph 110(a) of Schedule 1 of Act 28 of 2011)

- (2)

(Section 5(2) deleted by section 271 read with paragraph 110(b) of Schedule 1 of Act 28 of 2011)

6.

(Section 6 amended by section 20 of Act 37 of 1996)

(Section 6 amended by section 34 (Schedule 3) of Act 34 of 1997)

(Section 6 amended by section 88 of Act 30 of 1998)

(Section 6 amended by section 66 of Act 19 of 2001)

(Section 6 amended by section 150 of Act 60 of 2001)

(Section 6 amended by section 116 of Act 74 of 2002)

(Section 6 amended by section 48 of Act 12 of 2003)

(Section 6 amended by section 45 of Act 16 of 2004)

(Section 6 amended by section 13 of Act 10 of 2006)

(Section 6 amended by section 36 of Act 21 of 2006)

(Section 6 amended by section 26 of Act 36 of 2007)

(Section 6 repealed by section 271 read with paragraph 111 of Schedule 1 of Act 28 of 2011)

PART II

Value-added tax

7. Imposition of value-added tax

- (1) Subject to the exemptions, exceptions, deductions and adjustments provided for in this Act, there shall be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the value-added tax –

- (a) on the supply by any vendor of goods or services supplied by him on or after the commencement date in the course or furtherance of any enterprise carried on by him;
- (b) on the importation of any goods into the Republic by any person on or after the commencement date; and
- (c) on the supply of any imported services by any person on or after the commencement date,

calculated at the rate of 15 per cent on the value of the supply concerned or the importation, as the case may be.

(Words in section 7(1) following paragraph (c) substituted by section 9(1)(a) of Act 21 of 2018 with effect from 1 April 2018)

(Section 7(1) amended by section 23(a) of Act 136 of 1991)

(Section 7(1) amended by section 14(a) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 7(1) amended by section 23(1)(a) of Act 97 of 1993 with effect from 7 April 1993)

- (2) Except as otherwise provided in this Act, the tax payable in terms of paragraph (a) of subsection (1) shall be paid by the vendor referred to in that paragraph, the tax payable in terms of paragraph (b) of that subsection shall be paid by the person referred to in that paragraph and the tax payable in terms of paragraph (c) of that subsection shall be paid by the recipient of the imported services.

(3)

- (a) Where any goods manufactured in the Republic, being of a class or kind subject to excise duty or environmental levy under Part 2 or 3 of Schedule No. 1 to the Customs and Excise Act, have been supplied at a price which does not include such excise duty or environmental levy and tax has become payable in respect of the supply in terms of subsection (1)(a), value-added tax shall be levied and paid at the rate specified in section 7(1) for the benefit of the National Revenue Fund on an amount equal to the amount of such excise duty or environmental levy which, subject to any rebate of such excise duty or environmental levy under the said Act, is paid.

(Section 7(3)(a) substituted by section 23(b) of Act 136 of 1991)

(Section 7(3)(a) amended by section 14(b) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 7(3)(a) amended by section 23(1)(b) of Act 97 of 1993 with effect from 7 April 1993)

(Section 7(3)(a) substituted by section 94(a) of Act 32 of 2004)

(Section 7(3)(a) substituted by section 9(1)(b) of Act 21 of 2018 with effect from 1 April 2018)

- (b) The tax payable in terms of paragraph (a) shall be paid by the person liable in terms of the Customs and Excise Act for the payment of the said excise duty or environmental levy.

(Section 7(3)(b) substituted by section 94(a) of Act 32 of 2004)

(c)

(Section 7(3)(c) deleted by section 34 (Schedule 3) of Act 34 of 1997)

(d) Subject to this Act, the provisions of the Customs and Excise Act relating to the clearance of goods subject to excise duty or environmental levy and the payment of that excise duty or environmental levy shall *mutatis mutandis* have effect as if enacted in this Act.

(Section 7(3)(d) substituted by section 94(b) of Act 32 of 2004)

(4) If the Minister makes an announcement in the national annual budget contemplated in section 27(1) of the Public Finance Management, 1999 (Act No. 1 of 1999), that the VAT rate specified in this section is to be altered, that alteration will be effective from a date determined by the Minister in that announcement, and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.

(Section 7(4) added by section 84 of Act 15 of 2016)

8. Certain supplies of goods or services deemed to be made or not made

(1) For the purposes of this Act, where –

(a) goods acquired, manufactured, assembled, constructed or produced by a person are sold, under a power exercisable by another person, in or towards satisfaction of a debt owed by the person whose goods are sold; and

(b) the person whose goods are sold has not furnished, to the person exercising the power of sale, a statement in writing that the supply of those goods would not be a taxable supply if those goods were sold by the person whose goods are sold, and stating fully the reasons why that supply would not be a taxable supply,

those goods shall be deemed to be supplied in the course of an enterprise.

(2) For the purposes of this Act, where a person ceases to be a vendor, any goods (other than any goods in respect of the acquisition of which by the vendor a deduction of input tax under section 16(3) was denied in terms of section 17(2) or would have been denied if those sections had been applicable prior to the commencement date) or right capable of assignment, cession or surrender which in either case then forms part of the assets of his enterprise, shall be deemed to be supplied by him in the course of his enterprise immediately before he ceased to be a vendor, unless the enterprise is carried on by another person who in terms of section 53 is deemed to be a vendor:

(Words in section 8(2) preceding the proviso substituted by section 15(1)(a) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

Provided that –

- (i) where such right is so deemed to be supplied that supply shall be deemed to be a supply of a service;
- (ii) this subsection shall not apply to any such goods or right to the extent that a deduction in terms of section 16(3) has not been allowed or will not be allowed, in respect of the acquisition or use by such vendor, where such vendor on or before 30 June 2000 –
 - (aa) ceases to be a vendor for the sole reason that the total value of taxable supplies made by that vendor in the preceding period of 12 months has not exceeded R20 000; or
 - (bb) ceases to be a vendor in respect of a commercial rental establishment or a residential rental establishment for the sole reason that the total receipts and accruals derived from that commercial rental establishment or residential rental establishment in the preceding period of 12 months have not exceeded R48 000;
- (iii) this subsection shall not apply to fixed property to the extent that a deduction in terms of section 16(3) has not been allowed or will not be allowed in respect of that fixed property or any improvements thereto, where such vendor, on or before 30 June 2000, requests the Commissioner in writing, in the circumstances contemplated in section 24(2), to cancel his registration.

(Further proviso to section 8(2) added by section 15(1)(b) of Act 136 of 1992)

(Provisos to section 8(2) substituted by section 83(a) of Act 53 of 1999, effectively deleting the further proviso)

- (iv) this subsection shall not apply to a vendor that is a constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999) or a public authority, respectively, where that vendor (other than a vendor who applied and was registered as a vendor during the period 22 December 2003 to 31 March 2005) ceases to be a vendor as a result of-
 - (aa) the substitution of the definition of 'public authority' in the Revenue Laws Amendment Act, 2004 or the insertion of paragraph (viii) to the proviso to the definition of 'enterprise' in the Revenue Laws Amendment Act, (Act No. 45 of 2003); or
 - (bb) the re-classification of that vendor or part of that vendor's activities within the Schedules to the Public Finance Management Act, 1999 (Act No. 1 of 1999) subsequent to the introduction of the Revenue Laws Amendment Act, 2004;

(Paragraph (iv) of the proviso to section 8(2) added by section 95(a) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

(Paragraph (iv) of the proviso to section 8(2) amended by section 120(1)(a) of Act 7 of 2010)

- (v) this subsection shall not apply to any such goods or right to the extent that output tax has been paid in terms of section 16(4) read with section 22(3) in respect of such goods or right; and

(Paragraph (v) of the proviso to section 8(2) added by section 120(1)(b) of Act 7 of 2010)

- (vi) this proviso shall not apply to the extent that input tax in respect of such goods or right has been deducted in terms of section 16(3) read with section 22(4).

(Paragraph (vi) of the proviso to section 8(2) added by section 120(1)(b) of Act 7 of 2010)

- (2A) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor solely as a consequence of the circumstances contemplated in paragraph (ii) of the proviso to subsection (2), the tax payable to the Commissioner in respect of that deemed supply shall, if the amount thereof is in excess of R3 000, be paid to the Commissioner in so many equal monthly instalments as the Commissioner may allow, the last of which shall not be paid later than 28 February 2001.

(Section 8(2A) inserted by section 83(b) of Act 53 of 1999)

- (2B) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases on or before 30 June 2005 to be a vendor solely as a consequence of the introduction of proviso (ix) to the definition of 'enterprise' in section 1, the tax payable to the Commissioner in respect of that deemed supply shall, if the amount thereof is in excess of R3 000, be paid to the Commissioner in so many equal monthly instalments as the Commissioner may allow.

(Section 8(2B) inserted by section 95(b) of Act 32 of 2004)

- (2C)

(Section 8(2C) inserted by section 106(1)(a) of Act 60 of 2008 with effect from 1 March 2009)

(Section 8(2C) deleted by section 131(1) of Act 24 of 2011)

- (2D) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor on or before 30 June 2009 for the sole reason that the total value of taxable supplies made by that vendor in the preceding period of 12 months has not exceeded R1 million, the tax payable in respect of that deemed supply shall be paid in six equal monthly instalments or in so many monthly instalments as the Commissioner may allow.

(Section 8(2D) inserted by section 106(1)(a) of Act 60 of 2008 with effect from 1 March 2009)

- (2E) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor for the sole reason that the total value of taxable supplies made by that vendor in the preceding period of 12 months has not exceeded the amount contemplated in section 23(1) or 23(3), the Minister may by regulation prescribe the period in which the tax payable in respect of that deemed supply shall be paid.

(Section 8(2E) inserted by section 91(1)(a) of Act 17 of 2009)

- (2F) Where a supply is deemed to have been made by a vendor in terms of subsection (2) and the vendor ceases on or after 1 January 2013 to be a vendor solely by reason of the supply of goods or services being exempt under section 12(l) or (m), the value of that deemed supply shall be deemed to be nil.

(Section 8(2F) inserted by section 146(1)(a) of Act 22 of 2012 with effect from 1 January 2013)

- (2G) Subject to section 24(3), where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor on 1 April 2014 for the sole reason of the exemption contemplated in section 12(f)(iv), the tax payable in respect of the deemed supply shall be paid in six equal monthly instalments or in so many monthly instalments as the Commissioner may allow.

(Section 8(2G) inserted by section 166(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

- (3) For the purposes of this Act, a credit agreement to which section 121 of the National Credit Act, 2005 (Act No. 34 of 2005), applies shall be deemed not to be a supply of goods or services if the consumer has exercised the right to rescind that agreement in the manner and within the time permitted by that section.

(Section 8(3) substituted by section 172(2) read with Schedule 2 of Act 34 of 2005)

(Section 8(3) substituted by section 27(1)(a) of Act 36 of 2007 and deemed to have come into operation on 1 June 2007)

(4)

- (a) For the purposes of this Act, any lay-by agreement (as defined in Government Notice No. R1234 of 13 June 1980, as amended by Government Notice No. R1814 of 29 August 1980, issued in terms of section 9 of the Sale and Service Matters Act, 1964 (Act No. 25 of 1964)), whereby goods are sold for a consideration not exceeding R10 000 and are reserved by deposit for delivery when the purchase price or a determined portion thereof is paid shall not be deemed to be a supply of goods or services unless and until the goods are delivered to the purchaser.

(Section 8(4)(a) amended by section 15(1)(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 8(4)(a) substituted by section 83(c) of Act 53 of 1999)

- (b) Where such agreement is cancelled or terminates for any other reason and the seller retains any amount paid by the purchaser or recovers any amount owing by the purchaser under such agreement, the seller shall for the purposes of this Act be deemed to have supplied a service in respect of such agreement.

- (5) For the purposes of this Act a designated entity shall be deemed to supply services to any public authority or municipality to the extent of any payment made by the public authority or municipality concerned to or on behalf of that designated entity in the course or furtherance of an enterprise carried on by that designated entity.

(Section 8(5) substituted by section 166(b) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(Section 8(5) substituted by section 42(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(Section 8(5) substituted by section 106(1)(b) of Act 60 of 2008)

- (5A) For the purposes of section 11(2)(t), a vendor (excluding a designated entity) shall be deemed to supply services to any public authority, municipality or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the extent of any grant paid to or on behalf of that vendor in the course or furtherance of an enterprise carried on by that vendor.

(Section 8(5A) inserted by section 95(c) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

(Section 8(5A) substituted by section 42(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

(Section 8(5A) substituted by section 106(1)(c) of Act 60 of 2008)

- (5B) For the purposes of this Act, a vendor, being an implementing agency in respect of a foreign donor funded project, shall be deemed to supply services to the international donor to the extent of the funding received in terms of an official development assistance agreement.

(Section 8(5B) inserted by section 102(1)(a) of Act 31 of 2005)

(Section 8(5B) substituted by section 68(1)(a) of Act 34 of 2019 with effect from 1 April 2020)

- (6) For the purposes of this Act the transfer of all its assets and liabilities by an administrative unit of a municipality that is separately registered under subsection (2) of section 50, to the vendor intended in subsection (1) of that section, shall be deemed not to be a supply.

(Section 8(6) substituted by section 24(a) of Act 136 of 1991)

(Section 8(6) amended by section 11(a) of Act 20 of 1994)

(Section 8(6) amended by section 67 of Act 19 of 2001)

(Section 8(6) substituted by section 42(1)(c) of Act 9 of 2006 with effect from 1 July 2006)

- (7) The disposal of an enterprise as a going concern, or a part thereof which is capable of separate operation, shall for the purposes of this Act be deemed to be a supply of goods made in the course or furtherance of such enterprise.

- (8) For the purposes of this Act, except section 16(3), where a vendor receives any indemnity payment under a contract of insurance or is indemnified under a contract of insurance by the payment of an amount of money to another person, that payment or indemnification, as the case may be, shall, to the extent that it relates to a loss incurred in the course of carrying on an enterprise, be deemed to be consideration received for a supply of services performed on the day of receipt of that payment or on the date of payment to such other person, as the case may be, by that vendor in the course or furtherance of his enterprise:

Provided that this subsection shall not apply in respect of any indemnity payment received or indemnification under a contract of insurance where the supply of services contemplated by that contract is not a supply subject to tax under section 7(1)(a):

Provided further that this subsection shall not apply in respect of any indemnity payment received by a vendor under a contract of insurance to the extent that such payment relates to the total reinstatement of goods, stolen or damaged beyond economic repair, in respect of the acquisition of which by the

vendor a deduction of input tax under section 16(3) was denied in terms of section 17(2) or would have been denied if these sections had been applicable prior to the commencement date.

(Further proviso to section 8(8) added by section 11(b) of Act 20 of 1994)

(Section 8(8) substituted by section 15(1)(e) of Act 136 of 1992)

- (9) For the purposes of this Act, where any vendor in carrying on an enterprise in the Republic consigns or delivers goods to an address outside the Republic or provides any service to or for the purposes of his branch or main business outside the Republic in respect of which the provisions of paragraph (ii) of the proviso to the definition of 'enterprise' in section 1 are applicable, the vendor shall be deemed to supply such goods or service in the course or furtherance of his enterprise.

(Section 8(9) substituted by section 24(1)(a) of Act 97 of 1993)

(Section 8(9) substituted by section 166(1)(c) of Act 45 of 2003)

- (10) For the purposes of this Act –

(a) where any goods are repossessed; or

(b) where there is a surrender of goods,

under an instalment credit agreement, a supply of such goods shall be deemed to be made by the debtor under such instalment credit agreement to the person exercising the person's right or obligation of possession under such instalment credit agreement, and where such debtor is a vendor the supply shall be deemed to be made in the course or furtherance of the vendor's enterprise unless such goods did not form part of the assets held or used by the vendor for the purposes of the vendor's enterprise.

(Section 8(10) substituted by section 166(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

- (11) For the purposes of this Act, a supply of the use or right to use or the grant of permission to use any goods (whether with or without a driver, pilot, crew or operator) under any rental agreement, instalment credit agreement, charter party, agreement for chartering or any other agreement under which such use or permission to use is granted, shall be deemed to be a supply of goods.

- (12)

(Section 8(12) deleted by section 15(1)(f) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (13) For the purposes of this Act, where any person bets an amount on the outcome of a race or on any other event or occurrence, the person with whom the bet is placed shall be deemed to supply a service to such first-mentioned person.

- (13A) For the purposes of this Act, except section 16(3), where any vendor who makes taxable supplies of services contemplated in subsection (13) of this section, receives any amount paid by any other vendor

as a prize or winnings in consequence of a supply of such services made by the last-mentioned vendor to the first-mentioned vendor, the first-mentioned vendor shall be deemed to supply a service to the last-mentioned vendor.

(Section 8(13A) inserted by section 20 of Act 46 of 1996)

(14) For the purposes of this Act-

- (a) where any goods are supplied by a vendor to a person otherwise than in the circumstances contemplated in paragraph 2(b) of the Seventh Schedule to the Income Tax Act, and a deduction under section 16(3) in respect of the acquisition by the vendor of those goods was denied in terms of section 17(2) or would have been denied if section 7 of this Act had been applicable prior to the commencement date, the vendor shall be deemed to have supplied the goods otherwise than in the course or furtherance of his enterprise;
- (b) where any input tax is allowed in terms of section 18(9) in respect of a game viewing vehicle or a hearse as contemplated in paragraph (e) or (f) of the definition of 'motor car' in section 1, the subsequent supply of that game viewing vehicle or hearse shall be deemed to be supplied in the course of the vendor's enterprise.

(Section 8(14) substituted by section 24(b) of Act 136 of 1991)

(Section 8(14) substituted by section 24(1)(b) of Act 97 of 1993 deemed to have come into operation on 30 September 1991)

(Section 8(14) substituted by section 95(d) of Act 32 of 2004)

(14A) For the purposes of this Act, where input tax has been allowed on the conversion of a game viewing vehicle or a hearse, as contemplated in paragraph (e) or (f) of the definition of 'motor car' in section 1 and that game viewing vehicle or hearse is subsequently applied for purposes other than those purposes as contemplated in paragraph (e) or (f) of the definition of 'motor car' in section 1, a supply of that game viewing vehicle or hearse shall be deemed to take place.

(Section 8(14A) inserted by section 95(e) of Act 32 of 2004)

(15) For the purposes of this Act, where a single supply of goods or services or of goods and services would, if separate considerations had been payable, have been charged with tax in part at the rate applicable under section 7(1)(a) and in part at the rate applicable under section 11, each part of the supply concerned shall be deemed to be a separate supply:

Provided that this subsection does not apply to a single charge as contemplated in paragraph (a) of the proviso to the definition of 'municipal rate' in section 1.

(Proviso to section 8(15) added by section 42(1)(d) of Act 9 of 2006 with effect from 1 July 2006)

(16)

- (a) The supply by a vendor –

- (i) of any goods (other than fixed property acquired prior to the commencement date by a vendor who is a natural person if such property was used by him mainly as his private residence and no deduction of any amount has been made by him under section 16(3) in respect of such property); or
- (ii) of services,

where such goods or services were acquired or imported by him partly for the purpose of consumption, use or supply in the course of making taxable supplies (including supplies which would have been taxable supplies if section 7 of this Act had been applicable prior to the commencement date) and were held or utilized by him partly for the said purpose immediately prior to the supply by him of such goods or services, shall be deemed to be made wholly in the course or furtherance of his enterprise.

- (b) The supply by any vendor of fixed property acquired prior to the commencement date by such vendor, being a natural person, shall be deemed to be made otherwise than in the course or furtherance of his enterprise provided –
 - (i) such property was used by him prior to such supply mainly as his private residence; and
 - (ii) no deduction of any amount has been made by him under section 16(3) in respect of such property.

(Section 8(16) added by section 24(c) of Act 136 of 1991)

(Section 8(16) substituted by section 15(1)(g) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(17)

- (a) For the purposes of this Act, where, together with the supply of a share referred to in the definition of 'fixed property' in section 1, any amount of the loan obligation, as defined in section 1 of the Share Blocks Control Act, of the share block company is allocated as contemplated in section 14 of that Act, or any amount of the loan obligation thus allocated is delegated, or any interest in or right to be paid money that is, or is to be, owing by the share block company under its loan obligation is transferred to any person who is or will be a shareholder of such share block company, such allocation, delegation or transfer, as the case may be, shall be deemed to form part of the supply of such share.

(Section 8(17)(a) substituted by section 11(c) of Act 20 of 1994)

- (b) For the purposes of this Act, where any allocation, delegation or transfer as contemplated in paragraph (a) is made without the supply of a share referred to in the definition of 'fixed property' in section 1 and otherwise than in the circumstances contemplated in that paragraph, such allocation, delegation or transfer shall be deemed to constitute the supply of a share referred to in the said definition.

(Section 8(17) added by section 15(1)(h) of Act 136 of 1992 with effect from 9 July 1993 [Government Notice 1259 in Government Gazette 14966, dated 9 July 1993])

(18) For the purposes of the definition of 'input tax' in section 1 and section 18(4) and (5), as applicable to any share block company, any taxable supply of a share referred to in subsection (17) made on or after a date fixed by the Minister by notice in the *Gazette* by a share block developer where such share is a share in a share block scheme in respect of which that developer is a share block developer as contemplated in section 1 of the Share Blocks Control Act, shall be deemed to have been made by the share block company in relation to which that developer is a share block developer, to the extent that –
(Words in section 8(18) preceding paragraph (a) substituted by section 11(d) of Act 20 of 1994)

- (a) the supply of such share to such developer was not a taxable supply by such company to such developer; or
- (b) such developer was not or will not in terms of section 16(3) be entitled to make a deduction of input tax referred to in paragraph (b) of the definition of 'input tax' in section 1 in respect of the supply of such share to him.

(Section 8(18) added by section 15(1)(h) of Act 136 of 1992 with effect from 9 July 1993 [Government Notice 1259 in Government Gazette 14966, dated 9 July 1993])

(Section 8(18) substituted by section 24(1)(c) of Act 97 of 1993)

(19) For the purposes of this Act, where any supply of-

- (a) goods consisting of immovable property is made by a share block company-
 - (i) in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act; or
 - (ii) as a result of a sale by that share block company of that immovable property to a person who held a right of exclusive use of that immovable property, which right was conferred by reason of the ownership of a share by that person in that share block company; or
- (b) services comprising the waiving of rights against a share block company is made to that share block company –
 - (i) in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act; or
 - (ii) by a person as part of a sale contemplated in paragraph (a)(ii),

such supply shall be deemed to have been made in the course or furtherance of an enterprise.

(Words in section 8(19) following paragraph (b)(ii) substituted by section 166(1)(c) of Act 31 of 2013 with effect from 1 April 2014)

(Section 8(19) added by section 11(e) of Act 20 of 1994)

(Section 8(19) substituted by section 146(1)(b) of Act 22 of 2012 with effect from 1 January 2013)

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

(Section 8(20) added by section 25 of Act 27 of 1997)

- (21) For the purposes of this Act, compensation or any other payment, other than an amount contemplated in section 12(a), received by a vendor in consequence of the expropriation of fixed property, is deemed to be received in respect of a supply of goods made in the course or furtherance of an enterprise unless that fixed property forms no part of the assets held or used by the vendor for the purposes of an enterprise.

(Section 8(21) added by section 151 of Act 60 of 2001)

(Section 8(21) substituted by section 95(f) of Act 32 of 2004)

- (22) For the purposes of this Act, where two or more public higher education institutions or one or more subdivisions of such institutions are merged with or incorporated into a single public higher education institution in terms of a direction by the Minister of Education in terms of section 23 or 24 of the Higher Education Act, 1997 (Act No. 101 of 1997), such institutions or such subdivisions thereof prior to the merger or incorporation and the newly merged or incorporated single institutions shall be deemed to be one and the same institution.

(Section 8(22) inserted by section 166(d) of Act 45 of 2003)

- (23) For the purposes of this Act a vendor shall be deemed to supply services to any public authority or municipality to the extent of any payment made to or on behalf of that vendor in terms of a national housing programme contemplated in the Housing Act, 1997 (Act No. 107 of 1997).

(Section 8(23) inserted by section 166(d) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(Section 8(23) substituted by section 42(1)(e) of Act 9 of 2006 with effect from 1 July 2006)

(Section 8(23) substituted by section 120(1)(c) of Act 7 of 2010 with effect from 1 April 2011)

(Section 8(23) deleted by section 129(1) of Act 25 of 2015 with effect from 1 April 2017)

(Section 8(23) inserted by section 78(1)(a) of Act 17 of 2017 with effect from 1 April 2017)

- (24) For the purposes of this Act, a vendor, being a customs controlled area enterprise or an SEZ operator, shall be deemed to supply goods in the course or furtherance of an enterprise where movable goods are temporarily removed from a place in a customs controlled area to a place outside the customs

controlled area, situated in the Republic, if those goods are not returned to the customs controlled area within 30 days of its removal, or within a period approved in writing by the Controller:

Provided that this subsection shall not apply where those movable goods are supplied by the customs controlled area enterprise or SEZ operator, prior to the expiry of the relevant prescribed time period:

(Proviso to section 8(24) added by section 106(1)(d) of Act 60 of 2008)

Provided further that this subsection shall not apply to-

(a) goods that are deemed to have been imported under paragraph (i) of the proviso to section 13(1);
or

(b) goods to which section 18(10) previously applied.

(Further proviso to section 8(24) added by section 146(1)(c) of Act 22 of 2012 with effect from 1 January 2013)

(Section 8(24) added by section 102(1)(b) of Act 31 of 2005)

(Section 8(24) substituted by section 79(a) of Act 20 of 2006)

(Section 8(24) substituted by section 24(1)(a) of Act 16 of 2016 with effect from 9 February 2016)

(25) For the purposes of this Act, where any goods or services are supplied by a vendor to another vendor, those vendors must for the purposes of that supply or subsequent supplies of those goods or services, be deemed to be one and the same person provided the provisions of section 42, 44, 45 or 47 of the Income Tax Act are complied with: Provided that this subsection shall not apply to a supply contemplated in section 42 or 45 of the Income Tax Act, unless-

(i) that supply is of an enterprise or part of an enterprise which is capable of separate operation, where the supplier and recipient have agreed in writing that such enterprise or part, as the case may be, is disposed of as a going concern;

(Section 8(25)(i) amended by section 68(1)(b) of Act 34 of 2019 with effect from 1 April 2020)

(ii) the enterprise or part, as the case may be, disposed of as a going concern has been carried on in, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of 'enterprise' in section 1; or

(Section 8(25)(ii) amended by section 68(1)(b) of Act 34 of 2019 with effect from 1 April 2020)

(iii) the supply is of fixed property and the supplier and the recipient have agreed in writing that, immediately after the supply, the supplier will lease the fixed property from the recipient.

(Section 8(25)(iii) added by section 68(1)(b) of Act 34 of 2019 with effect from 1 April 2020)

(Section 8(25) added by section 102(1)(b) of Act 31 of 2005)

(Section 8(25) substituted by section 91(1)(b) of Act 17 of 2009)

: Provided further that this subsection shall not apply to a supply as contemplated in section 42 or 45 of the Income Tax Act, where such supplier and recipient have agreed in writing that the provisions of subsection (7) and section 11(1)(e) of this Act shall apply.

(Further proviso to section 8(25) added by section 62(1) of Act 23 of 2020, with effect from 1 April 2021)

- (26) The supply of goods or services under any warranty agreement shall, for the purposes of section 11(2)(v), be deemed to be a supply of services.

(Section 8(26) added by section 102(1)(b) of Act 31 of 2005)

- (27) For the purposes of this Act, where any amount received in respect of a taxable supply of goods or services at the rate specified in section 7(1) exceeds the consideration charged for that supply, and such excess amount has not been refunded within four months of receipt thereof, that excess amount shall be deemed to be consideration for a supply of services performed by the vendor in the course or furtherance of that vendor's enterprise on the last day of the tax period during which that four month period ends.

(Section 8(27) added by section 79(b) of Act 20 of 2006)

(Section 8(27) substituted by section 27(1)(b) of Act 36 of 2007 and deemed to have come into operation on 7 February 2007)

(Section 8(27) substituted by section 10(1) of Act 21 of 2018 with effect from 1 April 2018)

- (28) Where a municipality transfers any assets, liabilities, rights and obligations to another municipality pursuant to the merger, creation, adjustment or disestablishment of municipalities as a result of any municipal boundary change as envisaged under the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)—

- (a) the transferring municipality and the recipient municipality shall be regarded as being one and the same person if such municipalities are merged into a single municipality; and
- (b) the transferring municipality shall not be deemed to have made a supply to the recipient municipality if both municipalities continue to exist after such municipal boundary change.

(Section 8(28) added by section 78(1)(b) of Act 17 of 2017 with effect from 1 April 2018)

- (29) For the purposes of this Act, a supply of leasehold improvements by a vendor, being a lessee, shall be deemed to be a supply of goods in the course or furtherance of the lessee's enterprise to the extent that the leasehold improvements are made for no consideration: Provided that this subsection shall not apply where such leasehold improvements are wholly for consumption, use or supply in the course of making other than taxable supplies by the lessee.

(Section 8(29) added by section 78(1)(b) of Act 17 of 2017 with effect from 1 April 2018)

8A. Sharia compliant financing arrangements

(1) For the purposes of this Act, in the case of any murabaha as defined in section 24JA(1) of the Income Tax Act-

(a) the financier shall be deemed not to have acquired or supplied goods under the sharia arrangement;

*(Section 8A(1)(a) substituted by section 132(1) of Act 24 of 2011 with effect from 1 January 2013
[Effective date as substituted by section 178 of Act 22 of 2012])*

(b) the client shall be deemed to have acquired the goods-

(i) from the seller for consideration equal to the amount paid by the financier to the seller; and

(ii) at such time as the supply was made by the seller by virtue of the transaction between the seller and the financier; and

*(Section 8A(1)(b) substituted by section 132(1) of Act 24 of 2011 with effect from 1 January 2013
[Effective date as substituted by section 178 of Act 22 of 2012])*

(c) any premium paid or payable to the financier by the client shall be deemed to be consideration in respect of a financial service supplied by the financier as contemplated in section 2(1)f): Provided that this paragraph shall not apply to the extent to which the consideration constitutes any fee, commission or similar charge.

*(Section 8A(1)(c) substituted by section 132(1) of Act 24 of 2011 with effect from 1 January 2013
[Effective date as substituted by section 178 of Act 22 of 2012])*

(2) For the purposes of this Act, in the case of any diminishing musharaka as defined in section 24JA(1) of the Income Tax Act-

(a) the bank shall be deemed not to have acquired or supplied goods under the sharia arrangement;

(b)

(i) where the bank and the client jointly acquire goods, the client shall be deemed to have acquired the bank's interest in the goods-

(aa) for an amount equal to the amount payable by the bank in respect of its interest in the goods; and

(bb) at the time that the seller of the goods was divested of any interest in the goods by virtue of the transaction between the seller and the bank; or

- (ii) where the bank acquires an interest in the goods from the client, the client shall be deemed not to have supplied an interest in the goods to the bank; and
- (c) any amount contemplated in section 24JA(6)(a) of the Income Tax Act paid or payable to the bank by the client shall be deemed to be consideration in respect of an exempt financial service supplied by the bank as contemplated in section 2(1)(f):

(Words in section 8A(2)(c) preceding the proviso substituted by section 69 of Act 34 of 2019)

Provided that this paragraph shall not apply to the extent to which the consideration constitutes any fee, commission or similar charge.

(Section 8A inserted by section 121(1) of Act 7 of 2010 with effect from 1 January 2013 [Effective date as substituted by section 161 of Act 22 of 2012])

9. Time of supply

- (1) For the purposes of this Act a supply of goods or services shall, except as otherwise provided in this Act, be deemed to take place at the time an invoice is issued by the supplier or the recipient in respect of that supply or the time any payment of consideration is received by the supplier in respect of that supply, whichever time is earlier.
- (2) A supply of goods or services shall be deemed to take place –
 - (a) where the supplier and the recipient are connected persons –
 - (i) in the case of a supply of goods which are to be removed, at the time of the removal; and
 - (ii) in the case of a supply of goods which are not to be removed, at the time when they are made available to the recipient; and
 - (iii) in the case of a supply of services, at the time the services are performed:

Provided that this paragraph shall not apply in any case where an invoice is issued in respect of that supply or any payment is made in respect of that supply on or before –

- (aa) the day on which the return is furnished for the tax period during which that supply would, but for this proviso, have been made; or
- (bb) the last day prescribed by this Act for furnishing the return for the tax period during which that supply would, but for this proviso, have been made:

Provided further that this paragraph shall not apply where the whole of the consideration or part thereof for such supply of goods or services cannot be determined at the time the goods are

removed or made available or at the time the services are performed, and the recipient would have been entitled under section 16(3) at that time to make a deduction of the full amount of tax in respect of that supply, in which case the provisions of subsection (1) shall apply;

(Further proviso to section 9(2)(a) added by section 130(1) of Act 25 of 2015 with effect from 1 April 2016)

- (b) where that supply is a supply to which section 8(3) refers, on the day after the last day of the period during which the recipient may exercise the right under section 121 of the National Credit Act, 2005 (Act No. 34 of 2005), to rescind the agreement;

(Section 9(2)(b) substituted by section 172(2) read with Schedule 2 of Act 34 of 2005)

(Section 9(2)(b) substituted by section 28(1) of Act 36 of 2007 and deemed to have come into operation on 1 June 2007)

- (c) where that supply is a supply to which section 8(4) refers, at the time at which the goods are delivered to the recipient: Provided that in any case in which a supply of services is deemed to take place under section 8(4)(b), that supply of services shall be deemed to take place at the time that the agreement of sale is cancelled or terminates;

- (d) where the supply is for a consideration in money received by the supplier by means of any machine, meter or other device operated by a coin, paper currency, token or by any other means-

(i) in the case of such supplier, at the time any such coin, paper currency or token is taken from that machine, meter or other device by or on behalf of the supplier or an amount is received by the supplier by other means; and

(ii) in the case of the recipient of such supply at the time the coin, paper currency or token is inserted into that machine, meter or other device by or on behalf of the recipient or when payment is tendered through other means;

(Section 9(2)(d) substituted by section 27 of Act 8 of 2010)

- (e) where the provisions of section 8(9) are applicable in respect of the consignment or delivery of goods at an address outside the Republic or the provision of any service by a vendor to his branch or main branch at the time the goods are consigned or delivered to such branch or the service is performed, as the case may be.

(Section 9(2)(e) substituted by section 25(a) of Act 136 of 1991)

(Section 9(2)(e) substituted by section 167 of Act 45 of 2003)

- (3) Notwithstanding anything in subsection (1) or (2) of this section –

- (a) where goods are supplied under any rental agreement or where services are supplied under any agreement or law which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the period of the agreement or as determined by such law, and

each of the successive supplies shall be deemed to take place when a payment becomes due or is received, whichever is the earlier;

(b) where and to the extent that –

(i) goods are supplied progressively or periodically under any agreement or law which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply of those goods; or

(ii) goods or services supplied directly in the construction, repair, improvement, erection, manufacture, assembly or alteration of goods are supplied under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the work,

those goods or services shall be deemed to be successively supplied, and each such successive supply shall be deemed to take place whenever any payment in respect of any supply becomes due, is received, or any invoice relating only to that payment is issued, whichever is the earliest;

(c) where goods are supplied under an instalment credit agreement, that supply shall, subject to the provisions of subsection (2)(b), be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of that supply, whichever time is earlier;

(Section 9(3)(c) substituted by section 25(b) of Act 136 of 1991)

(d) where goods consisting of fixed property or any real right therein are supplied under a sale, that supply shall be deemed to take place –

(i)

(Section 9(3)(d)(i) deleted by section 25(a) of Act 97 of 1993)

(ii) where registration of transfer of the goods is effected in a deeds registry, on the date of such registration; or

(iii) on the date on which any payment is made in respect of the consideration for such supply,

whichever date is earlier;

(Words in section 9(3)(d) following subparagraph (iii) substituted by section 25(b) of Act 97 of 1993)

(e) where any supply of a service is deemed to be made as contemplated in section 8(13), the service shall be deemed to be supplied to the extent that payment of any amount of the bet is made, and each such supply shall be deemed to take place whenever any payment in respect of such supply is received by the supplier;

- (f) where any supply of a service is deemed to be made as contemplated in section 8(13A), the supply shall be deemed to take place whenever any amount is paid out as a prize or winnings by the supplier of the services contemplated in section 8(13).

(Section 9(3)(f) added by section 21 of Act 46 of 1996)

- (4) Subject to the provisions of subsections (2)(a) and (6) –

- (a) where goods are supplied under an agreement, other than an instalment credit agreement or rental agreement, and the goods or part of them are appropriated under that agreement by the recipient in circumstances where the whole of the consideration is not determined at the time they are appropriated, that supply shall be deemed to take place when and to the extent that any payment in terms of the agreement is due or is received or an invoice relating to the supply is issued by the supplier or the recipient, whichever is the earliest; and

- (b) where services are supplied under an agreement and the consideration for such services supplied is not determined at the time that such services are rendered or performed, that supply shall be deemed to take place when and to the extent that any payment in terms of the agreement is due or is received or an invoice relating to the supply is issued by the supplier or the recipient, whichever is the earliest.

(Section 9(4) substituted by section 167(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

- (5) Where any goods or any right capable of assignment, cession or surrender is deemed to be supplied by a vendor in the course of his enterprise as contemplated in section 8(2) the time of supply shall be deemed to be the time contemplated in that section.
- (6) Where any supply of goods or services is deemed to be made as contemplated in section 18(1) the time of supply shall be deemed to be the time that the goods or services are applied as contemplated in the said subsection.
- (7) The supply of goods or services which is deemed to be made by any vendor as contemplated in section 18(3) shall be deemed to take place at the end of the month in respect of which the cash equivalent of the benefit or advantage concerned, as determined under the Seventh Schedule to the Income Tax Act, or a portion of such cash equivalent, is in terms of the Fourth Schedule to that Act required to be included in the remuneration of the employee or office holder to whom the benefit or advantage is granted or, where such cash equivalent is not required to be included in the remuneration of the employee or office holder in terms of the said Fourth Schedule, on the last day of the year of assessment in terms of the said Act, as applicable to that employee or office holder, during which the benefit or advantage was granted to him.
- (8) Where a supply of goods is deemed by section 8(10) to be made by a debtor, the time of that supply shall be deemed to be the day on which the goods are repossessed or surrendered or, where the debtor

may under any law be reinstated in the debtor's rights and obligations under such agreement, the day after the last day of any period during which the debtor may under such law be so reinstated.

(Section 9(8) substituted by section 167(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

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

(Section 9(9) added by section 26 of Act 27 of 1997)

- (10) Where any supply of a game viewing vehicle or a hearse is deemed to be made as contemplated in section 8(14)(b) or 8(14A) the time of supply shall be deemed to be the time that the game viewing vehicle or hearse is supplied as contemplated in those sections.

(Section 9(10) added by section 96 of Act 32 of 2004)

- (11) Where any supply of goods is deemed to be made as contemplated in section 8(24), that supply shall be deemed to take place on the last day of the applicable period contemplated in section 8(24).

(Section 9(11) added by section 103 of Act 31 of 2005)

- (12) Where any supply of goods is deemed to be made as contemplated in section 8 (29), that supply shall be deemed to take place at the time the leasehold improvements are completed.

(Section 9(12) added by section 79(1) of Act 17 of 2017 with effect from 1 April 2018)

10. Value of supply of goods or services

- (1) For the purposes of this Act the following provisions of this section shall apply for determining the value of any supply of goods or services.

- (2) The value to be placed on any supply of goods or services shall, save as is otherwise provided in this section, be the amount of the consideration for such supply, as determined in accordance with the provisions of subsection (3), less so much of such amount as represents tax: Provided that –

(Words in section 10(2) preceding paragraph (i) of the proviso substituted by section 82(a) of Act 8 of 2007)

- (i) there shall be excluded from such consideration the value of any postage stamp as defined in section 1 of the Post Office Act, 1958 (Act 44 of 1958), when used in the payment of consideration for any service supplied by the postal company as defined in section 1 of the Post Office Act, 1958;

(Section 10(2)(i) substituted by section 84 of Act 53 of 1999)

- (ii) where the portion of the amount of the said consideration which represents tax is not accounted for separately by the vendor, the said portion shall be deemed to be an amount equal to the tax fraction of that consideration.

(Paragraph (ii) of the proviso to section 10(2) substituted by section 82(b) of Act 8 of 2007)

- (3) For the purposes of this Act the amount of any consideration referred to in this section shall be –
(Words in section 10(3) preceding paragraph (a) substituted by section 82(c) of Act 8 of 2007)
- (a) to the extent that such consideration is a consideration in money, the amount of the money; and
 - (b) to the extent that such consideration is not a consideration in money, the open market value of that consideration.

(4) Where –

- (a) a supply is made by a person for no consideration or for a consideration in money which is less than the open market value of the supply or the consideration cannot be determined at the time of supply;

(Section 10(4)(a) amended by section 26(a) of Act 136 of 1991)

(Section 10(4)(a) substituted by section 21(1)(a) of Act 37 of 1996)

(Section 10(4)(a) substituted by section 131(1) of Act 25 of 2015 with effect from 1 April 2016)

- (b) the supplier and recipient are connected persons in relation to each other; and
- (c) if a consideration for the supply equal to the open market value of the supply had been paid by the recipient, he would not have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply,

(Section 10(4)(c) substituted by section 26(a) of Act 97 of 1993)

the consideration in money for the supply shall be deemed to be the open market value of the supply: Provided that this subsection shall not apply to the supply of a benefit or advantage of employment contemplated in section 18(3).

- (4A) For the purposes of this Act where any share in a share block company is supplied, the consideration in money for that supply shall include the amount of any allocation, delegation or transfer referred to in section 8(17).

(Section 10(4A) inserted by section 16(1)(a) of Act 136 of 1992 with effect from 9 July 1993

[Government Notice 1259 in Government Gazette 14966, dated 9 July 1993])

- (5) Where goods or services are deemed to be supplied by a vendor in terms of section 8(2) or (9), the supply shall be deemed to be made for a consideration in money equal to the lesser of –

- (a) the cost to the vendor of the acquisition, manufacture, assembly, construction or production of such goods or services, including –

- (i) any tax charged in respect of the supply to the vendor of such goods or services or of any components, materials or services utilized by him in such manufacture, assembly, construction or production;
- (ii) where such goods or any right referred to in section 8(2), when held by the vendor, constituted trading stock as defined in section 1 of the Income Tax Act, any further costs (including tax) incurred by him in respect of such goods or right as contemplated in section 22(3)(a) of that Act;

(Section 10(5)(a)(ii) amended by section 26(b) of Act 97 of 1993)

- (iii) Any costs (including tax) incurred by the vendor in respect of the transportation or delivery of such goods or the provision of such services in respect of such goods that are consigned or delivered or the provision of such services as contemplated in section 8(9); and

(Section 10(5)(a)(iii) amended by section 26(c) of Act 97 of 1993)

(Section 10(5)(a)(iii) substituted by section 168(a) of Act 45 of 2003)

- (iv) where such goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply or would in terms of that section have been deemed to be the open market value of the supply were it not for the fact that the recipient would have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply, such open market value to the extent that it exceeds the consideration in money for that supply; or

(Section 10(5)(a)(iv) added by section 26(d) of Act 97 of 1993)

- (b) the open market value of such supply.

(5A)

(Section 10(5A) inserted by section 107(1) of Act 60 of 2008 with effect from 1 March 2009)

(Section 10(5A) substituted by section 122(1) of Act 7 of 2010)

(Section 10(5A) deleted by section 133(1)(a) of Act 24 of 2011 with effect from 1 March 2012)

- (6) For the purposes of this Act, where goods are supplied under an instalment credit agreement, the consideration in money for the supply shall be deemed to be the cash value of that supply.

- (7) Where goods or services are deemed by section 18(1) or 18B(3) to be supplied by a vendor, the supply shall, subject to the provisions of subsection (8), be deemed to be made for a consideration in money equal to the open market value of such supply.

(Section 10(7) substituted by section 133(1)(b) of Act 24 of 2011)

- (8) Where any repairs, maintenance or insurance in respect of a motor vehicle is deemed to be supplied by a vendor by section 18(1), such supply shall be deemed to be made for a consideration in money equal to the cost (including tax) to such vendor of acquiring such repairs, maintenance or insurance:

(Words in section 10(8) preceding the proviso substituted by section 26(b) of Act 136 of 1991)

Provided that where such vendor does not maintain accurate data for the purposes of calculating such consideration in money, such supply shall be deemed to be made for a consideration in money equal to the amount determined in the manner prescribed by the Minister in the *Gazette* for the category of motor vehicle concerned.

- (9) Where goods or services are deemed by section 18(2) to be supplied by a vendor, the supply shall be deemed to be made for a consideration in money determined in accordance with the formula

$$A \times (B - C),$$

in which formula -

“A” represents the lesser of –

(i)

- (aa) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply or would in terms of that section have been deemed to be the open market value of the supply were it not for the fact that the recipient would have been entitled under section 16(3) to make a deduction of the full amount of tax in respect of that supply, the adjusted cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or

(Subparagraph (i)(aa) of the paragraph defining symbol “A” in section 10(9) substituted by section 26(e) of Act 97 of 1993)

(Subparagraph (i)(aa) of the paragraph defining symbol “A” in section 10(9) substituted by section 168(b) of Act 45 of 2003)

- (bb) where the vendor was at some time after the acquisition of such goods or services deemed by section 18(4) to have been supplied with such goods or services, the amount which was represented by “B” in the formula contemplated in section 18(4) when such goods or services were deemed to be supplied to the vendor; or
- (cc) where the vendor was at some time after the acquisition of the goods or services required to make an adjustment contemplated in section 18(2) or (5), the amounts

then represented by “A” in the said formula or by “B” in the formula contemplated in section 18(5) respectively, in the most recent adjustment made under section 18(2) or (5) by the vendor prior to such deemed supply of goods or services; and

- (ii) the open market value of the supply of those goods or services at the time any reduction in the extent of the consumption or use of the goods is deemed by section 18(6) to take place;

“B” represents the percentage that the use or application of the goods or services for the purposes of making taxable supplies was of the total use or application of such goods or services determined under section 17(1), section 18(4) or (5) or this subsection, whichever was applicable in the period immediately preceding the 12 month period contemplated in “C”; and

“C” represents the percentage that, during the 12 month period during which the decrease in use or application of the goods or services is deemed to take place, the use or application of the goods or services for the purposes of making taxable supplies (in respect of which, if such goods or services had been acquired at the time of such use or application, a deduction of input tax would not have been denied in terms of section 17(2)(a)), was of the total use or application of the goods:
(Words in the definition of “C” in section 10(9) preceding the proviso substituted by section 27(a) of Act 27 of 1997)

Provided that where the percentage contemplated in “B” does not exceed the said percentage by more than 10 per cent of the total use or application, the said percentage shall be deemed to be the percentage determined in “B”.

(Definition of “C” in section 10(9) substituted by section 26(c) of Act 136 of 1991)

- (10) Where domestic goods and services are supplied at an all-inclusive charge in any enterprise supplying commercial accommodation for an unbroken period exceeding 28 days, the consideration in money is deemed to be 60 per cent of the all-inclusive charge.

(Section 10(10) substituted by section 68(1)(a) and (b) of Act 19 of 2001 with effect from 1 October 2001)

(Section 10(10) substituted by section 152(1)(a) of Act 60 of 2001 with effect from 7 November 2001)

- (11) Where a service is under section 8(4)(b) deemed to be supplied, the consideration in money for the supply shall be deemed to be an amount equal to the amount retained or recovered as contemplated in that section.

- (12) Where any supply of goods is a supply which would, but for the proviso to section 11(1), be charged with tax at the rate of zero per cent, the consideration in money for that supply shall be deemed to be an amount equal to the purchase price of those goods to the supplier: Provided that in any case where the deduction of input tax referred to in that proviso has been made by any other person (where that supplier and that other person are connected persons), the consideration in money for that supply shall

be deemed to be an amount equal to the greater of the purchase price of those goods to that supplier and the purchase price of those goods to that other person: Provided further that for the purposes of this subsection, the purchase price of any goods shall not be reduced by any amount of input tax deducted under section 16(3) by the supplier or, as the case may be, any other person where the supplier and that other person are connected persons.

- (13) Where goods or services are deemed to be supplied by a vendor under section 18(3), the consideration in money for the supply shall be deemed to be an amount equal to the cash equivalent of the benefit or advantage granted to the employee or office holder, as contemplated in section 9(7):

Provided that where such benefit or advantage consists of the right to use a motor vehicle as contemplated in paragraph 2(b) of the Seventh Schedule to the Income Tax Act, the consideration in money for the supply shall be deemed to be the amount determined in the manner prescribed by the Minister in the *Gazette* for the category of motor vehicle used.

(Proviso to section 10(13) amended by section 26(d) of Act 136 of 1991)

(Proviso to section 10(13) substituted by section 16(1)(b) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (14) Where services are or are deemed by section 8(5) to be supplied to any public authority or municipality by any vendor the consideration in money for such supply shall be deemed to be the amount of any payment made from time to time by the public authority or municipality concerned to or on behalf of the vendor as contemplated in the said section.

(Section 10(14) substituted by section 43(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

- (15)

(Section 10(15) substituted by section 26(e) of Act 136 of 1991)

(Section 10(15) deleted by section 43(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

- (16) Where a supply of goods is deemed by section 8(10) to be made by a debtor, the consideration in money for that supply shall be deemed to be an amount equal to the balance of the cash value of the goods (being the cash value thereof applied under subsection (6) in respect of the supply of the goods to the debtor under the said agreement) which has not been recovered on the date on which the supply of the goods by the debtor is deemed by section 9(8) to be made:

(Words in section 10(16) preceding the proviso substituted by section 168(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

Provided that the said balance shall be deemed to be the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the said agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to the said instalment credit agreement, may properly be regarded as having been made in respect of the cash value.

(17) Where a service is deemed by section 8(13) to be supplied to any person, the consideration in money for such supply shall be deemed to be the amount that is received in respect of the bet.

(17A) Where a service is deemed by section 8(13A) to be supplied to any vendor, the consideration in money for such supply shall be deemed to be the amount that is received as a prize or winnings.

(Section 10(17A) inserted by section 22 of Act 46 of 1996)

(18) Where a right to receive goods or services to the extent of a monetary value stated on any token, voucher or stamp (other than a postage stamp as defined in section 1 of the Postal Services Act, 1998, and any token, voucher or stamp contemplated in subsection (19)) is granted for a consideration in money, the supply of such token, voucher or stamp is disregarded for the purposes of this Act, except to the extent (if any) that such consideration exceeds such monetary value.

(Section 10(18) substituted by section 152(1)(b) of Act 60 of 2001)

(19) Where any token, voucher or stamp (other than a postage stamp as defined in section 1 of the Postal Services Act, 1998) is issued for a consideration in money and the holder thereof is entitled on the surrender thereof to receive goods or services specified on such token, voucher or stamp or which by usage or arrangement entitles the holder to specified goods or services, without any further charge, the value of the supply of the goods or services made upon the surrender of such token, voucher or stamp is regarded as nil.

(Section 10(19) substituted by section 152(1)(c) of Act 60 of 2001)

(20) Where any token, voucher or stamp is issued by any vendor for no consideration and the holder thereof is entitled on surrender thereof to another person, being the supplier of goods or services, to a discount on the price of goods or services supplied to the holder, the consideration in money for the supply of such goods or services shall be deemed to include the monetary value stated on such token, voucher or stamp: Provided that such monetary value shall be deemed to include tax.

(Section 10(20) substituted by section 12(a) of Act 20 of 1994)

(21) Where any supply of entertainment is made by a vendor and in terms of section 17 no deduction of input tax was made in terms of section 16(3) in respect of the acquisition by the vendor of goods or services for the purpose of such entertainment, the value of such supply shall be deemed to be nil.

(21A) Where any supply of medical or dental services or other goods or services is made as contemplated in section 17(2)(d) by a scheme referred to in that section, the value of such supply shall be deemed to be nil.

(Section 10(21A) inserted by section 16(1)(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 10(21A) substituted by section 12(b) of Act 20 of 1994)

(22) Where a taxable supply is not the only matter to which a consideration relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(22A)

(Section 10(22A) inserted by section 21(1)(b) of Act 37 of 1996 with effect from 1 October 1996)

(Section 10(22A) deleted by section 63(1) of Act 23 of 2020, with effect from 1 April 2021)

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

(Section 10(22B) inserted by section 27(b) of Act 27 of 1997)

(23) Save as otherwise provided in this section, where any supply is made for no consideration the value of that supply shall be deemed to be nil.

(24) Where a game viewing vehicle or a hearse is deemed to be supplied by a vendor in terms of section 8(14)(b) or (14A) the supply shall be deemed to be made for a consideration in money equal to the open market value, of that game viewing vehicle or hearse.

(Section 10(24) inserted by section 97 of Act 32 of 2004)

(25) Where any goods are deemed by section 8(24) to be supplied to any person, the consideration in money shall be deemed to be the open market value of those goods on the date contemplated in section 9(11).

(Section 10(25) added by section 104 of Act 31 of 2005)

(26) Where a service is deemed to be supplied under section 8(27), the consideration in money for the supply shall be deemed to be the excess amount contemplated in that section.

(Section 10(26) added by section 80 of Act 20 of 2006)

(27) Where any supply of goods or services is deemed to be made in terms of section 8(19), the value of such supply shall be deemed to be nil.

(Section 10(27) added by section 168(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

(28) Where a supply of goods is deemed to be made as contemplated in section 8(29), the value of such supply shall be deemed to be nil.

(Section 10(28) added by section 80(1) of Act 17 of 2017 with effect from 1 April 2018)

11. Zero rating

(1) Where, but for this section, a supply of goods would be charged with tax at the rate referred to in section 7(1), such supply of goods shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where –

(Words in section 11(1) preceding paragraph (a) substituted by section 28(a) of Act 27 of 1997)

- (a) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and -
- (i) the supplier has exported the goods in the circumstances contemplated in paragraph (a), (b) or (c) of the definition of 'exported' in section (1); or
- (ii) the goods have been exported by the recipient and the supplier has elected to supply the goods at the zero rate as contemplated in Part 2 of the regulation referred to in paragraph (d) of the definition of 'exported' in section 1: Provided that-

(Words in section 11(1)(a)(ii) preceding the proviso substituted by section 132(1)(a) of Act 25 of 2015)

- (aa) where a supplier has supplied the goods to the recipient in the Republic otherwise than in terms of this subparagraph, such supply shall not be charged with tax at the rate of zero per cent; and
- (bb) where the goods have been removed from the Republic by the recipient in accordance with the regulation referred to in paragraph (d) of the definition of 'exported' in section 1, such tax shall be refunded to the recipient in accordance with the provisions of section 44(9); or

(Paragraph (bb) of the proviso to section 11(1)(a)(ii) substituted by section 132(1)(b) of Act 25 of 2015)

(Section 11(1)(a) substituted by section 27(a) of Act 136 of 1991)

(Section 11(1)(a) substituted by section 85(1)(a) of Act 53 of 1999)

- (b) the goods have been supplied in the course of repairing, renovating, modifying, treating, processing, cleaning, reconditioning or manufacture of any goods to which subsection (2)(g)(ii) or (iv) refers and the goods supplied -

(Words in section 11(1)(b) preceding subparagraph (i) substituted by section 27(b) of Act 136 of 1991)

(Words in section 11(1)(b) preceding subparagraph (i) substituted by section 81(1)(a) of Act 17 of 2017 with effect from 1 April 2018)

- (i) are wrought into, affixed to, attached to or otherwise form part of those other goods; or
- (ii) being consumable goods, become unusable or worthless as a direct result of being used in that repair, renovation, modification or treatment process; or
- (c) the goods (being movable goods) are supplied to a lessee or other person under a rental agreement, charter party or agreement for chartering, if the goods are used exclusively in an export country or by a customs controlled area enterprise or an SEZ operator in a customs controlled area: Provided that this subsection shall not apply where a 'motor car' as defined in section 1 is supplied to a person located in a customs controlled area;

*(Section 11(1)(c) substituted by section 98(1)(a) of Act 32 of 2004 with effect from 1 January 2005
[Proc. R62 in Gazette No. 27139 dated 22 December 2004])
(Section 11(1)(c) substituted by section 81(a) of Act 20 of 2006)
(Section 11(1)(c) substituted by section 25(1)(a) of Act 16 of 2016 with effect from 9 February 2016)*

- (d) the goods (being movable goods) are supplied to a lessee or other person under a rental agreement, charter party or agreement for chartering, if those goods are used by that lessee or other person exclusively in any commercial, financial, industrial, mining, farming, fishing or professional concern conducted in an export country and payment of rent or other consideration under that agreement is effected from such export country; or

(Section 11(1)(d) substituted by section 98(1)(a) of Act 32 of 2004)

- (e) the supply is to a registered vendor of an enterprise or of a part of an enterprise which is capable of separate operation, where the supplier and the recipient have agreed in writing that such enterprise or part, as the case may be, is disposed of as a going concern: Provided that –

- (i) such enterprise or part, as the case may be, shall not be disposed of as a going concern unless-

- (aa) such supplier and such recipient have, at the time of the conclusion of the agreement for the disposal of the enterprise or part, as the case may be, agreed in writing that such enterprise or part, as the case may be, will be an income-earning activity on the date of transfer thereof; and

- (bb) the assets which are necessary for carrying on such enterprise or part, as the case may be, are disposed of by such supplier to such recipient; and

(Paragraph (i)(bb) of the proviso to section 11(1)(e) amended by section 85(1)(b) of Act 53 of 1999)

- (cc) in respect of supplies on or after 1 January 2000, such supplier and such recipient have at the time of the conclusion of the agreement for the disposal of such enterprise or part, as the case may be, agreed in writing that the consideration agreed upon for that supply is inclusive of tax at the rate of zero per cent;

(Paragraph (i)(cc) of the proviso to section 11(1)(e) inserted by section 85(1)(c) of Act 53 of 1999)

- (ii) where the enterprise or part, as the case may be, disposed of as a going concern has been carried on in, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph and section 18A be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of 'enterprise' in section 1; or

(Section 11(1)(e) substituted by section 17(a) of Act 136 of 1992)

(Section 11(1)(e) substituted by section 13(a) of Act 20 of 1994)

- (f) the supply is to the South African Reserve Bank, the South African Mint Company (Proprietary) Limited or any bank registered under the Banks Act, 1990 (Act No. 94 of 1990), of gold in the form of bars, blank coins, ingots, buttons, wire, plate or granules or in solution, which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of such bars, blank coins, ingots, buttons, wire, plate, granules or solution; or

(Section 11(1)(f) substituted by section 17(b) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 11(1)(f) substituted by section 13(b) of Act 20 of 1994)

- (g) the supply is of such goods used or consumed for agricultural, pastoral or other farming purposes as are set forth in Part A of Schedule 2, provided such supply is made in compliance with such conditions as may be prescribed in the said Part; or

(Section 11(1)(g) substituted by section 17(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (h) the goods consist of fuel levy goods referred to in Fuel Item Levy numbers 195.10.03, 195.10.17, 195.20.01 and 195.20.03 in Part 5A of Schedule No. 1 to the Customs and Excise Act; or

(Section 11(1)(h) substituted by section 27(c) of Act 136 of 1991)

(Section 11(1)(h) substituted by section 105(a) of Act 31 of 2005)

(Section 11(1)(h) substituted by section 44(1)(a) of Act 9 of 2006 with effect from 1 April 2006)

- (hA) the goods consist of petroleum oil and oils obtained from bituminous minerals, known as crude, referred to in Heading No. 27.09 in Chapter 27 of Part 1 of Schedule No. 1 to the Customs and Excise Act when supplied for the purpose of being refined for the production of fuel levy goods as defined in section 1 of the Customs and Excise Act; or

(Section 11(1)(hA) inserted by section 27(d) of Act 136 of 1991)

(Section 11(1)(hA) substituted by section 105(b) of Act 31 of 2005)

- (hB)

(Section 11(1)(hB) inserted by section 27(1)(a) of Act 97 of 1993 deemed to have come into operation on 15 July 1992)

(Section 11(1)(hB) substituted by section 153(a) of Act 60 of 2001)

(Section 11(1)(hB) deleted by section 44(1)(b) of Act 9 of 2006 with effect from 1 April 2006)

- (i) the goods are supplied, as contemplated in section 8(9);

(Section 11(1)(i) amended by section 27(e) of Act 136 of 1991)

(Section 11(1)(i) substituted by section 27(1)(b) of Act 97 of 1993)

(Section 11(1)(i) substituted by section 169(c) of Act 45 of 2003)

- (j) the goods consist of such foodstuffs as are set forth in Part B of Schedule 2, but subject to such conditions as may be prescribed in the said Part; or

(Section 11(1)(j) inserted by section 27(f) of Act 136 of 1991)

(Section 11(1)(j) substituted by section 17(d) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (k) the goods are gold coins supplied as such and which the Reserve Bank has issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section; or

(Section 11(1)(k) inserted by section 17(e) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 11(1)(k) amended by section 43(1)(a) of Act 5 of 2001 with effect from 1 April 2001)

- (l) the goods consist of illuminating kerosene (marked) intended for use as fuel for illuminating or heating, referred to in Fuel Item Levy number 195.10.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and are not mixed or blended with another substance; or

(Section 11(1)(l) added by section 43(1)(b) of Act 5 of 2001 with effect from 1 April 2001)

(Section 11(1)(l) substituted by section 105(c) of Act 31 of 2005)

(Section 11(1)(l) substituted by section 44(1)(c) of Act 9 of 2006 with effect from 1 April 2006)

- (m) a vendor supplies movable goods, (excluding any 'motor car' as defined in section 1), in terms of a sale or instalment credit agreement to a customs controlled area enterprise or an SEZ operator and those goods are physically delivered to that customs controlled area enterprise or SEZ operator in a customs controlled area either-

(Words in section 11(1)(m) preceding subparagraph (i) substituted by section 25(1)(c) of Act 16 of 2016 with effect from 9 February 2016)

- (i) by the supplier; or

- (ii) by a cartage contractor, whose activities include transporting goods and who is engaged by the supplier to deliver the goods and that supplier is liable for the full cost relating to that delivery;

(Section 11(1)(m)(ii) substituted by section 132(1)(c) of Act 25 of 2015 with effect from 1 April 2016)

(Section 11(1)(m) added by section 153(c) of Act 60 of 2001 with effect from a date to be proclaimed and deleted by section 113 of Act 32 of 2004)

(Section 11(1)(m) substituted by section 169(a) of Act 45 of 2003 with effect from a date to be proclaimed and deleted by section 121 of Act 32 of 2004)

(Section 11(1)(m) substituted by section 98(1)(b) of Act 32 of 2004 with effect from 1 January 2005

[Proc. R62 in Gazette No. 27139 dated 22 December 2004])

(Section 11(1)(m) substituted by section 81(b) of Act 20 of 2006)

- (mA) a vendor supplies fixed property situated in a customs controlled area to a customs controlled area enterprise or an SEZ operator under any agreement of sale or letting or any other agreement under which the use or permission to use such fixed property is granted;

(Section 11(1)(mA) inserted by section 81(c) of Act 20 of 2006)

(Section 11(1)(mA) substituted by section 25(1)(e) of Act 16 of 2016 with effect from 9 February 2016)

- (n) the goods consist of-

- (i) any old order right or OP26 right as defined in Schedule II of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), converted into a new right pursuant to item 7(3) of that Schedule if that supply is made pursuant to that conversion; or

(Section 11(1)(n)(i) substituted by section 134(1)(a) of Act 24 of 2011)

- (ii)

(Section 11(1)(n)(ii) substituted by section 98(c) of Act 45 of 2003)

(Section 11(1)(n)(ii) deleted by section 134(1)(b) of Act 24 of 2011)

(Section 11(1)(n) added by section 169(b) of Act 45 of 2003 with effect from 1 May 2004)

- (o)

(Section 11(1)(o) added by section 169(d) of Act 45 of 2003)

(Section 11(1)(o) deleted by section 105(d) of Act 31 of 2005)

- (p)

- (i) the supply of an enterprise or part of an enterprise as a going concern, by a vendor to that vendor's branch or division, which branch or division is separately registered in terms of section 50(2): Provided that that enterprise or part, as the case may be, shall not be disposed of as a going concern unless-

(aa) that enterprise or part is capable of separate operation; and

(bb) will be an income-earning activity on the date of transfer thereof; and

(cc) a tax invoice issued in accordance with section 20 in relation to that supply is inclusive of tax at the rate of zero per cent; or

- (ii) the supply of an enterprise, branch or division, as contemplated in section 50(2), as a going concern to a separately registered enterprise of that vendor: Provided that that enterprise or part, as the case may be, shall not be disposed of as a going concern unless-

(aa) that enterprise or part is capable of separate operation: and

- (bb) will be an income-earning activity on the date of transfer thereof; and
- (cc) a tax invoice issued in accordance with section 20 in relation to that supply is inclusive of tax at the rate of zero per cent;
(Section 11(1)(p) inserted by section 98(d) of Act 32 of 2004)
- (q) the goods-
 - (i) are supplied by a vendor to a person who is not a resident of the Republic and not a vendor and who has contracted with that vendor to deliver goods to a recipient, who is a vendor in the Republic; and
 - (ii) form part of a supply by the person referred to in paragraph (i) to the recipient; and
 - (iii) are used by the recipient wholly for the purposes of consumption, use or supply in the course of making taxable supplies; or
(Section 11(1)(q) added by section 105(e) of Act 31 of 2005)
(Section 11(1)(q) amended by section 81(d) of Act 20 of 2006)
- (r) compensation is paid by a public authority in terms of section 19 of the Animal Diseases Act, 1984 (Act No. 35 of 1984) for the supply of a 'controlled animal or thing' as defined in that Act to that public authority:
(Section 11(1)(r) added by section 81(e) of Act 20 of 2006)
- (s) the goods (being fixed property) are supplied to the Cabinet member responsible for land reform who acquired those goods in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), or section 42E of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); or
(Section 11(1)(s) added by section 108(1)(a) of Act 60 of 2008 with effect from 31 October 2009
[Government Notice R1024 in Government Gazette 32664 dated 30 October 2009])
(Section 11(1)(s) substituted by section 169(1) of Act 31 of 2013 with effect from 1 April 2014)
- (t) the goods (being fixed property) are supplied to a person to the extent that the consideration for those goods is an advance or subsidy granted in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
(Section 11(1)(t) added by section 108(1)(a) of Act 60 of 2008 with effect from 31 October 2009
[Government Notice R1024 in Government Gazette 32664 dated 30 October 2009])
- (u) the supply of goods, other than the supply of goods by an inbound duty and tax free shop, which have been imported and entered for storage in a licensed Customs and Excise storage warehouse but have not been entered for home consumption; or
(Section 11(1)(u) added by section 108(1)(a) of Act 60 of 2008)

- (v) the supply of goods by an inbound duty and tax free shop; or
(Section 11(1)(v) added by section 108(1)(a) of Act 60 of 2008)
(Section 11(1)(v) amended by section 70(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)
- (w) the goods supplied consist of sanitary towels (pads) as are set forth in Part C of Schedule 2:
(Section 11(1)(w) added by section 70(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

Provided that paragraphs (a), (b), (c), (d) and (i) of this subsection shall not apply in respect of any supply of goods by a vendor if in respect of such goods input tax contemplated in paragraph (b) of the definition of “input tax” in section 1 has been deducted in terms of section 16(3) by that vendor or any other person where that vendor and that other person are connected persons.

- (2) Where, but for this section, a supply of services, other than services contemplated in section 11(2)(k) that are electronic services, would be charged with tax at the rate referred to in section 7(1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where –
(Words in section 11(2) preceding paragraph (a) substituted by section 28(b) of Act 27 of 1997)
(Words in section 11(2) preceding paragraph (a) substituted by section 96(1)(b) of Act 43 of 2014 with effect from 1 April 2015)
 - (a) the services (not being ancillary transport services) comprise the transport of passengers or goods –
 - (i) from a place outside the Republic to another place outside the Republic; or
(Section 11(2)(a)(i) substituted by section 13(c) of Act 20 of 1994)
 - (ii) from a place in the Republic to a place in an export country; or
(Section 11(2)(a)(ii) substituted by section 13(c) of Act 20 of 1994)
 - (iii) from a place in an export country to a place in the Republic; or
(Section 11(2)(a)(iii) substituted by section 13(c) of Act 20 of 1994)
 - (b) the services comprise the transport of passengers from a place in the Republic to another place in the Republic to the extent that that transport is by aircraft and constitutes “international carriage” as defined in Article 1 of the Convention set out in the Schedule to the Carriage by Air Act, 1946 (Act No. 17 of 1946); or
(Section 11(2)(b) substituted by section 13(d) of Act 20 of 1994)

- (c) the services (including any ancillary transport services) comprise the transport of goods from a place in the Republic to another place in the Republic to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or
(Section 11(2)(c) substituted by section 13(e) of Act 20 of 1994)
- (d)
- (i) the services comprise the –
- (aa) insuring;
- (bb) arranging of the insurance; or
- (cc) arranging of the transport,
of passengers or goods to which any provisions of paragraph (a), (b) or (c) apply; or
- (ii) insuring or the arranging of the insurance of passengers on an international journey, where the insurance of those passengers is provided under a single inbound or outbound insurance policy in respect of which a single premium is levied; or
(Section 11(2)(d) substituted by section 81(1)(b) of Act 17 of 2017 with effect from 1 April 2018)
- (e) the services comprise the transport of goods or any ancillary transport services supplied directly in connection with the exportation from or the importation into the Republic of goods or the movement of goods through the Republic from one export country to another export country, where such services are supplied directly to a person who is not a resident of the Republic and is not a vendor, otherwise than through an agent or other person; or
(Section 11(2)(e) substituted by section 13(f) of Act 20 of 1994)
- (f) the services are supplied directly in connection with land, or any improvement thereto, situated in any export country; or
- (g) the services are supplied directly in respect of –
- (i) movable property (excluding debt securities, equity securities or participatory securities, as respectively defined in section 2(2), listed on an exchange as defined in section 1 of the Financial Markets Act, 2012 (Act No. 19 of 2012) and licensed under section 9 of that Act) situated in any export country at the time the services are rendered; or
(Section 11(2)(g)(i) substituted by section 81(1)(c) of Act 17 of 2017 with effect from 1 April 2018)
- (ii) goods temporarily admitted into the Republic from an export country which are exempt from tax on importation under Items 470 and 480 of paragraph 8 of Schedule 1; or
(Section 11(2)(g)(ii) amended by section 27(1)(c) of Act 97 of 1993)

(Section 11(2)(g)(ii) substituted by section 153(b) of Act 60 of 2001)

- (iii) goods in respect of which the provisions of paragraph (b) or (c) of the definition of “exported” in section 1 apply; or
- (iv) the repair, maintenance, cleaning or reconditioning of a foreign-going ship or foreign-going aircraft; or
- (h) the services comprise –
 - (i) the handling, pilotage, salvage or towage of any foreign-going ship or foreign-going aircraft while situated in the Republic; or
(Section 11(2)(h)(i) substituted by section 13(g) of Act 20 of 1994)
 - (ii) services provided in connection with the operation or management of any foreign-going ship or foreign-going aircraft; or
(Section 11(2)(h)(ii) amended by section 17(f) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)
 - (iii) the storage, repair, maintenance, cleaning, management or arranging the provision of a container referred to in paragraph (1)(i) of Schedule 1 or the arranging of those services,
(Section 11(2)(h)(iii) inserted by section 17(g) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)
(Section 11(2)(h)(iii) substituted by section 98(e) of Act 32 of 2004)

where the services are supplied directly to a person who is not a resident of the Republic and is not a vendor, otherwise than through an agent or other person; or

(Words in section 11(2)(h) following upon subparagraph (iii) substituted by section 13(h) of Act 20 of 1994)

- (i) the services of arranging –
 - (i) the supply of goods as contemplated in paragraph (b) or (c) of the definition of “exported”; or
 - (ii) the supply of services referred to in paragraph (g)(iv) or (h); or
 - (iii) the transport of goods (including ancillary transport services) within the Republic,
(Section 11(2)(i)(iii) substituted by section 13(i) of Act 20 of 1994)

for a person who is not a resident of the Republic and is not a vendor; or

(Words in section 11(2)(i) following upon subparagraph (iii) substituted by section 13(i) of Act 20 of 1994)

(j) the services comprise the repair, maintenance, cleaning or reconditioning of a railway train operated by a person who is not a resident of the Republic and is not a vendor; or
(Section 11(2)(j) substituted by section 13(j) of Act 20 of 1994)

(k) the services are physically rendered elsewhere than in the Republic or to a customs controlled area enterprise or an SEZ operator in a customs controlled area; or

(Section 11(2)(k) substituted by section 13(k) of Act 20 of 1994)

(Section 11(2)(k) substituted by section 28(c) of Act 27 of 1997)

(Section 11(2)(k) substituted by section 169(1)(e) of Act 45 of 2003 with effect from 1 January 2005)

(Section 11(2)(k) substituted by section 81(f) of Act 20 of 2006)

(Section 11(2)(k) substituted by section 25(1)(g) of Act 16 of 2016 with effect from 9 February 2016)

(l) the services are supplied to a person who is not a resident of the Republic, not being services which are supplied directly –

(i) in connection with land or any improvements thereto situated inside the Republic; or

(ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which –

(Words in section 11(2)(l)(ii) preceding item (aa) substituted by section 85(1)(f) of Act 53 of 1999)

(aa) is exported to the said person subsequent to the supply of such services; or

(bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or

(iii) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time the services are rendered,

(Section 11(2)(l)(iii) substituted by section 85(1)(g) of Act 53 of 1999)

and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic; or

(Section 11(2)(l) substituted by section 13(l) of Act 20 of 1994)

(Section 11(2)(l) amended by section 28(d) of Act 27 of 1997)

(Section 11(2)(l) substituted by section 89 of Act 30 of 1998)

- (m) the services comprise –
- (i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement, including the incidental supply by the supplier of such services of any other services which are necessary for the supply of such services, of intellectual property rights, including patents, designs, trade marks, copyrights, know-how, confidential information, trade secrets or similar rights; or

(Section 11(2)(m)(i) substituted by section 13(m) of Act 20 of 1994)

- (ii) the acceptance by any person of an obligation to refrain from pursuing or exercising in whole or in part any such rights,

where and to the extent that those rights are for use outside the Republic; or

(Words in section 11(2)(m) following upon subparagraph (ii) substituted by section 13(n) of Act 20 of 1994)

- (n) the services comprise the carrying on by a welfare organisation of the activities referred to in the definition of 'welfare organisation' in section 1 and to the extent that any payment in respect of those services is made in terms of section 8(5) those services shall be deemed to be supplied by that organisation to a public authority or municipality; or

(Section 11(2)(n) substituted by section 169(1)(f) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(Section 11(2)(n) substituted by section 44(1)(d) of Act 9 of 2006 with effect from 1 July 2006)

- (o) the services are supplied as contemplated in section 8(9) by a vendor, not being services which are supplied directly-

- (i) in connection with land or any improvements thereto situated inside the Republic; or
- (ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which-

(aa) is consigned or delivered to the said person at an address in an export country subsequent to the supply of such services; or

(bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or

- (iii) to the said person or any other person, other than in the circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time that the services are rendered; or

(Section 11(2)(o) amended by section 17(h) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 11(2)(o) substituted by section 27(1)(d) of Act 97 of 1993)

(Section 11(2)(o) substituted by section 169(g) of Act 45 of 2003)

(Section 11(2)(o) amended by section 44(1)(f) of Act 9 of 2006 with effect from 1 July 2006)

- (p)

(Section 11(2)(p) added by section 17(i) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 11(2)(p) amended by section 85(1)(h) of Act 53 of 1999)

(Section 11(2)(p) deleted by section 169(1)(h) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

- (q) the services are deemed to be supplied in terms of section 8(5B);

(Section 11(2)(q) added by section 85(1)(i) of Act 53 of 1999)

(Section 11(2)(q) amended by section 77(a) of Act 30 of 2000)

(Section 11(2)(q) substituted by section 169(i) of Act 45 of 2003)

(Section 11(2)(q) substituted by section 105(f) of Act 31 of 2005)

(Section 11(2)(q) amended by section 44(1)(f) of Act 9 of 2006 with effect from 1 July 2006)

(Section 11(2)(q) substituted by section 81(g) of Act 20 of 2006)

(Section 11(2)(q) substituted by section 29(a) of Act 36 of 2007)

- (r) the services comprise of the vocational training of employees (other than educational services contemplated in section 12(h)) for the benefit of an employer who is not a resident of the Republic and who is not a vendor: Provided that this paragraph shall not apply where the supply is made to a person who is a resident of the Republic or a vendor; or

(Section 11(2)(r) added by section 77(b) of Act 30 of 2000)

(Section 11(2)(r) amended by section 169(1)(j) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(Section 11(2)(r) substituted by section 132(1)(d) of Act 25 of 2015 with effect from 1 April 2016)

- (s) the services are deemed to be supplied to a public authority or municipality in terms of section 8(23); or

(Section 11(2)(s) added by section 169(1)(k) of Act 45 of 2003 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])

(Section 11(2)(s) substituted by section 44(1)(e) of Act 9 of 2006 with effect from 1 July 2006)

(Section 11(2)(s) deleted by section 132(1)(e) of Act 25 of 2015 with effect from 1 April 2017)

(Section 11(2)(s) inserted by section 81(1)(d) of Act 17 of 2017 with effect from 1 April 2017)

- (t) the services are deemed to be supplied in terms of section 8(5A); or
(Section 11(2)(t) added by section 98(1)(f) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette 27427 dated 1 April 2005])
(Section 11(2)(t) amended by section 21(1)(a) of Act 9 of 2005 with effect from 1 April 2005)
(Section 11(2)(t) amended by section 105(g) of Act 31 of 2005)
(Section 11(2)(t) amended by section 44(1)(f) of Act 9 of 2006 with effect from 1 July 2006)
- (u) the services are deemed to be supplied in terms of section 8(5) by a designated entity in respect of any payment made in terms of section 10(1)(f) of the Skills Development Act, 1998 (Act No. 97 of 1998), to that designated entity; or
(Section 11(2)(u) added by section 21(1)(b) of Act 9 of 2005 with effect from 1 April 2005)
(Section 11(2)(u) amended by section 105(g) of Act 31 of 2005)
- (v) the services relate to goods under warranty to the extent that the services are-
- (i) provided in terms of that warranty;
 - (ii) supplied to the warrantor for consideration under that warranty given by the warrantor who is-
 - (aa) not a resident of the Republic;
 - (bb) not a vendor; and
 - (cc) outside the Republic at the time the services are rendered; and
 - (iii) in respect of goods that were subject to tax upon importation (in terms of section 7(1)(b) of this Act); or
(Section 11(2)(v) added by section 105(h) of Act 31 of 2005)
(Section 11(2)(v) amended by section 44(1)(f) of Act 9 of 2006 with effect from 1 July 2006)
- (w) a 'municipal rate' as defined in section 1, is levied by a municipality; or
(Section 11(2)(w) added by section 44(1)(g) of Act 9 of 2006 with effect from 1 July 2006)
(Section 11(2)(w) amended by section 29(b) of Act 36 of 2007)
- (x) the services are supplied by a vendor, being the owner of a horse, to the operator of a horse-racing event to the extent of any consideration paid as a result of the successful participation of that horse in that event.
(Section 11(2)(x) added by section 29(b) of Act 36 of 2007)
- (y) the services as contemplated in the International Telecommunication Union Regulations contained in the Final Acts of the World Conference on International Telecommunications (Dubai,

2012) and supplied by Telecommunications Service Providers registered in the Republic in terms of the Electronic Communications Act, 2005 (Act No. 36 of 2005), to International Telecommunications Service Providers, limited to international roaming services.

(Section 11(2)(y) added by section 64(1) of Act 23 of 2020, with effect from 1 April 2021)

- (3) Where a rate of zero per cent has been applied by any vendor under the provisions of this section, the vendor shall obtain and retain such documentary proof substantiating the vendor's entitlement to apply the said rate under those provisions as is acceptable to the Commissioner.

(Section 11(3) substituted by section 169(l) of Act 45 of 2003)

(Section 11(3) substituted by section 108(1)(b) of Act 60 of 2008)

12. Exempt supplies

The supply of any of the following goods or services shall be exempt from the tax imposed under section 7(1)(a):

- (a) The supply of any financial services, but excluding the supply of financial services which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11;

(Section 12(a) substituted by section 18(a) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 12(a) substituted by section 14(a) of Act 20 of 1994)

(Section 12(a) substituted by section 22(1) of Act 37 of 1996 with effect from 1 October 1996)

- (b) the supply by any association not for gain of any donated goods or services or any other goods made or manufactured by such association if at least 80 per cent of the value of the materials used in making or manufacturing such other goods consists of donated goods;

- (c) the supply of –

- (i) a dwelling under an agreement for the letting and hiring thereof, and any 'right of occupation' as defined in section 1 of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988);

(Section 12(c)(i) substituted by section 99(a) of Act 32 of 2004)

- (ii) lodging or board and lodging-

- (aa) by the employer of the recipient (including an employer as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act), where the recipient is entitled to occupy the accommodation as a benefit of his or her office or employment and his or her right thereto is limited to the period of his or her employment or the term of his or her office or a period agreed upon by the supplier and the recipient;

(bb) by the employer of the recipient, where the employer operates a hostel or boarding establishment mainly for the benefit of the employees otherwise than for the purpose of making profit; or

(cc)

(Section 12(c)(ii)(cc) deleted by section 45(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(Section 12(c) amended by section 69(1) of Act 19 of 2001 with effect from 1 October 2001)

(Section 12(c) substituted by section 154(1)(a) of Act 60 of 2001 with effect from 7 November 2001)

(Section 12(c) substituted by section 117(a) of Act 74 of 2002)

(d) the supply of leasehold land by way of letting (not being a grant or sale of the lease of that land) to the extent that that land is used or is to be used for the principal purpose of accommodation in a dwelling erected or to be erected on that land;

(e) the supply of land (together with any improvements to such land existing on the date on which the supplier became contractually obliged to supply such land and such existing improvements to the recipient) where such land is situated outside the Republic and such supply is made by way of sale or by way of letting;

(f) the supply of any services to any of its members in the course of the management of –

(i) a body corporate as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

(Section 12(f)(i) amended by section 170(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

(ii) a share block company;

(Section 12(f)(ii) amended by section 18(b) of Act 136 of 1992)

(Section 12(f)(ii) amended by section 170(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

(iii) any housing development scheme as defined in the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988); or

(Section 12(f)(iii) substituted by section 18(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 12(f)(iii) amended by section 170(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

(iv) any association of persons (other than a company registered or deemed to be registered under the Companies Act, 2008 (Act No. 71 of 2008), any co-operative, close corporation or trust, but including a non-profit company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008)) where the Commissioner is satisfied that, subject to such conditions as he or she may deem necessary, such association of persons-

(A) has been formed solely for purposes of managing the collective interests of residential property use or ownership of all its members, which includes expenditure applicable to the common immovable property of such members and the collection of levies for which such members are liable; and

(B) is not permitted to distribute any of its funds to any person other than a similar association of persons,

(Section 12(f)(iv) added by section 170(1)(c) of Act 31 of 2013 with effect from 1 April 2014)

where the cost of supplying such services is met out of contributions levied by such body corporate, share block company or under such housing development scheme or association, as the case may be: Provided that this paragraph shall not apply or shall apply to a limited extent where such body corporate, share block company, scheme or association applies in writing to the Commissioner, and the Commissioner, having regard to the circumstances of the case, directs with effect from a future date that the provisions of this paragraph shall not apply to that body corporate, share block company, scheme or association or that the provisions of this paragraph shall apply only to a limited extent specified by him: Provided further that this paragraph shall not apply to the services supplied by any body corporate, share block company, scheme or association which manages a property time-sharing scheme as defined in section 1 of the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983);

(Words in section 12(f) following subparagraph (iv) amended by section 28 of Act 97 of 1993)

(Words in section 12(f) following subparagraph (iv) substituted by section 170(1)(d) of Act 31 of 2013 with effect from 1 April 2014)

(g) the supply by any person in the course of a transport business of any service comprising the transport by that person in a vehicle (other than a game viewing vehicle contemplated in paragraph (e) of the definition of 'motor car' in section 1) operated by him of fare-paying passengers and their personal effects by road or railway (excluding a funicular railway), not being a supply of any such service which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11(2)(a);

(Section 12(g) substituted by section 28 of Act 136 of 1991)

(Section 12(g) substituted by section 29 of Act 27 of 1997)

(Section 12(g) substituted by section 99(b) of Act 32 of 2004)

(h)

(i) the supply of educational services-

(aa) provided by the State or a school registered under the South African Schools Act, 1996 (Act No. 84 of 1996), or a public college or private college established, declared or registered as such under the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006).

(Section 12(h)(i)(aa) substituted by section 109(a) of Act 60 of 2008)

- (bb) by an institution that provides higher education on a full time, part-time or distance basis and which is established or deemed to be established as a public higher education institution under the Higher Education Act, 1997 (Act No. 101 of 1997), or is declared as a public higher education institution under that Act, or is registered or conditionally registered as a private higher education institution under that Act; or
- (cc) by any public benefit organisation as contemplated in paragraph (a) of the definition of 'public benefit organisation' contained in section 30(1) of the Income Tax Act that has been approved by the Commissioner in terms of section 30(3) of that Act and which has been formed for –

(Words in section 12(h)(i)(cc) preceding subitem (A) substituted by section 45(1)(b) of Act 9 of 2006)

(Words in section 12(h)(i)(cc) preceding subitem (A) substituted by section 82(a) of Act 20 of 2006)

- (A) adult basic education and training including literacy and numeracy education, registered under the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000), vocational training or technical education;

(Section 12(h)(i)(cc)(A) substituted by section 82(b) of Act 20 of 2006)

- (B) education and training of religious or social workers;

(Section 12(h)(i)(cc)(B) substituted by section 82(b) of Act 20 of 2006)

- (C) training or education of persons with a permanent physical or mental impairment;

- (D)

(Section 12(h)(i)(cc)(D) deleted by section 99(c) of Act 32 of 2004)

- (E) provision of bridging courses to enable indigent persons to enter a higher education institution as envisaged in subparagraph (bb);

(Section 12(h)(i)(cc)(E) substituted by section 82(c) of Act 20 of 2006)

- (ii) the supply by a school, university, technikon or college solely or mainly for the benefit of its learners or students of goods or services (including domestic goods and services) necessary for and subordinate and incidental to the supply of services referred to in subparagraph (i) of this paragraph, if such goods or services are supplied for a consideration in the form of school fees, tuition fees or payment for lodging or board and lodging; or

(Section 12(h)(ii) substituted by section 117(b) of Act 74 of 2002)

(Section 12(h)(ii) amended by section 82(d) of Act 20 of 2006)

(Section 12(h)(ii) substituted by section 133(1) of Act 25 of 2015 with effect from 1 April 2016)

- (iii) the supply of services to learners or students or intended learners or students by the Joint Matriculation Board referred to in section 15 of the Universities Act, 1955 (Act No. 61 of 1955):

(Section 12(h)(iii) added by section 99(d) of Act 32 of 2004)

Provided that vocational or technical training provided by an employer to his employees and employees of an employer who is a connected person in relation to that employer does not constitute the supply of an educational service for the purposes of this paragraph;

(Section 12(h) amended by section 18(d) of Act 136 of 1992)

(Section 12(h) amended by section 14(b) of Act 20 of 1994)

(Section 12(h) substituted by section 154(1)(b) of Act 60 of 2001 with effect from 1 March 2002)

- (i) the supply of any goods or services by an employee organization to any of its members to the extent that the consideration for such supply consists of membership contributions.

(Section 12(i) added by section 18(e) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (j) the service of caring for children by a creché [*sic*] or an after-school care centre.

(Section 12(j) added by section 154(1)(c) of Act 60 of 2001 with effect from 1 March 2002)

- (k) the supply of goods in the Republic by any person that is not a resident of the Republic and that is not a vendor, other than the supply of goods by an inbound duty and tax free shop, which have not been entered for home consumption: Provided that this paragraph shall not apply where such person applies in writing to the Commissioner, and the Commissioner, having regard to the circumstances of the case, directs that the provisions of this paragraph shall not apply to such person;

(Section 12(k) inserted by section 109(b) of Act 60 of 2008)

(Section 12(k) substituted by section 147(1)(a) of Act 22 of 2012 with effect from 1 January 2013)

- (l) the supply of any goods or services by a bargaining council that is established in terms of section 27 of the Labour Relations Act, 1995 (Act No. 66 of 1995), to any of its members in terms of section 28(1) of that Act;

(Section 12(l) added by section 147(1)(b) of Act 22 of 2012 with effect from 1 January 2013)

(Section 12(l) substituted by section 97(1) of Act 43 of 2014 with effect from 1 April 2015)

- (m) the supply of any goods or services by a political party registered in terms of section 15 of the Electoral Commission Act, 1996 (Act No. 51 of 1996), to any of its members to the extent that the consideration for such supply consists of membership contributions.

(Section 12(m) added by section 147(1)(b) of Act 22 of 2012 with effect from 1 January 2013)

13. Collection of tax on importation of goods, determination of value thereof and exemptions from tax

Prepared by:

- (1) For the purposes of this Act goods shall be deemed to be imported into the Republic on the date on which the goods are in terms of the provisions of the Customs and Excise Act deemed to be imported:
(Words in section 13(1) preceding the proviso substituted by section 100(1)(a) of Act 32 of 2004)

Provided that –

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

- (ii)

(Section 13(1)(ii) substituted by section 170(1)(b) of Act 45 of 2003 with effect from 1 January 2005)

(Section 13(1)(ii) substituted by section 100(b) of Act 32 of 2004 with effect from 1 January 2005

[Proc. R62 in Gazette 27139 dated 22 December 2004])

(Section 13(1)(ii) substituted by section 106(a) of Act 31 of 2005)

(Section 13(1)(ii) deleted by section 110 of Act 60 of 2008)

- (iii) goods imported from or via Botswana, Lesotho, Swaziland or Namibia shall be declared and tax paid on entry into the Republic as prescribed by the Commissioner in Chapter XIIA of the Rules under the Customs and Excise Act.

(Paragraph (iii) of the proviso to section 13(1) substituted by section 86(1)(a) of Act 53 of 1999)

(Section 13(1) substituted by section 30(a) of Act 27 of 1997)

- (2) For the purposes of this Act the value to be placed on the importation of goods into the Republic shall be deemed to be –

- (a) where such goods are entered or are required to be entered for home consumption in terms of the Customs and Excise Act, the value thereof for customs duty purposes, plus any duty levied in terms of the said Act in respect of the importation of such goods, plus 10 per cent of the said value; or

- (b) where such goods have their origin in Botswana, Lesotho, Swaziland or Namibia and are imported from such a country, the amount of the value as contemplated in paragraph (a), except that such value shall not be increased by the factor of 10 per cent:

(Section 13(2)(b) substituted by section 86(1)(b) of Act 53 of 1999)

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

(Proviso to section 13(2) added by section 30(b) of Act 27 of 1997)

- (2A)
(Section 13(2A) inserted by section 135(1) of Act 24 of 2011)
(Section 13(2A) deleted by section 82(1) of Act 17 of 2017, which amendment is deemed to have come into operation on 10 January 2012)
- (2B) Notwithstanding subsection (2), the value to be placed on the importation of goods into the Republic where –
- (a) Note 1A of Item No. 412.07 of Schedule 1 to this Act is applicable; or
- (b) Note 5(a)(ii)(aa) of Item No. 470.03/00.00/02.00 of Schedule 1 to this Act is applicable,
- shall be the value determined under section 10(3).
(Section 13(2B) inserted by section 135(1) of Act 24 of 2011)
(Section 13(2B) substituted by section 171(1) of Act 31 of 2013 with effect from 1 April 2014)
- (3) The importation of the goods set forth in Schedule 1 to this Act is exempt from the tax imposed in terms of section 7(1)(b).
(Section 13(3) amended by section 15(b) of Act 20 of 1994)
(Section 13(3) substituted by section 155(a) of Act 60 of 2001)
- (4)
(Section 13(4) amended by section 19 of Act 136 of 1992)
(Section 13(4) amended by section 30 of Act 27 of 1997)
(Section 13(4) substituted by section 155(b) of Act 60 of 2001)
(Section 13(4) deleted by section 100(c) of Act 32 of 2004)
- (5) The Commissioner may make such arrangements as the Commissioner may deem necessary-
- (a) for the collection (in such manner as the Commissioner may determine) by a SARS official, or the Managing Director of the South African Post Office Limited on behalf of the Commissioner, of the tax payable in terms of this Act in respect of the importation of any goods into the Republic; and
(Section 13(5)(a) amended by section 155 of Act 60 of 2001)
(Section 13(5)(a) substituted by section 271 read with paragraph 112 of Schedule 1 of Act 28 of 2011)
- (b) for the exchange of such information as is necessary for the carrying out of such arrangements.
(Section 13(5) amended by section 34 (Schedule 3) of Act 34 of 1997)
(Section 13(5) amended by section 86(1) of Act 53 of 1999)
(Section 13(5) amended by section 70 of Act 19 of 2001)
- (6) Subject to this Act, the provisions of the Customs and Excise Act relating to the importation, transit, coastwise carriage and clearance of goods and the payment and recovery of duty shall *mutatis mutandis*

apply as if enacted in this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs and Excise Act.

(Section 13(6) substituted by section 29 of Act 136 of 1991)

(Section 13(6) substituted by section 30(e) of Act 27 of 1997)

(Section 13(6) substituted by section 106(b) of Act 31 of 2005)

14. Collection of value-added tax on imported services, determination of value thereof and exemptions from tax

(1) Where tax is payable in terms of section 7(1)(c) in respect of the supply of imported services the recipient shall within 30 days of the date referred to in subsection (2) –

(a) obtain, complete and retain the form prescribed by the Commissioner; and

(Section 14(1)(a) substituted by section 271 read with paragraph 113 of Schedule 1 of Act 28 of 2011)

(Section 14(1)(a) substituted by section 19 of Act 24 of 2020, with effect from 20 January 2021)

(b) calculate the tax payable on the value of the imported services at the rate of tax in force on the date of supply of the imported services and pay such tax to the Commissioner:

Provided that where the recipient is a vendor, that vendor must calculate the tax payable on the value of the imported services at the rate of tax in force on the date of supply of the imported services and must furnish the Commissioner with a return reflecting the information required for the purposes of the calculation of the tax in terms of section 14 and pay such tax to the Commissioner in accordance with section 28.

(Section 14(1) substituted by section 28(1) of Act 8 of 2010 with effect from 1 February 2011)

(2) For the purposes of this Act, a supply of imported services shall be deemed to take place at the time an invoice is issued by the supplier or recipient in respect of that supply or the time any payment is made by the recipient in respect of that supply, whichever time is the earlier.

(3) For the purposes of this Act, the value to be placed on the supply of imported services shall, save as otherwise provided in this section, be the value of the consideration for the supply, as determined in terms of section 10(3) or the open market value of the supply, whichever is the greater.

(4) Where a person carries on activities outside the Republic which do not form part of the activities of any enterprise carried on by him and in the course of such first-mentioned activities services are rendered for the purposes of such enterprise which, if rendered by anybody other than the said person, would be imported services, such services shall for the purposes of section 7(1)(c) be deemed to be imported services supplied and received by that person in respect of such enterprise.

(5) The tax chargeable in terms of section 7(1)(c) shall not be payable in respect of –

- (a) a supply which is chargeable with tax in terms of section 7(1)(a) at the rate provided in section 7;
(Section 14(5)(a) amended by section 101(a) of Act 32 of 2004)
- (b) a supply which, if made in the Republic, would be charged with tax at the rate of zero per cent applicable in terms of section 11 or would be exempt from tax in terms of section 12.
- (c) a supply of an educational service by an educational institution established in an export country which is regulated by an educational authority in that export country; or
(Section 14(5)(c) added by section 171(1) of Act 45 of 2003 and deemed to have come into operation on 1 December 1998)
(Section 14(5)(c) amended by section 101(b) of Act 32 of 2004)
- (d) a supply by a person of services as contemplated in terms of proviso (iii)(aa) to the definition of 'enterprise' in section 1;
(Section 14(5)(d) added by section 101(c) of Act 32 of 2004)
- (e) a supply of services of which the value in respect of that supply does not exceed R100 per invoice.
(Section 14(5)(e) added by section 136(1) of Act 24 of 2011)

15. Accounting basis

- (1) Except as hereinafter provided, every vendor shall account for tax payable on an invoice basis for the purposes of section 16.
- (2) Subject to the provisions of subsections (2A) and (3), the Commissioner may, on application in writing by a vendor, direct that the vendor account for the tax payable on a payments basis for the purposes of section 16 with effect from the vendor's registration in terms of this Act or, where he has accounted for tax payable on an invoice basis prior to making an application under this subsection, from the commencement of the tax period immediately following the tax period during which that direction is made by the Commissioner (hereinafter referred to as the changeover period), if –
(Words in section 15(2) preceding paragraph (a) substituted by section 31(a) of Act 27 of 1997)
 - (a) the vendor is –
 - (i) a public authority;
 - (ii) any water board or any other institution which has powers similar to those of any such board listed in Part B of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), which would have complied with the definition of 'local authority' in section 1 prior to the deletion of that definition by section 40(1)(i) of the Small Business Amnesty and Taxation Laws Act, 2006 (Act No. 9 of 2006);

(iii)

(Section 15(2)(a)(iii) deleted by section 134(1)(a) of Act 25 of 2015 with effect from 1 April 2016)

(iv) a 'municipal entity' as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), where that municipal entity supplies-

(aa) electricity, gas or water; or

(bb) the services consisting of the drainage, removal or disposal of sewage or garbage;

(v) a municipality;

(Section 15(2)(a)(v) amended by section 172(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

(vi) an association not for gain;

(Section 15(2)(a)(vi) amended by section 134(1)(b) of Act 25 of 2015 with effect from 1 April 2016)

(vii) carrying on an enterprise as contemplated in paragraph (b)(vi) and (vii) of the definition of "enterprise" in section 1(1)

(Section 15(2)(a)(vii) added by section 172(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

(Section 15(2)(a)(vii) substituted by section 65(1) of Act 23 of 2020, with effect from 1 April 2021)

(viii) the South African Broadcasting Corporation Limited contemplated in section 8A of the Broadcasting Act, 1999 (Act No. 4 of 1999); or

(Section 15(2)(a)(viii) added by section 134(1)(c) of Act 25 of 2015 with effect from 1 April 2016)

(Section 15(2)(a) substituted by section 46(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(Section 15(2)(a) substituted by section 37(1) of Act 21 of 2006 with effect from 1 July 2006)

(Section 15(2)(a) substituted by section 13(1) of Act 9 of 2007 with effect from 1 July 2006)

(b) the vendor is a natural person (other than the trustee of a trust fund) or an unincorporated body of persons of which all the members are natural persons, and-

(Words in section 15(2)(b) preceding subparagraph (i) inserted by section 90(a) of Act 30 of 1998)

(i) the total value of the vendor's taxable supplies in the period of 12 months ending at the end of any tax period has not exceeded R2,5 million; or

(Section 15(2)(b)(i) substituted by section 20 of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(ii) the total value of the vendor's taxable supplies in the period of 12 months beginning on the first day of any month is not likely to exceed the amount specified in subparagraph (i):

Provided that the provisions of this Act relating to the determination of the value of any supply of goods or services, whether such supply is made before or on or after the commencement date, shall apply for the purposes of this subsection, but no regard shall be had to any tax charged in respect of such supply.

(2A) Any vendor, other than—

- (i) a public authority;
- (ii) a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), where that municipal entity supplies—
 - (aa) electricity, gas or water; or
 - (bb) the services consisting of the drainage, removal or disposal of sewage or garbage; or
- (iii) a municipality,

that in terms of subsection (2) accounts for tax payable on a payments basis shall, in respect of any supply of goods (other than fixed property) or services in respect of which the consideration in money is R100 000 or more, account for the tax payable on an invoice basis.

(Section 15(2A) inserted by section 31(b) of Act 27 of 1997)

(Section 15(2A) substituted by section 46(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

(Section 15(2A) substituted by section 85(1) of Act 15 of 2016 with effect from 1 April 2017)

(2B) Any vendor registered in terms of section 23(3)(b)(ii) shall account for tax payable on a payment basis for the purposes of section 16 with effect from the date of the vendor's registration: Provided that the vendor, subject to subsection (2)(b), must account for tax payable on an invoice basis from the commencement of the tax period immediately following the tax period when the total value of taxable supplies of that enterprise has exceeded R50 000.

(Section 15(2B) inserted by section 172(1)(c) of Act 31 of 2013 with effect from 1 April 2014)

(3) Where the Commissioner has under subsection (2) directed that a vendor account for tax payable on a payments basis, and –

- (a) the vendor has ceased to satisfy the conditions of subsection (2) under which any such direction may be given, and –
 - (i) the vendor notifies the Commissioner thereof as required by section 25(c); or
 - (ii) the Commissioner is otherwise satisfied thereof; or

- (b) the vendor has made an application in writing to the Commissioner to account for tax payable on an invoice basis,

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

(Words in section 15(3) following upon paragraph (b) and preceding the proviso substituted by section 31(c) of Act 27 of 1997)

Provided that for the purposes of paragraph (a) any such vendor shall not cease to satisfy the requirements of subsection (2) where the total value of the vendor's taxable supplies has exceeded or, as the case may be, will exceed the amount specified for the purposes of subsection (2)(b) solely as a consequence of –

- (aa) any cessation of or any substantial and permanent reduction in the size or scale of any enterprise carried on by the vendor; or
- (bb) the replacement of any plant or other capital asset used in any enterprise carried on by the vendor; or
- (cc) abnormal circumstances of a temporary nature.
- (4) Where a vendor changes from an invoice basis to a payments basis or from a payments basis to an invoice basis he shall furnish to the Commissioner particulars in the prescribed form calculating the tax payable or refundable in respect of the change in the basis of accounting.
- (5) Any vendor to whom subsection (4) applies shall, within the time allowed under this Act for the payment of tax in respect of the tax period immediately preceding the changeover period, pay to the Commissioner the tax payable as calculated in accordance with this section:

Provided that where a vendor changes from a payments basis to an invoice basis for the sole reason that such vendor is not a natural person (other than a trustee of a trust fund) or an unincorporated body of persons of which all the members are natural persons, the vendor shall pay to the Commissioner the tax payable as calculated in accordance with this section in equal instalments within the period allowed under this Act for the payment of tax in respect of so many tax periods as the Commissioner may allow, the last of which shall not end on a date later than 10 March 1999.

(Proviso to section 15(5) added by section 90(b) of Act 30 of 1998)

(Section 15(5) substituted by section 31(d) of Act 27 of 1997)

(6) Where a vendor changes from an invoice basis to a payments basis, the tax payable shall, for the purposes of subsection (5), be –

- (a) an amount equal to the aggregate of the input tax deducted under section 16(3) in relation to the tax periods up to and including the tax period immediately preceding the changeover period, to the extent that that amount exceeds the aggregate amount of input tax that would have been deducted if the vendor had, for those tax periods, been accounting for tax payable on a payments basis,

reduced by -

- (b) an amount equal to the aggregate of the output tax accounted for under section 16(3) in relation to the tax periods up to and including the tax period immediately preceding the changeover period, to the extent that that amount exceeds the aggregate amount of output tax that would have been accounted for if the vendor had, for those tax periods, been accounting for tax payable on a payments basis.

(7) Where a vendor changes from a payments basis to an invoice basis, the tax payable shall, for the purposes of subsection (5), be –

- (a) an amount equal to the aggregate amount of output tax that would have been accounted for under section 16(3) if the vendor had, in relation to the tax periods up to and including the tax period immediately preceding the changeover period, been accounting for tax payable on an invoice basis, to the extent that that amount exceeds the aggregate of the output tax accounted for in those tax periods,

reduced by –

- (b) an amount equal to the aggregate amount of input tax that would have been deducted under section 16(3) if the vendor had, in relation to the tax periods up to and including the tax period immediately preceding the changeover period, been accounting for tax payable on an invoice basis, to the extent that that amount of input tax exceeds the aggregate amount of input tax deducted in those tax periods.

(8) If, in relation to any particulars required to be furnished under subsection (4) -

- (a) the amount referred to in subsection (6)(b) exceeds the amount referred to in subsection (6)(a);
or

- (b) the amount referred to in subsection (7)(b) exceeds the amount referred to in subsection (7)(a),

the amount of the excess shall be refundable to the vendor by the Commissioner in respect of the changeover period as provided in Chapter 13 of the Tax Administration Act, read with section 16(5).

(Section 15(8) substituted by section 271 read with paragraph 114 of Schedule 1 of Act 28 of 2011)

- (9) Where a vendor's basis of accounting is changed as contemplated in subsection (2) or (3), the vendor shall prepare lists of debtors and creditors in relation to the vendor's enterprise showing the amounts owing by such debtors and the amounts owing to such creditors as at the end of the tax period immediately preceding the changeover period.

16. Calculation of tax payable

- (1) The tax payable by a vendor shall be calculated by him in accordance with the provisions of this section in respect of each tax period during which he has carried on an enterprise in respect of which he is registered or is required to be registered in terms of section 23:

Provided that the Commissioner may authorise a vendor to calculate the tax payable in accordance with a method which the Minister may prescribe by regulation.

(Proviso to section 16(1) added by section 91(a) of Act 30 of 1998)

- (2) No deduction of input tax in respect of a supply of goods or services, the importation of any goods into the Republic or any other deduction shall be made in terms of this Act, unless –

(Words in section 16(2) preceding paragraph (a) substituted by section 21(a) of Act 136 of 1992)

(Words in section 16(2) preceding paragraph (a) substituted by section 30(a) of Act 36 of 2007)

(Words in section 16(2) preceding paragraph (a) substituted by section 137(1)(a) of Act 24 of 2011)

- (a) a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with section 20 or 21 and is held by the vendor making that deduction at the time that any return in respect of that supply is furnished;

(Section 16(2)(a) substituted by section 156(a) of Act 60 of 2001)

(Section 16(2)(a) amended by section 172(a) of Act 45 of 2003 with effect from 1 March 2005)

(b)

- (i) a document as is acceptable to the Commissioner has been issued in terms of section 20(6); or

- (ii) a document issued by the supplier in compliance with section 20(7) or 21(5); or

(Section 16(2)(b) substituted by section 29 of Act 8 of 2010)

- (c) records are maintained as required by section 20(8) where the supply is a supply of second-hand goods or a supply of goods as contemplated in section 8(10) and in either case is a supply to which that section relates; or

(Section 16(2)(c) amended by section 21(b) of Act 136 of 1992)

(Section 16(2)(c) substituted by section 26(1)(b) of Act 44 of 2014)

- (d) a bill of entry or other document prescribed in terms of the Customs and Excise Act together with the receipt for the payment of the tax in relation to the said importation have been delivered (including by means of an electronic delivery mechanism) in accordance with that Act and are held by the vendor making that deduction, at the time that any return in respect of that importation is furnished; or

(Section 16(2)(d) inserted by section 21(c) of Act 136 of 1992)

(Section 16(2)(d) substituted by section 87(a) of Act 53 of 1999)

(Section 16(2)(d) amended by section 156(b) of Act 60 of 2001)

(Section 16(2)(d) substituted by section 25(1)(a) of Act 44 of 2014 with effect from 1 April 2015)

- (dA) a bill of entry or other document prescribed in terms of the Customs and Excise Act as contemplated in section 54(2A) is held by the agent, and a statement as contemplated in section 54(3)(b) is held by the vendor at the time that any return in respect of that importation is furnished; or

(Section 16(2)(dA) inserted by section 25(1)(b) of Act 44 of 2014 with effect from 1 April 2015)

- (e) a tax invoice or debit or credit note has been provided as contemplated in section 54(2), and a statement as contemplated in section 54(3)(a) is held by the vendor at the time a return in respect of the supply to the vendor is furnished;

(Section 16(2)(e) added by section 156(c) of Act 60 of 2001)

(Section 16(2)(e) amended by section 172(a) of Act 45 of 2003)

(Section 16(2)(e) substituted by section 30(b) of Act 36 of 2007)

(Section 16(2)(e) amended by section 25(1) of Act 23 of 2015 with effect from 1 April 2016)

- (f) the vendor, in the case where an amount is deducted from the sum of the amounts of output tax which are attributable to that period in terms of subsection (3)(c), (d), (dA), (e), (f), (g), (h), (i), (j), (k), (l), (m) or (n), is in possession of documentary proof, as is prescribed by the Commissioner, substantiating the vendor's entitlement to the deduction at the time a return in respect of the deduction is furnished; or

(Section 16(2)(f) added by section 30(c) of Act 36 of 2007)

(Section 16(2)(f) substituted by section 173(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

(Section 16(2)(f) substituted by section 25(1) of Act 23 of 2015 with effect from 1 April 2016)

(Section 16(2)(f) substituted by section 26(1)(a) of Act 16 of 2016 with effect from 19 January 2017)

- (g)
- (i) a ruling requested no later than two months prior to the expiry of the five-year period referred to in subsection (3) and issued in terms of section 41B of this Act or Chapter 7 of the Tax Administration Act confirms that the document in the vendor's possession is acceptable for the purpose of making a deduction; and

(ii) the ruling and document are held by the vendor at the time a return in respect of the deduction is furnished: Provided that the Commissioner may only issue a ruling in terms of this paragraph if satisfied that—

(aa) the vendor has taken reasonable steps to obtain a document required in terms of paragraph (a), (b), (c), (d), (dA), (e) or (f) and is unable to obtain such a document due to circumstances beyond the vendor's control; and

(bb) no other provision of this Act can be applied to satisfy the Commissioner that the document in the vendor's possession is acceptable for purposes of making a deduction:

(Section 16(2)(g) added by section 25(1) of Act 23 of 2015 with effect from 1 April 2016)

(Section 16(2)(g) substituted by section 26(1)(b) of Act 16 of 2016 with effect from 19 January 2017)

Provided that where a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with this Act, or a bill of entry or other document has been delivered (including by means of an electronic delivery mechanism) in accordance with the Customs and Excise Act, as the case may be, the Commissioner may determine that no deduction for input tax in relation to that supply or importation shall be made unless that tax invoice or debit note or credit note or that bill of entry or other document is retained in accordance with the provisions of section 55 and Part A of Chapter 4 of the Tax Administration Act.

(Proviso to section 16(2) substituted by section 21(d) of Act 136 of 1992)

(Proviso to section 16(2) substituted by section 271 read with paragraph 115(a) of Schedule 1 of Act 28 of 2011)

(Proviso to section 16(2) substituted by section 25(1)(c) of Act 44 of 2014 with effect from 1 April 2015)

.....

(Further proviso to section 16(2) added by section 91(b) of Act 30 of 1998)

(Further proviso to section 16(2) substituted by section 107(1)(a) of Act 31 of 2005)

(Second proviso to section 16(2) substituted by section 83(1)(a) of Act 20 of 2006)

(Second proviso to section 16(2) deleted by section 30(d) of Act 36 of 2007)

(3) Subject to the provisions of subsection (2) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which are attributable to that period, as determined under subsection (4), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7(1)(b) and (c) and 7(3)(a), the following amounts, namely –

(a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis, the amounts of input tax –

- (i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of “input tax” in section 1 applies and supplies referred to in subparagraph (iiA)) made to the vendor during that tax period;

(Section 16(3)(a)(i) substituted by section 23(1)(a) of Act 37 of 1996 with effect from 6 June 1996)

(ii)

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

(Section 16(3)(a)(ii)(aa) substituted by section 137(1)(b) of Act 24 of 2011)

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

- (A) fixed property in respect of which the provisions of section 9(3)(d) apply if transfer of that fixed property was effected by registration in a deeds registry and the fixed property was registered in the name of the vendor that makes the deduction during that tax period;

(Section 16(3)(a)(ii)(bb)(A) substituted by section 137(1)(c) of Act 24 of 2011)

- (B) a share in a share block company which confers a right to or an interest in the use of immovable property if a signed use agreement has been entered into between the company that operates the share block scheme and a member of that company;

(Section 16(3)(a)(ii)(bb)(B) substituted by section 137(1)(c) of Act 24 of 2011)

(Section 16(3)(a)(ii) substituted by section 30(a) of Act 97 of 1993)

(Section 16(3)(a)(ii) substituted by section 16(a) of Act 20 of 1994)

(Section 16(3)(a)(ii) amended by section 23(1) of Act 37 of 1996)

(Section 16(3)(a)(ii) substituted by section 32(a) of Act 27 of 1997)

(Section 16(3)(a)(ii) amended by section 137(1)(d) of Act 24 of 2011)

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

(Section 16(3)(a)(iiA) inserted by section 23(1)(c) of Act 37 of 1996 with effect from 6 June 1996)

(Section 16(3)(a)(iiA) substituted by section 32(a) of Act 27 of 1997)

- (iii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor and released in terms of the Customs and Excise Act during that tax period;

(Section 16(3)(a)(iii) substituted by section 173(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

(Section 16(3)(a)(iii) substituted by section 98(1)(a) of Act 43 of 2014 with effect from 1 April 2015)

- (iv) charged in terms of section 7(3)(a) in respect of goods subject to excise duty or environmental levy as contemplated in that section and paid during that tax period;

(Section 16(3)(a)(iv) substituted by section 83(1)(a) of Act 8 of 2007 deemed to have come into operation on 24 January 2005)

(Section 16(3)(a)(iv) substituted by section 173(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

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

(Section 16(3)(a)(v) substituted by section 30(a) of Act 136 of 1991)

(Section 16(3)(a)(v) substituted by section 23(1)(d) of Act 37 of 1996)

(Section 16(3)(a)(v) substituted by section 32(b) of Act 27 of 1997)

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d).

(Proviso to section 16(3)(a) added by section 107(1)(b) of Act 31 of 2005)

- (b) in the case of a vendor who is in terms of section 15 required to account for tax payable on a payments basis, the amounts of input tax –

- (i) in respect of supplies of goods and services made to the vendor in respect of which the provisions of section 9(1), (3)(a), (b) or (d) or (4) apply, to the extent that payments of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies have been made during that tax period;

(Section 16(3)(b)(i) substituted by section 30(b) of Act 97 of 1993)

(Section 16(3)(b)(i) substituted by section 16(b) of Act 20 of 1994)

(Section 16(3)(b)(i) amended by section 23(1)(e) of Act 37 of 1996)

(Section 16(3)(b)(i) amended by section 148(1)(a) of Act 22 of 2012 with effect from 10 January 2012)

- (ii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor and released in terms of the Customs and Excise Act or in terms of section 7(3)(a) in respect of goods subject to excise duty or environmental levy as contemplated in that section and paid by the vendor during that tax period;

(Section 16(3)(b)(ii) substituted by section 83(1)(b) of Act 8 of 2007 deemed to have come into operation on 24 January 2005)

(Section 16(3)(b)(ii) substituted by section 98(1)(b) of Act 43 of 2014 with effect from 1 April 2015)

- (iii) in respect of supplies of goods and services made to the vendor during the tax period, excluding supplies of goods and services to which subparagraph (i) of this paragraph applies;
- (iv) calculated in accordance with section 21(2)(b) or 21(7), as applicable to the vendor, to the extent that payments in respect of the tax so calculated have been made during the tax period;
- (v) calculated in accordance with section 22(1), as applicable to the vendor:
(Section 16(3)(b)(v) substituted by section 30(b) of Act 136 of 1991)

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);

(Proviso to section 16(3)(b) added by section 107(1)(c) of Act 31 of 2005)

- (c) an amount equal to the tax fraction of any payment made during the tax period by the vendor to indemnify another person in terms of any contract of insurance: Provided that this paragraph –
 - (i) shall only apply where the supply of that contract of insurance is a taxable supply or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the commencement date;
 - (ii) shall not apply where that payment is in respect of the supply of goods or services to the vendor or the importation of any goods by the vendor;
 - (iii) shall not apply where the supply of that contract of insurance is a supply charged with tax at the rate of zero per cent under section 11 and that other person is, at the time that that payment is made, not a vendor and not a resident of the Republic;
 - (iv) shall not apply where that payment results from a supply of goods or services to that other person where those goods are situated outside the Republic or those services are physically performed elsewhere than in the Republic at the time of that supply;
(Section 16(3)(c)(iv) substituted by section 16(c) of Act 20 of 1994)
- (d) an amount equal to the tax fraction of any amount paid during the tax period by the supplier of the services contemplated in section 8(13) as a prize or winnings to the recipient of such services:

Provided that where the prize or winnings awarded constitutes either goods or services, the deduction must be limited to the input tax on the initial cost of acquiring those goods or services;

(Section 16(3)(d) substituted by section 107(1)(d) of Act 31 of 2005)

(Section 16(3)(d) substituted by section 83(1)(b) of Act 20 of 2006 with effect from 1 February 2006)

- (dA) an amount equal to the tax fraction of any amount paid by the supplier of the services as contemplated in section 8(13) to the National Lottery Distribution Trust Fund, established by section 21 of the Lotteries Act, 1997 (Act No. 57 of 1997);

(Section 16(3)(dA) inserted by section 87(b) of Act 53 of 1999)

- (e) an amount equal to the tax fraction of any amount of tax on totalizator transactions or tax on betting levied and paid for the benefit of any Provincial Revenue Fund by the supplier of the services contemplated in section 8(13);

- (f) the amounts calculated in accordance with section 18(4) or (5) in relation to any goods or services applied during the tax period as contemplated in that section;

- (g) any amount of input tax in relation to any supply or other deduction in respect of which subsection (2) of this section has operated to deny a deduction and the vendor has obtained, during the tax period, the prescribed documents or records in relation to that supply;

(Section 16(3)(g) amended by section 16(d) of Act 20 of 1994)

(Section 16(3)(g) substituted by section 30(e) of Act 36 of 2007)

- (h) in the case of a vendor who has supplied goods or services during that tax period, otherwise than in terms of section 18(2), an amount determined in accordance with the formula

(Words in section 16(3)(h) preceding the formula substituted by section 16(e) of Act 20 of 1994)

$$A \times B \times C,$$

in which formula

“A” represents the tax fraction;

“B” represents the lesser of –

(i)

- (aa) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the adjusted cost of those goods or services shall be deemed to include such

open market value to the extent that it exceeds the consideration in money for that supply; or

(Subparagraph (i)(aa) of the paragraph defining “B” in section 16(3)(h) substituted by section 30(c) of Act 97 of 1993)

(Subparagraph (i)(aa) of the paragraph defining “B” in section 16(3)(h) substituted by section 172(b) of Act 45 of 2003)

(bb) where the vendor was at some time after the acquisition of such goods or services deemed under section 18(4) to have been supplied with such goods or services, the amount which was represented by “B” in the formula contemplated in section 18(4) when such goods or services were deemed to be supplied to the vendor; or

(cc) where the vendor was at some time after the acquisition of such goods or services required to make an adjustment contemplated in section 18(2) or (5), the amounts then represented by “A” in the formula contemplated in section 10(9) or “B” in the formula contemplated in section 18(5) respectively, in the most recent adjustment made in terms of section 18(2) or (5) by the vendor prior to such supply of goods or services; and

(ii) the open market value of the supply of those goods or services at the time those goods or services are deemed to be supplied; and

“C” represents the percentage that, immediately before the time of the supply, the use or application of the goods or services for the purpose other than that of making taxable supplies was of the total use or application of the goods or services:

(Words in section 16(3)(h) defining the meaning of “C” substituted by section 21(e) of Act 136 of 1992)

(Words in section 16(3)(h) defining the meaning of “C” amended by section 91(c) of Act 30 of 1998)

Provided that-

(i)

(Paragraph (i) of the proviso to section 16(3)(h) deleted by section 148(1)(b) of Act 22 of 2012 with effect from 10 January 2012)

(ii) this subsection does not apply where-

(aa) such goods or services were acquired before 1 April 2005, or an input tax deduction in respect of that acquisition was denied under proviso (iv) to section 18(4); and

(bb) the vendor is a public authority which registered prior to 1 April 2005, notwithstanding paragraph (b)(i) of 'enterprise' in section 1 or a public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
(Subparagraph (ii) of the proviso to section 16(3)(h) amended by section 47(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

(iii) this subsection does not apply where such goods or services were acquired by a municipality before 1 July 2006, or an input tax deduction in respect of that acquisition was denied in terms of paragraph (v) of the proviso to section 18(4);
(Subparagraph (iii) of the proviso to section 16(3)(h) added by section 47(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

(Proviso to section 16(3)(h) added by section 91(c) of Act 30 of 1998)
(Proviso to section 16(3)(h) substituted by section 107(1)(e) of Act 31 of 2005 with effect from 1 April 2005)

(Section 16(3)(h) amended by section 16(f) of Act 20 of 1994)

(i) an amount equal to the tax fraction of any payment made by the vendor during the tax period in respect of the redemption with him, or his agent, of the monetary value of any token, voucher or stamp contemplated in section 10(20), to a supplier of goods or services who has granted a discount on the surrender to him of such token, voucher or stamp by a recipient of a supply of goods or services if those goods or services are not charged with tax at the rate of zero per cent under section 11;

(Section 16(3)(i) inserted by section 16(g) of Act 20 of 1994)

(Section 16(3)(i) substituted by section 137(1)(e) of Act 24 of 2011)

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

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

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

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

(ii) for the purposes of this paragraph-

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

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

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

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

(Section 16(3)(j) inserted by section 32(c) of Act 27 of 1997)

(k) an amount of input tax as determined by the Commissioner paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Cabinet member responsible for agriculture to compensate that supplier for tax incurred in the production of such goods;

(Section 16(3)(k) added by section 71(1)(a) of Act 19 of 2001)

(Section 16(3)(k) substituted by section 83 of Act 17 of 2017)

(l) an amount as determined by the Commissioner in lieu of a refund in respect of the purchase and use of diesel paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Cabinet member responsible for agriculture to compensate that supplier for an amount refundable in the production of such goods;

(Section 16(3)(l) added by section 156(d) of Act 60 of 2001)

(Section 16(3)(l) substituted by section 173(1)(c) of Act 31 of 2013 with effect from 1 April 2014)

(m) an amount equal to the tax fraction initially applied to any excess amount contemplated in section 8(27) which is refunded by the vendor during the tax period;

(Section 16(3)(m) added by section 83(1)(c) of Act 20 of 2006)

(n) an amount equal to the tax fraction of the lesser of the amount contemplated in section 10(25) or the open market value of the movable goods on the date-

(i) those goods are returned to the customs controlled area enterprise or SEZ operator; or
(Section 16(3)(n)(i) substituted by section 26(1)(c) of Act 16 of 2016 with effect from 9 February 2016)

(ii) those goods are supplied by the customs controlled area enterprise or SEZ operator where those goods are supplied after the relevant prescribed time period contemplated in section 8(24):

(Section 16(3)(n)(ii) substituted by section 26(1)(c) of Act 16 of 2016 with effect from 9 February 2016)

(Section 16(3)(n) inserted by section 111 of Act 60 of 2008)

Provided that –

(i) where any vendor is entitled under the preceding provisions of this subsection to deduct any amount in respect of any tax period from the said sum, the vendor may deduct that amount from the amount of output tax attributable to a later tax period which ends no later than five years after the end of the tax period during which-

(aa) the tax invoice for that supply should have been issued as contemplated in section 20(1);

(bb) goods were entered for home consumption in terms of the Customs and Excise Act;

(cc) second-hand goods were acquired or goods as contemplated in section 8(10) were repossessed or surrendered;

(Paragraph (i)(cc) of the proviso to section 16(3) substituted by section 173(1)(d) of Act 31 of 2013 with effect from 1 April 2014)

(dd) the agent should have notified the principal as contemplated in section 54(3); or

(ee) in any other case, the vendor for the first time became entitled to such deduction, notwithstanding the documentary proof that the vendor must be in possession of in terms of subsection (2) of this section; and

(ii) the said period of five years contemplated in proviso (i) of this section shall be limited to six months prior to the tax period in which the deduction is made, where the Commissioner is satisfied that the deduction was not permissible in accordance with the practice generally prevailing,

and to the extent that it has not previously been deducted by the vendor under this subsection:

(First proviso to section 16(3) substituted by section 71(1)(b) of Act 19 of 2001 with effect from 22 June 2001)

(First proviso to section 16(3) substituted by section 107(1)(f) of Act 31 of 2005)

(First proviso to section 16(3) substituted by section 83(1)(d) of Act 20 of 2006)

(First proviso to section 16(3) substituted by section 106 of Act 35 of 2007)

Provided further that the amount of input tax which, in relation to any supply of goods or services to a vendor, the vendor may deduct in respect of any payment referred to in paragraph (a)(ii) or (b)(i) of this subsection, shall be an amount which bears to the full amount of the input tax relating to that supply the same ratio as the amount of the payment bears to the full value on which tax was payable in respect of the supply.

(4) For the purposes of subsection (3), output tax in relation to a supply made by a vendor shall be attributable to a tax period –

(a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis –

(i) subject to the provisions of subparagraph (ii), where a supply is made or is deemed to be made by him during that tax period;

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

(Section 16(4)(a)(ii) substituted by section 32(d) of Act 27 of 1997)

(Section 16(4)(a) substituted by section 23(1)(f) of Act 37 of 1996 with effect from 6 June 1996)

(b) in the case of a vendor who is in terms of section 15 required to account for tax payable on a payments basis -

(i) to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price has been received by the vendor during that tax period for any supply of goods or services in respect of which the provisions of section 9(1), (3)(a), (b) or (d) or (4) or 21(2)(a) or (6) apply (other than a supply in respect of which the provisions of section 10(4) apply);

(Section 16(4)(b)(i) substituted by section 30(d) of Act 97 of 1993)

(Section 16(4)(b)(i) substituted by section 16(h) of Act 20 of 1994)

(Section 16(4)(b)(i) substituted by section 23(1)(g) of Act 37 of 1996)

(Section 16(4)(b)(i) substituted by section 87(c) of Act 53 of 1999)

- (ii) where a supply of goods or services is made or deemed to be made during the tax period by that vendor, not being a supply of goods or services to which subparagraph (i) of this paragraph applies.

- (5) If, in relation to any tax period of any vendor, the aggregate of the amounts that may be deducted under subsection (3) from the sum referred to in that subsection, the amount (if any) refundable to the vendor under section 15(8), and any other amount refundable under Chapter 13 of the Tax Administration Act, exceeds the said sum, the amount of the excess shall, subject to the provisions of this Act, be refundable to the vendor by the Commissioner as provided in Chapter 13 of the Tax Administration Act.

(Section 16(5) substituted by section 271 read with paragraph 115(b) of Schedule 1 of Act 28 of 2011)

17. Permissible deductions in respect of input tax

- (1) Where goods or services are acquired or imported by a vendor partly for consumption, use or supply (hereinafter referred to as the intended use) in the course of making taxable supplies and partly for another intended use, the extent to which any tax which has become payable in respect of the supply to the vendor or the importation by the vendor, as the case may be, of such goods or services or in respect of such goods under section 7(3) or any amount determined in accordance with paragraph (b) or (c) of the definition of 'input tax' in section 1, is input tax, shall be an amount which bears to the full amount of such tax or amount, as the case may be, the same ratio (as determined by the Commissioner in accordance with a ruling as contemplated in Chapter 7 of the Tax Administration Act or section 41B) as the intended use of such goods or services in the course of making taxable supplies bears to the total intended use of such goods or services: Provided that –

(Words in section 17(1) preceding the proviso substituted by section 22(a) of Act 136 of 1992)

(Words in section 17(1) preceding the proviso substituted by section 92(a) of Act 30 of 1998)

(Words in section 17(1) preceding paragraph (i) of the proviso substituted by section 84(1)(a) of Act 8 of 2007 deemed to have come into operation on 1 January 2007)

(Words in section 17(1) preceding the proviso substituted by section 271 read with paragraph 116(a) of Schedule 1 of Act 28 of 2011)

- (i) where the intended use of goods or services in the course of making taxable supplies is equal to not less than 95 per cent of the total intended use of such goods or services, the goods or services concerned may for the purposes of this Act be regarded as having been acquired wholly for the purpose of making taxable supplies;

(Paragraph (i) of the proviso to section 17(1) substituted by section 31(a) of Act 97 of 1993)

(Paragraph (i) of the proviso to section 17(1) amended by section 92(b) of Act 30 of 1998)

(Paragraph (i) of the proviso to section 17(1) amended by section 88 of Act 53 of 1999)

- (ii) where goods or services are deemed by section 9(3)(b) to be successively supplied, the extent to which the tax relating to any payment referred to in that section is input tax may be estimated where the calculation cannot be made accurately until the completion of the supply of the goods

or services, and in such case such estimate shall be adjusted on completion of the supply, any amount of input tax which has been overestimated being accounted for as output tax in the tax period during which the completion occurs and any amount of input tax which has been underestimated being accounted for as input tax in that period; and

(Paragraph (ii) of the proviso to section 17(1) amended by section 92(b) of Act 30 of 1998)

(iii) where a method for determining the ratio referred to in this subsection has been approved by the Commissioner, that method may only be changed with effect from a future tax period, or from such other date as the Commissioner may consider equitable and such other date must fall –

(aa) in the case of a vendor who is a taxpayer as defined in section 1 of the Income Tax Act, within the year of assessment as defined in that Act; or

(bb) in the case of a vendor who is not a taxpayer as defined in section 1 of the Income Tax Act, within the period of twelve months ending on the last day of February, or if such vendor draws up annual financial statements in respect of a year ending other than on the last day of February, within that year,

during which the application for the aforementioned method was made by the vendor.

(Paragraph (iii) of the proviso to section 17(1) added by section 92(c) of Act 30 of 1998)

(Paragraph (iii) of the proviso to section 17(1) substituted by section 84(1)(b) of Act 8 of 2007 deemed to have come into operation on 1 January 2007)

(Paragraph (iii) of the proviso to section 17(1) substituted by section 271 read with paragraph 116(b) of Schedule 1 of Act 28 of 2011)

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16(3), any amount of input tax –

(Words in section 17(2) preceding paragraph (a) substituted by section 108(a) of Act 31 of 2005)

(Words in section 17(2) preceding paragraph (a) substituted by section 84(1)(c) of Act 8 of 2007)

(a) in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of entertainment:

(Words in paragraph (a) of section 17(2) preceding the proviso substituted by section 31(b) of Act 97 of 1993)

Provided that this paragraph shall not apply where –

(i) such goods or services are acquired by the vendor for making taxable supplies of entertainment in the ordinary course of an enterprise which –

- (aa) continuously or regularly supplies entertainment to clients or customers (other than in the circumstances contemplated in item (bb)) for a consideration to the extent that such taxable supplies of entertainment are made for a charge which-

(Words in section 17(2)(a)(i)(aa) preceding subitem (A) substituted by section 84(a) of Act 20 of 2006)

- (A) covers all direct and indirect costs of such entertainment; or
- (B) is equal to the open market value of such supply of entertainment,

unless-

- (i) such costs or open market value is for *bona fide* promotion purposes not charged by the vendor in respect of the supply to recipients who are clients or customers in the ordinary course of the enterprise, of entertainment which is in all respects similar to the entertainment continuously or regularly supplied to clients or customers for consideration; or
- (ii) the goods or services were acquired by the vendor for purposes of making taxable supplies to such clients or customers of entertainment which consists of the provision of any food and a supply of any portion of such food is subsequently made to any employee of the vendor or to any welfare organization as all such food was not consumed in the course of making such taxable supplies;

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

(Section 17(2)(a)(i) substituted by section 31(b) of Act 136 of 1991)

(Section 17(2)(a)(i) substituted by section 33(a) of Act 27 of 1997)

- (ii) such goods or services are acquired by the vendor for the consumption or enjoyment by that vendor (including, where the vendor is a partnership, a member of such partnership), an employee, office holder of such vendor, or a self-employed natural person in respect of a meal, refreshment or accommodation, in respect of any night that such vendor or member is by reason of the vendor's enterprise or, in the case of such employee, office holder or self-employed natural person, he or she is by reason of the duties of his or her employment, office or contractual relationship, obliged to spend away from his or her usual place of residence and from his or her usual working-place. For the purposes of this section, the term 'self-employed natural person' shall mean a person to whom an amount is paid or is payable in the course of any trade carried on by him or her independently of the person by whom such amount is paid or payable and of the person to whom the services have been

or are to be rendered, as contemplated in the proviso to paragraph (ii) of the exclusions to the definition of 'remuneration' in paragraph 1 of the Fourth Schedule to the Income Tax Act;

(Section 17(2)(a)(ii) substituted by section 22(b) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 17(2)(a)(ii) substituted by section 33(a) of Act 27 of 1997)

(Section 17(2)(a)(ii) substituted by section 84(b) of Act 20 of 2006)

- (iii) such goods or services consist of entertainment supplied by the vendor as operator of any conveyance to a passenger or crew member, in such conveyance during a journey, where such entertainment is supplied as part of or in conjunction with the transport service supplied by the vendor, where the supply of such transport service is a taxable supply;

(Section 17(2)(a)(iii) substituted by section 173(1)(a) of Act 45 of 2003)

(Section 17(2)(a)(iii) substituted by section 102(a) of Act 32 of 2004)

(Section 17(2)(a)(iii) substituted by section 174(1) of Act 31 of 2013 with effect from 1 April 2014)

- (iv) such goods or services consist of a meal or refreshment supplied by the vendor as organizer of a seminar or similar event to a participant in such seminar or similar event, the supply of such meal or refreshment is made during the course of or immediately before or after such seminar or similar event and a charge which covers the cost of such meal or refreshment is made by the vendor to the recipient;

(Section 17(2)(a)(iv) substituted by section 22(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

- (v) such goods or services are acquired by a municipality for the purpose of providing sporting or recreational facilities or public amenities to the public;

(Section 17(2)(a)(v) amended by section 31(c) of Act 136 of 1991)

(Section 17(2)(a)(v) substituted by section 31(c) of Act 97 of 1993)

(Section 17(2)(a)(v) substituted by section 48(1) of Act 9 of 2006 with effect from 1 July 2006)

- (vi) such goods or services are acquired by a welfare organization, for the purpose of making supplies in the furtherance of its aims and objects; or

(Section 17(2)(a)(vi) added by section 31(d) of Act 136 of 1991)

- (vii) such goods or services are acquired by a vendor for an employee or office holder of such vendor, that are incidental to the admission into a medical care facility;

(Section 17(2)(a)(vii) added by section 173(1)(b) of Act 45 of 2003)

(Section 17(2)(a)(vii) substituted by section 102(b) of Act 32 of 2004)

(Section 17(2)(a)(vii) amended by section 108(b) of Act 31 of 2005)

- (viii) such goods or services consist of a meal or refreshment supplied by the vendor as operator of any ship or vessel (otherwise than in the circumstances contemplated in subparagraph

(iii) in such ship or vessel to a crew member of such ship or vessel, where such meal or refreshment is supplied in the course of making a taxable supply by that vendor; or

(Section 17(2)(a)(viii) added by section 102(c) of Act 32 of 2004)

(Section 17(2)(a)(viii) amended by section 108(b) of Act 31 of 2005)

(ix) that entertainment is acquired by the vendor for the purpose of awarding that entertainment as a prize contemplated in section 16(3)(d) in consequence of a supply contemplated in section 8(13);

(Section 17(2)(a)(ix) added by section 108(c) of Act 31 of 2005)

(b) in respect of any fees or subscriptions paid by the vendor in respect of membership of any club, association or society of a sporting, social or recreational nature; or

(c) in respect of any motor car supplied to or imported by the vendor:

Provided that –

(i) this paragraph shall not apply where that motor car is acquired by the vendor exclusively for the purpose of making a taxable supply of that motor car in the ordinary course of an enterprise which continuously or regularly supplies motor cars, whether that supply is made by way of sale or under an instalment credit agreement or by way of rental agreement at an economic rental consideration;

(ii) for the purposes of this paragraph a motor car acquired by such vendor for demonstration purposes or for temporary use prior to a taxable supply by such vendor shall be deemed to be acquired exclusively for the purpose of making a taxable supply; and

(iii) this paragraph shall not apply where –

(aa) that motor car is acquired by the vendor for the purposes of awarding that motor car as a prize contemplated in section 16(3)(d) in consequence of a supply contemplated in section 8(13); or

(bb) the supply of that motor car is in the ordinary course of an enterprise which continuously or regularly supplies motor cars as prizes to clients or customers (other than to any employee or office holder of the vendor or any connected person in relation to that employee, office holder or vendor) to the extent that it is in consequence of a taxable supply made in the course or furtherance of an enterprise; or

(Section 17(2)(c) amended by section 22(d) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 17(2)(c) amended by section 108(d) of Act 31 of 2005)

- (d) in respect of any goods or services acquired by a superannuation scheme referred to in section 2, for the purposes of the supply by such scheme of any medical or dental services or services directly connected with such medical or dental services or of any goods necessary for or subordinate or incidental to the supply of any such services.

(Section 17(2)(d) added by section 22(e) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Section 17(2)(d) substituted by section 17 of Act 20 of 1994)

- (2A) Subsection (2) shall not apply to input tax in respect of goods or services that are applied in the course or furtherance of a foreign donor funded project.

(Section 17(2A) inserted by section 84(c) of Act 20 of 2006)

(Section 17(2A) substituted by section 84(1)(d) of Act 8 of 2007)

(Section 17(2A) substituted by section 31 of Act 36 of 2007)

- (3) Notwithstanding anything in section 16(4), where a vendor has made a supply of goods as contemplated in section 8(10) and in respect of the acquisition thereof by the vendor a deduction of input tax under section 16(3) was denied in terms of subsection (2) of this section, the vendor shall not be required to account for output tax in relation to such supply.

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

(Section 17(4) added by section 33(b) of Act 27 of 1997)

18. Change in use adjustments

(Heading of section 18 substituted by section 103(1)(a) of Act 32 of 2004)

- (1) Subject to the provisions of section 8(2), where –

- (a) goods or services have been supplied to or imported by a vendor; or
- (b) goods have been manufactured, assembled, constructed or produced by him; or
- (c) goods or services were deemed by subsection (4) to have been supplied to him,

(excluding goods or services to the extent that, in respect of the acquisition of which by the vendor, a deduction of input tax was denied by section 17(2) or would have been denied if that section had been applicable prior to the commencement date) and such goods or services were acquired, manufactured, assembled, constructed or produced by such vendor wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies or such goods were held or applied for that purpose, such goods or services shall –

- (i) if they are subsequently applied by him (otherwise than in the circumstances contemplated in section 8(9)) wholly for a purpose other than the said purpose; or
- (ii) if they are subsequently applied by him wholly for a purpose in respect of which, if such goods or services had been acquired by him at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)(a) or (c),

be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise.

(Words following upon section 18(1)(c) substituted by section 32(a) of Act 136 of 1991)

(Words following upon section 18(1)(c) substituted by section 34(a) of Act 27 of 1997)

(2) Where –

- (a) capital goods or services have been supplied to or imported by a vendor; or
(Section 18(2)(a) substituted by section 23(a) of Act 136 of 1992)
- (b) capital goods have been manufactured, assembled, constructed or produced by him; or
(Section 18(2)(b) substituted by section 23(a) of Act 136 of 1992)
- (c) capital goods or services were deemed by subsection (4) to have been supplied to him,
(Section 18(2)(c) substituted by section 23(a) of Act 136 of 1992)

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

(Words following upon section 18(2)(c) and preceding the proviso substituted by section 34(b) of Act 27 of 1997)

Provided that this subsection does not apply to-

- (i) capital goods or services which have an adjusted cost of less than R40 000 (excluding tax) or where such goods or services were deemed to be supplied to the vendor by subsection (4) if the

amount which was represented by 'B' in the formula contemplated in that subsection was less than R40 000 when such goods or services were deemed to be supplied to such vendor;

(Paragraph (i) of the proviso to section 18(2) amended by section 49(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

- (ii) capital goods or services acquired by a public authority or public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), if the goods or services were acquired prior to 1 April 2005 or if an input tax deduction in respect thereof was denied under proviso (iv) to section 18(4); or

(Paragraph (ii) of the proviso to section 18(2) amended by section 49(1)(a) of Act 9 of 2006 with effect from 1 July 2006)

- (iii) capital goods or services acquired by a municipality, if the goods or services were acquired prior to 1 July 2006 or if an input tax deduction in respect thereof was denied in terms of paragraph (v) of the proviso to section 18(4).

(Paragraph (iii) of the proviso to section 18(2) added by section 49(1)(b) of Act 9 of 2006 with effect from 1 July 2006)

(Proviso to section 18(2) substituted by section 174(a) of Act 45 of 2003)

(Proviso to section 18(2) substituted by section 109(1)(a) of Act 31 of 2005 with effect from 1 April 2005)

(Words following upon section 18(2)(c) including the proviso substituted by section 32(b) of Act 136 of 1991)

- (3) Notwithstanding anything in this section, to the extent that any vendor has or is deemed to have granted a benefit or advantage to an employee or the holder of any office as contemplated in paragraph (i) of the definition of 'gross income' in section 1 of the Income Tax Act, read with the Seventh Schedule to that Act, and such benefit or advantage consists of a supply of goods or services, the granting of that benefit or advantage shall be deemed to be a supply of goods or services made by the vendor in the course of an enterprise carried on by the vendor: Provided that this subsection shall not apply to any such benefit or advantage to the extent that it has arisen by virtue of any supply of goods or services which is an exempt supply in terms of section 12 of this Act or is a supply which is charged with tax at the rate of zero per cent in terms of section 11 of this Act or is a supply of entertainment: Provided further that this subsection shall not apply to any such benefit or advantage to the extent that it is granted by the vendor in the course of making exempt supplies.

(Section 18(3) substituted by section 32(c) of Act 136 of 1991)

- (4) Where –

- (a)

- (i) goods or services have been supplied to or imported by a person prior to the commencement date; or
- (ii) goods have been manufactured, assembled, constructed or produced by him prior to the commencement date,

(and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such person wholly for purposes other than that of consumption, use or supply in the course of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act or for a purpose in respect of which a deduction of input tax in respect of such goods or services would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date; or

(Words in section 18(4)(a) following upon subparagraph (ii) substituted by section 34(c) of Act 27 of 1997)

(b)

- (i) goods or services have been supplied to or imported by a person on or after the commencement date and tax has been charged in respect of such supply or importation; or

(Section 18(4)(b)(i) substituted by section 18(a) of Act 20 of 1994)

- (ii) goods have been manufactured, assembled, constructed or produced by him on or after the commencement date and tax has been charged in respect of the supply of goods or services acquired by him for the purpose of such manufacturing, assembling, construction or production; or

(Section 18(4)(b)(ii) substituted by section 18(a) of Act 20 of 1994)

- (iii) goods or services are deemed by subsection (1) or section 8(2) to have been supplied by him,

(Section 18(4)(b)(iii) substituted by section 18(a) of Act 20 of 1994)

and no deduction has been made in terms of section 16(3) in respect of or in relation to such goods or services; or

(Section 18(4)(b) amended by section 18(b) of Act 20 of 1994)

(Words in section 18(4)(b) following upon subparagraph (iii) substituted by section 34(d) of Act 27 of 1997)

- (c) second-hand goods situated in the Republic have been supplied (otherwise than under a taxable supply) to a person under a sale on or after the commencement date by a resident of the Republic and no deduction has been made in terms of section 16(3) in respect of such second-hand goods; and

(Section 18(4)(c) inserted by section 18(c) of Act 20 of 1994)

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

(Words in section 18(4) preceding the formula substituted by section 32(d) of Act 136 of 1991)

(Words in section 18(4) preceding the formula substituted by section 23(b) of Act 136 of 1992,

deemed to have come into operation on 30 September 1991)

(Words in section 18(4) following upon paragraph (c) and preceding the formula substituted by section 34(e) of Act 27 of 1997)

$A \times B \times C \times D,$

(Formula in section 18(4) substituted by section 18(d) of Act 20 of 1994)

in which formula

“A” represents the tax fraction;

“B” represents the lesser of –

- (i) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the adjusted cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or

(Subparagraph (i) of the paragraph defining “B” in section 18(4) substituted by section 32(a) of Act 97 of 1993)

(Subparagraph (i) of the paragraph defining “B” in section 18(4) substituted by section 174(b) of Act 45 of 2003)

- (ii) the open market value of the supply of those goods or services at the time when the supply is deemed to be made;

(Subparagraph (ii) of the paragraph defining “B” in section 18(4) amended by section 18(e) of Act 20 of 1994)

.....
(Proviso to symbol "B" in section 18(4) added by section 112(1) of Act 60 of 2008 with effect from 1 March 2009)

(Proviso to symbol "B" in section 18(4) deleted by section 123(1) of Act 7 of 2010)

"C" represents the ratio that, immediately after the supply so deemed to be made, the intended use of the goods or services (as contemplated in section 17(1)) in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) bears to the total intended use of those goods or services, expressed as a percentage: Provided that where the intended use of goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is equal to not less than 95 per cent of the total intended use of such goods or services, such percentage shall be deemed to be 100 per cent; and

(Paragraph defining "C" in section 18(4) amended by section 18(f) of Act 20 of 1994)

(Paragraph defining "C" substituted by section 34(f) of Act 27 of 1997)

(Paragraph defining "C" in section 18(4) amended by section 89 of Act 53 of 1999)

"D" where paragraph (c) applies, represents the ratio that the amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the consideration in money for the supply of second-hand goods, bears to the total consideration in money, expressed as a percentage:

(Paragraph defining "D" in section 18(4) substituted by section 93 of Act 30 of 1998)

(Paragraph defining "D" in section 18(4) substituted by section 138(1) of Act 24 of 2011)

Provided that –

(i) paragraph (b) of this subsection shall not apply where a vendor has, only as a result of not complying with the provisions of section 16(2), not been entitled to make a deduction of input tax in terms of section 16(3);

(ii)

(Paragraph (ii) of the proviso to section 18(4) deleted by section 149(1)(a) of Act 22 of 2012 with effect from 10 January 2012)

(iii)

(Paragraph (iii) of the proviso to section 18(4) amended by section 103(1)(b) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

(Paragraph (iii) of the proviso to section 18(4) amended by section 49(1)(c) of Act 9 of 2006 with effect from 1 July 2006)

(Paragraph (iii) of the proviso to section 18(4) deleted by section 149(1)(a) of Act 22 of 2012 with effect from 10 January 2012)

- (iv) this subsection shall not apply where a constitutional institution listed in Schedule 1 or a public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), is re-classified within the Schedules to the Public Finance Management Act, 1999 (Act No. 1 of 1999) and applies those goods or services for the purposes of consumption, use or supply in the course of making taxable supplies; or

(Paragraph (iv) of the proviso to section 18(4) added by section 103(1)(c) of Act 32 of 2004 with effect from 1 April 2005 [Proc. R14 in Gazette No. 27427 dated 1 April 2005])

(Paragraph (iv) of the proviso to section 18(4) amended by section 49(1)(c) of Act 9 of 2006 with effect from 1 July 2006)

- (v) this subsection shall not apply where a municipality applies goods or services acquired before 1 July 2006 for the purposes of consumption, use or supply in the course of making taxable supplies on or after 1 July 2006.

(Paragraph (v) of the proviso to section 18(4) added by section 49(1)(d) of Act 9 of 2006 with effect from 1 July 2006)

(Paragraph defining "D" in section 18(4) added by section 18(g) of Act 20 of 1994)

(5) Where –

- (a) capital goods or services have been supplied to or imported by a vendor; or
- (b) capital goods have been manufactured, assembled, constructed or produced by him; or
- (c) capital goods or services are deemed by subsection (4) to have been supplied to him,

and such goods or services were acquired, manufactured, assembled, constructed or produced or applied by such vendor partly for the purpose of consumption, use or supply in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) or of making supplies in the course of an activity which was an enterprise or would have been an enterprise if section 1 had been applicable prior to the date of promulgation of this Act (other than supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2) if that section had been applicable prior to the commencement date) such goods or services shall, if the extent of the application or the use of such goods or services in the course of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) is subsequent to the commencement date increased in relation to their total application or use, be deemed to be supplied

to him, and the Commissioner shall allow the vendor to make a deduction in terms of section 16(3), in the tax period during which such increase is deemed by subsection (6) to take place, of an amount determined in accordance with the formula

(Words in section 18(5) following upon paragraph (c) and preceding the formula substituted by section 32(e) of Act 136 of 1991)

(Words in section 18(5) preceding the formula substituted by section 23(c) of Act 136 of 1992, deemed to have come into operation on 30 September 1991)

(Words in section 18(5) following upon paragraph (c) and preceding the formula substituted by section 34(g) of Act 27 of 1997)

$$A \times B \times (C-D),$$

in which formula -

“A” represents the tax fraction;

“B” represents the lesser of –

(i)

- (aa) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the adjusted cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or

(Section 18(5)(i)(aa) substituted by section 32(f) of Act 136 of 1991)

(Subparagraph (i)(aa) of the paragraph defining “B” in section 18(5) substituted by section 32(b) of Act 97 of 1993)

(Subparagraph (i)(aa) of the paragraph defining “B” in section 18(5) substituted by section 174(c) of Act 45 of 2003)

- (bb) where goods or services were deemed by subsection (4) to have been supplied to the vendor, the amount which was represented by “B” in the formula contemplated in that subsection when such goods or services were deemed to be supplied to the vendor; or

- (cc) where the vendor was at some time after the acquisition of the goods or services required to make an adjustment contemplated in subsection (2) or this subsection the amounts represented by “A” in the formula contemplated in section 10(9) or by “B” in the formula contemplated in this subsection respectively, in the most recent

adjustment made under subsection (2) or this subsection by the vendor prior to such supply of goods or services so deemed to be made; and

- (ii) the open market value of the supply of those goods or services at the time any increase in the extent of the use or application of the goods or services is deemed by subsection (6) to take place;

“C” represents the percentage that, during the 12 month period during which the increase in use or application of the goods or services is deemed to take place, the use or application of the goods or services for the purposes of making taxable supplies (other than taxable supplies in respect of which, if such goods or services had been acquired at the time of such application, a deduction of input tax would have been denied in terms of section 17(2)) was of the total use or application of the goods:

(Words in section 18(5) preceding the proviso to the paragraph defining “C” substituted by section 34(h) of Act 27 of 1997)

Provided that where the said percentage does not exceed the percentage contemplated in “D” by more than 10 per cent of the total use or application, the said percentage shall be deemed to be the percentage determined in “D”;

(Proviso to “C” in section 18(5) substituted by section 32(g) of Act 136 of 1991)

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

(Paragraph defining “D” in section 18(5) substituted by section 34(i) of Act 27 of 1997)

Provided that –

- (i) this subsection does not apply to -
 - (aa) capital goods or services which cost less than R40 000 (excluding tax) or where such goods or services were deemed to be supplied to the person by subsection (4) if the amount which was represented by "B" in the formula contemplated in that subsection was less than R40 000 when such goods or services were deemed to be supplied to such person;

(Paragraph (i)(aa) of the proviso to section 18(5) amended by section 49(1)(e) of Act 9 of 2006 with effect from 1 July 2006)

- (bb) capital goods or services acquired by a public authority or public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), prior to 1 April 2005, or if an input tax deduction in respect thereof was denied under proviso (iv) to section 18(4); or

(Paragraph (i)(bb) of the proviso to section 18(5) amended by section 49(1)(e) of Act 9 of 2006 with effect from 1 July 2006)

- (cc) capital goods or services acquired by a municipality prior to 1 July 2006, or if an input tax deduction in respect thereof was denied in terms of paragraph (v) of the proviso to section 18(4);

(Paragraph (i)(cc) of the proviso to section 18(5) added by section 49(1)(f) of Act 9 of 2006 with effect from 1 July 2006)

- (ii)

(Paragraph (ii) of the proviso to section 18(5) deleted by section 149(1)(b) of Act 22 of 2012 with effect from 10 January 2012)

(Proviso to section 18(5) substituted by section 32(h) of Act 136 of 1991)

(Provisos to section 18(5) amended by section 34(j) of Act 27 of 1997)

(Provisos to section 18(5) substituted by section 109(1)(b) of Act 31 of 2005 with effect from 1 April 2005)

- (6) For the purposes of subsections (2) and (5), any reduction or increase in the extent of the application or use of goods or services shall be deemed to take place on the last day of the vendor's 'year of assessment', as defined in section 1 of the Income Tax Act, or, if the vendor is not a taxpayer as defined in that section, on the last day of February:

(Words in section 18(6) preceding the proviso substituted by section 135 of Act 25 of 2015)

Provided that where a vendor who is not a taxpayer as so defined draws up annual financial statements in respect of a year or other period ending on a date other than the last day of February, the reduction or increase in the extent of the application or use of goods or services shall be deemed to take place on such first-mentioned date:

Provided further that where a vendor ceases to be a vendor prior to any day contemplated in this subsection, any reduction or increase in the extent of the application or use of goods or services shall be deemed to take place immediately before that vendor ceased to be a vendor.

(Section 18(6) substituted by section 92(1) of Act 17 of 2009)

- (7) For the purposes of subsections (2) and (5) of this section, the extent of the application or use of any goods or services for the purpose of making taxable supplies shall be determined with reference to the application or use of such goods or services during the 12 month period ending on the day any reduction or increase in the extent of the application or use of such goods or services is deemed by subsection

(6) to have taken place: Provided that where any goods or services are acquired, manufactured, assembled, constructed or produced by a vendor or are deemed under subsection (4) to have been supplied to that vendor during such 12 month period, the extent of the application or use of such goods or services shall be determined with reference to the period ending on the day contemplated in subsection (6) and commencing on the date such goods or services are acquired, manufactured, assembled, constructed or produced by the vendor or are deemed to be supplied to the vendor under subsection (4): Provided further that where the period between the commencement date and the date contemplated in subsection (6) is less than a 12 month period it shall for the purposes of this section be deemed to be a 12 month period.

(8) Where a deduction of an amount contemplated in paragraph (b) of the definition of 'input tax' in section 1 has been made by any vendor in respect of the sale to him of any second-hand goods and subsequently –

- (a) that sale is cancelled; or
- (b) the nature of that sale is fundamentally varied or altered; or
- (c) the previously agreed consideration for that sale is reduced; or
- (d) the second-hand goods or part of the second-hand goods sold are returned to the supplier,

and, as a result of the occurrence of one or more of the abovementioned events, the input tax actually deducted in relation to such sale exceeds the input tax properly deductible by the vendor, either the amount of that excess shall be deemed to be tax charged in relation to a taxable supply made by that vendor in the tax period during which the said event has occurred, at the rate of tax which applied when the said deduction was made, or the amount of input tax deducted in terms of section 16(3) in the said tax period shall be reduced by the amount of the said excess.

(Section 18(8) added by section 18(h) of Act 20 of 1994)

(9) Where a vendor has acquired or imported a motor car (in respect of which input tax has been denied in terms of section 17(2)(c)) and has subsequently converted that motor car into a game viewing vehicle or a hearse, as contemplated in paragraph (e) or (f) of the definition of 'motor car' in section 1, that motor car is deemed to be supplied in that tax period to that vendor, and the Commissioner shall allow that vendor to make a deduction in terms of section 16(3) of an amount equal to the tax fraction of the lesser of-

- (a) the adjusted cost; or
- (b) the open market value,

of that motor car on the day before that conversion: Provided that this deduction excludes any amount of input tax which qualifies or has qualified for a deduction under another provision of this Act.

(Section 18(9) added by section 103(1)(d) of Act 32 of 2004)

(10) Where-

- (a) goods or services have been supplied by a vendor at the zero rate in terms of sections 11(1)(c), 11(1)(m), 11(1)(mA) or 11(2)(k) to a vendor, that is a customs controlled area enterprise or an SEZ operator; or
- (b) goods have been imported into the Republic by a vendor, being a customs controlled area enterprise or an SEZ operator and those goods are exempt from tax in terms of section 13(3),

and where a deduction of input tax would have been denied in terms of section 17(2), or to the extent that such goods or services are not wholly for consumption, use or supply within a customs controlled area in the course of making taxable supplies by that vendor, that is a customs controlled area enterprise or an SEZ operator, those goods or services shall be deemed to be supplied by the vendor concerned in the same tax period in which they were so acquired, in accordance with the formula:

$$A \times B$$

in which formula-

'A' represents the rate of tax levied in terms of section 7(1); and

'B' represents-

- (i) the cost to the vendor of the acquisition of those goods or services which were supplied to him or her in terms of sections 11(1)(c), 11(1)(m), 11(1)(mA) or 11(2)(k); or
- (ii) the value to be placed on the importation of goods into the Republic as determined in terms of section 13(2).

(Section 18(10) added by section 103(1)(d) of Act 32 of 2004 with effect from 1 January 2005 [Proc. R62 in Gazette 27139 dated 22 December 2004])

(Section 18(10) amended by section 109(1)(c) of Act 31 of 2005)

(Section 18(10) substituted by section 85 of Act 20 of 2006)

(Section 18(10) amended by section 149(1) of Act 22 of 2012 with effect from 10 January 2012)

(Section 18(10) substituted by section 27(1)(a) of Act 16 of 2016 with effect from 9 February 2016)

18A. Adjustments in consequence of acquisition of going concern wholly or partly for purposes other than making taxable supplies

- (1) Where –
- (a) an enterprise or part of an enterprise has been supplied to any vendor; and
 - (b) the supply of such enterprise or part was charged with tax at the rate of zero per cent in terms of section 11(1)(e); and
 - (c) such enterprise or part, as the case may be, or any goods or services which formed part of such enterprise or part are acquired by such vendor wholly or partly for a purpose other than for consumption, use or supply in the course of making taxable supplies,

such enterprise, part, goods or services, as the case may be, shall be deemed to have been supplied by him by way of a taxable supply by him in the course of his enterprise:

Provided that where the intended use of such enterprise, part, goods or services, as the case may be, in the course of making taxable supplies is equal to not less than 95 per cent of the total intended use of such enterprise, part, goods or services, as the case may be, the enterprise, part, goods or services concerned may for the purposes of this Act be regarded as having been acquired wholly for the purpose of consumption, use or supply in the course of making taxable supplies.

(Proviso to section 18A(1) added by section 19 of Act 20 of 1994)

(Proviso to section 18A(1) amended by section 90 of Act 53 of 1999)

- (2) Notwithstanding anything in this Act, the value of the supply deemed by subsection (1) to have been made by the vendor, shall be the full cost to such vendor of acquiring such enterprise, part, goods or services, as the case may be, reduced by an amount which bears to the amount of such full cost the same ratio as the intended use or application of the enterprise, part, goods or services in the course of making taxable supplies bears to the total intended use or application of the enterprise, part, goods or services:

Provided that –

- (i) the cost to such vendor of acquiring such enterprise, part, goods or services may be reduced by any amount which represents an appropriate allocation of such full cost to the acquisition of any goods or services which form part of such enterprise or part of an enterprise and in respect of the acquisition of which by the vendor a deduction of input tax would be denied in terms of section 17(2); or
- (ii) where such enterprise, part, goods or services were acquired –
 - (aa) by means of a supply made by a vendor for no consideration or for a consideration in money which is less than the open market value of the supply; and

(bb) in circumstances where the supplier and the recipient are connected persons,

the cost of such enterprise, part, goods or services shall be deemed to be the open market value of the supply of such enterprise, part, goods or services.

(Proviso to section 18A(2) substituted by section 24 of Act 37 of 1996)

- (3) Notwithstanding anything in this Act, the supply deemed by subsection (1) to have been made by the vendor shall be deemed to be made in the tax period in which the supply of the enterprise or part of an enterprise is made.
- (4) For the purposes of this section and sections 10(9), 18(4) and (5), the cost to the vendor of any goods or services acquired by a vendor in the circumstances contemplated in subsection (1) shall be deemed to be an amount equal to the aggregate of an amount which represents an appropriate allocation of the full cost to the vendor of the enterprise or part of an enterprise to those specific goods or services and an amount determined by applying the rate of tax applicable at the time of supply contemplated in subsection (3) to the amount of such appropriate allocation.

(Section 18A inserted by section 24 of Act 136 of 1992)

18B. Temporary letting of residential fixed property

- (1) For the purposes of this section 'developer' means a vendor who continuously or regularly constructs, extends or substantially improves fixed property consisting of any dwelling or continuously or regularly constructs, extends or substantially improves parts of that fixed property for the purpose of disposing of that fixed property after the construction, extension or improvement.
- (2) Notwithstanding the provisions of section 18(1), where goods being fixed property consisting of any dwelling-
 - (a) is developed by a vendor who is a developer wholly for the purpose of making taxable supplies or is held or applied for that purpose; and
 - (b) is subsequently temporarily applied by that vendor for supplying accommodation in a dwelling under an agreement for the letting and hiring thereof, the supply of such fixed property shall, subject to subsection (3), be deemed not to be a taxable supply in the course or furtherance of that vendor's enterprise.
- (3) The fixed property contemplated in subsection (2) shall be deemed to have been supplied by that vendor by way of a taxable supply for a consideration as contemplated in section 10(7) in the course or furtherance of that vendor's enterprise at the earlier of-
 - (a) a period of 36 months after the conclusion of the agreement contemplated in subsection (2)(b); or

- (b) the date that the vendor applies that fixed property permanently for a purpose other than that of making taxable supplies.

(4)

(Section 18B inserted by section 139(1) of Act 24 of 2011 with effect from 10 January 2012 and ceases to apply on 1 January 2018 – See section 111 of Act 43 of 2014)

(Section 18B(4) deleted by section 175(1) of Act 31 of 2013 with effect from 10 January 2012)

18C. Adjustments for leasehold improvements

Where goods have been supplied to a vendor, being a lessor, as contemplated in section 8(29), the lessor shall be deemed to have made a taxable supply in the course or furtherance of the lessor's enterprise, and where a deduction of input tax would have been denied in terms of section 17(2), or to the extent that such goods are not wholly for consumption, use or supply in the course of making taxable supplies by that lessor, those goods shall be deemed to be supplied by the lessor at the time the leasehold improvements are completed, in accordance with the formula

$$A \times B \times C$$

in which formula—

- 'A' represents the tax fraction;
- 'B' represents the amount stipulated in the agreement or if no amount is stipulated, the open market value as stipulated in section 3 applies, and
- 'C' represents the percentage of the use or application of the goods for the purposes of making other than taxable supplies at the time the leasehold improvements are completed.

(Section 18C inserted by section 84(1) of Act 17 of 2017 with effect from 1 April 2018)

19. Goods or services acquired before incorporation

Any company, being a vendor, shall, where any amount of tax has been charged in terms of section 7 in relation to the acquisition of goods or services for or on behalf of that company or in connection with the incorporation of that company, and those goods or services were acquired prior to incorporation by a person who –

- (a) was reimbursed by the company for the whole amount of the consideration paid for the goods or services; and
- (b) acquired those goods or services for the purpose of an enterprise to be carried on by the company and has not used those goods or services for any purpose other than carrying on such enterprise,

be deemed to be the recipient of the goods or services and to have paid the tax so charged as if the supply or the payment of the tax had been made during the tax period in which the reimbursement referred to in paragraph (a) is made: Provided that this section shall not apply in relation to any goods or services where –

- (i) the supply of those goods or services by that person to the company is a taxable supply, or is a supply of second-hand goods not being a taxable supply; or
- (ii) those goods or services were so acquired more than six months prior to the date of incorporation of the company; or
- (iii) the company does not hold sufficient records to establish the particulars relating to the deduction to be made.

20. Tax invoices

- (1) Except as otherwise provided in this section, a supplier, being a registered vendor, making a taxable supply (other than a supply contemplated in section 8(10)) to a recipient, must within 21 days of the date of that supply issue a tax invoice containing such particulars as are specified in this section:

(Words in section 20(1) preceding the proviso substituted by section 91(a) of Act 53 of 1999)

(Words in section 20(1) preceding the proviso substituted by section 104(1)(a) of Act 32 of 2004 with effect from 1 March 2005)

Provided that –

- (i) it shall not be lawful to issue more than one tax invoice for each taxable supply;
- (ii) if a vendor claims to have lost the original tax invoice, the supplier or the recipient, as the case may be, may provide a copy clearly marked “copy” .

(1A)

(Section 20(1A) inserted by section 157(a) of Act 60 of 2001)

(Section 20(1A) deleted by section 104(1)(b) of Act 32 of 2004 with effect from 1 March 2005)

- (1B) Where a tax invoice contains an error in the particulars listed in subsection (4) or (5) and the circumstances contemplated in section 21(1)(a) to (e) of this Act are not applicable, the supplier must—

- (i) correct that tax invoice with the correct particulars, within 21 days from the date of the request to correct it: Provided that the time of supply contemplated in section 9 of this Act remains unaltered; and

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

(Section 20(1B) inserted by section 7 of Act 22 of 2018)

- (2) Where a recipient, being a registered vendor, creates a document containing the particulars specified in this section and purporting to be a tax invoice in respect of a taxable supply of goods or services made to the recipient by a supplier, being a registered vendor, that document shall be deemed to be a tax invoice provided by the supplier under subsection (1) of this section where –

- (a) the Commissioner has granted prior approval for the issue of such documents by a recipient or recipients of a specified class in relation to the taxable supplies or taxable supplies of a specified category to which the documents relate; and
- (b) the supplier and the recipient agree that the supplier shall not issue a tax invoice in respect of any taxable supply to which this subsection applies; and
- (c) such document is provided to the supplier and a copy thereof is retained by the recipient:

Provided that where a tax invoice is issued in accordance with this subsection, any tax invoice issued by the supplier in respect of that taxable supply shall be deemed not to be a tax invoice for the purposes of this Act.

- (3) Where a supply of goods is deemed by section 8(10) to be made and both the recipient and the supplier in relation to that supply are registered vendors, the recipient shall, within 21 days after the day on which such supply is deemed by section 9(8) to be made, create and furnish to the supplier a document which contains the particulars specified in this section, and such document shall for the purposes of this Act be deemed to be a tax invoice provided by the supplier under subsection (1) of this section.

- (4) Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice (full tax invoice) shall be in the currency of the Republic and shall contain the following particulars:

(Words in section 20(4) preceding paragraph (a) substituted by section 94(a) of Act 30 of 1998)

(Words in section 20(4) preceding paragraph (a) substituted by section 157(b) of Act 60 of 2001)

- (a) The words “tax invoice”, “VAT invoice” or “invoice”;

(Section 20(4)(a) substituted by section 26(a) of Act 23 of 2015)

- (b) the name, address and VAT registration number of the supplier;

(Section 20(4)(b) substituted by section 47(1)(a) of Act 16 of 2004)

- (c) the name, address and, where the recipient is a registered vendor, the VAT registration number of the recipient;

(Section 20(4)(c) substituted by section 175(1) of Act 45 of 2003 with effect from 1 March 2005)

(Section 20(4)(c) substituted by section 47(1)(b) of Act 16 of 2004 with effect from 1 March 2005)

- (d) an individual serialized number and the date upon which the tax invoice is issued;
- (e) full and proper description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;

(Section 20(4)(e) substituted by section 157(c) of Act 60 of 2001)

(Section 20(4)(e) substituted by section 104(1)(c) of Act 32 of 2004 with effect from 1 March 2005)

- (f) the quantity or volume of the goods or services supplied;
- (g) either –
 - (i) the value of the supply, the amount of tax charged and the consideration for the supply; or
 - (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

(Section 20(4)(g) substituted by section 25(1)(a) of Act 136 of 1992 with effect from 1 April 1992)

Provided that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.

(Proviso to section 20(4) added by section 94(b) of Act 30 of 1998)

- (5) Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed 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:

(Words in section 20(5) preceding paragraph (a) substituted by section 94(c) of Act 30 of 1998)

(Words in section 20(5) preceding paragraph (a) substituted by section 157(d) of Act 60 of 2001)

(Words in section 20(5) preceding paragraph (a) substituted by section 104(1)(d) of Act 32 of 2004 with effect from 1 March 2005)

(Words in section 20(5) preceding paragraph (a) substituted by section 29 of Act 21 of 2012)

- (a) The words “tax invoice”, “VAT invoice” or “invoice”;
(Section 20(5)(a) substituted by section 26(b) of Act 23 of 2015)
- (b) the name, address and VAT registration number of the supplier;
(Section 20(5)(b) substituted by section 47(1)(c) of Act 16 of 2004)
- (c) an individual serialized number and the date upon which the tax invoice is issued;

- (d) a description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;

(Section 20(5)(d) substituted by section 104(1)(e) of Act 32 of 2004 with effect from 1 March 2005)

- (e) either –

- (i) the value of the supply, the amount of tax charged and the consideration for the supply; or

- (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

(Section 20(5)(e) substituted by section 25(1)(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

Provided that this subsection shall not apply to a supply that is charged with tax under section 11.

.....

(Further proviso to section 20(5) added by section 94(d) of Act 30 of 1998)

(Further proviso to section 20(5) deleted by section 14 of Act 9 of 2007)

(Section 20(5) amended by section 33 of Act 97 of 1993)

- (5A) Notwithstanding anything to the contrary in subsections (4) and (5), where a vendor acquires an enterprise from another vendor and as a result of that acquisition, the supplying vendor immediately ceases to be a vendor, and the purchasing vendor, within a period of six months from the date of the acquisition, issues or receives a tax invoice in respect of the acquired enterprise, that tax invoice may reflect the name, address and VAT registration number of the supplying vendor.

(Section 20(5A) inserted by section 35 of Act 18 of 2009)

- (5B) Notwithstanding any other provision of this Act, if the supply by a vendor relates to any enterprise contemplated in paragraphs (b)(vi) and (b)(vii) of the definition of 'enterprise' in section 1, the vendor shall be required to provide a tax invoice containing such particulars as must be prescribed by the Commissioner by notice in the *Gazette*.

(Section 20(5B) inserted by section 176(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

(Section 20(5B) substituted by section 99(1) of Act 43 of 2014 with effect from 1 April 2015)

(Section 20(5B) substituted by section 19 of Act 33 of 2019)

- (6) Notwithstanding any other provision of this Act, a supplier shall not be required to provide a tax invoice if the total consideration for a supply is in money and does not exceed R50: Provided that the supplier shall provide the recipient with a document as is acceptable to the Commissioner.

(Section 20(6) amended by section 157(e) of Act 60 of 2001)

(Section 20(6) substituted by section 30(a) of Act 8 of 2010)

(7) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or category of supplies, and that it would be impractical to require that a full tax invoice be issued in terms of this section, the Commissioner may, subject to such conditions as the Commissioner may consider necessary, direct –

(a) that any one or more of the particulars specified in subsection (4) or (5) shall not be contained in a tax invoice; or

(b) that a tax invoice is not required to be issued; or

(Section 20(7)(b) amended by section 91(b) of Act 53 of 1999)

(c) that the particulars specified in subsection (4) or (5) be furnished in any other manner.

(Section 20(7)(c) added by section 91(b) of Act 53 of 1999)

(8) Notwithstanding anything in this section, where a supplier makes a supply (not being a taxable supply) of second-hand goods or of goods as contemplated in section 8(10) to a recipient, being a registered vendor, the recipient shall in the form as the Commissioner may prescribe, maintain a declaration by the supplier stating whether the supply is a taxable supply or not and shall further maintain sufficient records to enable the following particulars to be ascertained:

(a)

(i) The name of the supplier and-

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

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

Provided that the recipient-

(A) shall verify such name and identity number of any such natural person with reference to his identity card, as contemplated in section 1 of the Identification Act, 1997 (Act No. 68 of 1997), and retain a photocopy of such name and identity number appearing in such identity card; or

(Section 20(8)(a)(i)(A) substituted by section 20 of Act 24 of 2020, with effect from 20 January 2021)

(B) shall verify such name and registration number of any supplier other than a natural person with reference to its business letterhead or other similar document and retain

a photocopy of such name and registration number appearing on such letterhead or document; and

- (ii) the address of the supplier;
- (b) the date upon which the second-hand goods were acquired or the goods were repossessed or surrendered, as the case may be;
(Section 20(8)(b) substituted by section 176(1)(b) of Act 31 of 2013 with effect from 1 April 2014)
- (c) a description of the goods;
- (d) the quantity or volume of the goods;
- (e) the consideration for the supply; and
- (f) proof and date of payment.
(Section 20(8) amended by section 35 of Act 27 of 1997)
(Section 20(8) amended by section 94 of Act 30 of 1998)
(Section 20(8) amended by section 91 of Act 53 of 1999)
(Section 20(8) amended by section 104(1) of Act 32 of 2004)
(Section 20(8) amended by section 38 of Act 21 of 2006)
(Section 20(8) substituted by section 30(b) of Act 8 of 2010)

21. Credit and debit notes

- (1) This section shall apply where, in relation to the supply of goods or services by any registered vendor –
 - (a) that supply has been cancelled; or
 - (b) the nature of that supply has been fundamentally varied or altered; or
 - (c) the previously agreed consideration for that supply has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason; or
 - (d) the goods or services or part of the goods or services supplied have been returned to the supplier, including the return to –
 - (i) a vendor of a returnable container, the vendor in such case being deemed for the purposes of this Act to have made the supply of the container in respect of which the deposit was charged, whether the supply was made by him or any other person; or

- (ii) a vendor, where a supply of an enterprise as a going concern, contemplated in section 11(1)(e) of this Act, was made to that vendor, the vendor in such case being deemed for purposes of this Act to have made the supply of the goods or services to the recipient, whether the supply was made by him or the other vendor that made the supply of that enterprise as a going concern; or

(Section 21(1)(d) substituted by section 26(1)(a) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 21(1)(d) amended by section 150(1)(a) of Act 22 of 2012 with effect from 1 January 2013)

(Section 21(1)(d) substituted by section 8 of Act 22 of 2018)

- (e) an error has occurred in stipulating the amount of consideration agreed upon for that supply,
(Section 21(1)(e) added by section 150(1)(b) of Act 22 of 2012 with effect from 1 January 2013)

and the supplier has –

- (i) provided a tax invoice in relation to that supply and the amount shown therein as tax charged on that supply is incorrect in relation to the amount properly chargeable on that supply as a result of the occurrence of any one or more of the above-mentioned events; or
- (ii) furnished a return in relation to the tax period in respect of which output tax on that supply is attributable, and has accounted for an incorrect amount of output tax on that supply in relation to the amount properly chargeable on that supply as a result of the occurrence of any one or more of the above-mentioned events.

- (2) Where a supplier has accounted for an incorrect amount of output tax as contemplated in subsection (1), that supplier shall make an adjustment in calculating the tax payable by that supplier in the return for the tax period during which it has become apparent that the output tax is incorrect, and if –

- (a) the output tax properly chargeable in relation to that supply exceeds the output tax actually accounted for by the supplier, the amount of that excess shall be deemed to be tax charged by that supplier in relation to a taxable supply attributable to the tax period in which the adjustment is to be made, and shall not be attributable to any prior tax period; or
- (b) the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, that supplier shall either make a deduction in terms of section 16(3) in respect of the amount of that excess (such amount being deemed for the purposes of that section to be input tax), or reduce the amount of output tax attributable to the said tax period in terms of section 16(4) by the amount of that excess:

(Words in section 21(2)(b) preceding the proviso substituted by section 34(a) of Act 97 of 1993)

Provided that the said deduction shall not be made where the excess tax has been borne by a recipient of goods or services supplied by the supplier and the recipient is not a vendor, unless

the amount of the excess tax has been repaid by the supplier to the recipient, whether in cash or by way of a credit against any amount owing to the supplier by the recipient.

(3) Subject to this section, where a tax invoice has been provided as contemplated in subsection (1)(i), and

–

(a) the amount shown as tax charged in that tax invoice exceeds the actual tax charged in respect of the supply concerned, the supplier shall provide the recipient with a credit note, containing the following particulars:

(i) The words “credit note”;

(Section 21(3)(a)(i) substituted by section 27(a) of Act 23 of 2015)

(ii) the name, address and VAT registration number of the vendor;

(Section 21(3)(a)(ii) substituted by section 48(1)(a) of Act 16 of 2004)

(iii) the name, address and, where the recipient is a registered vendor, the VAT registration number of the recipient, except where the credit note relates to a supply in respect of which a tax invoice contemplated in section 20(5) was issued;

(Section 21(3)(a)(iii) substituted by section 26(1)(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 21(3)(a)(iii) substituted by section 176(1)(a) of Act 45 of 2003 with effect from 1 March 2005)

(Section 21(3)(a)(iii) substituted by section 48(1)(b) of Act 16 of 2004 with effect from 1 March 2005)

(iv) the date on which the credit note was issued;

(v) either –

(aa) the amount by which the value of the said supply shown on the tax invoice has been reduced and the amount of the excess tax; or

(bb) where the tax charged in respect of the supply is calculated by applying the tax fraction to the consideration, the amount by which the consideration has been reduced and either the amount of the excess tax or a statement that the reduction includes an amount of tax and the rate of the tax included;

(Section 21(3)(a)(v) substituted by section 26(1)(c) of Act 136 of 1992 with effect from 1 April 1992)

(vi) a brief explanation of the circumstances giving rise to the issuing of the credit note;

(vii) information sufficient to identify the transaction to which the credit note refers;

(b) the actual tax charged in respect of the supply concerned exceeds the tax shown in the tax invoice as charged, the supplier shall provide the recipient with a debit note, containing the following particulars:

(i) The words “debit note”;

(Section 21(3)(b)(i) substituted by section 27(b) of Act 23 of 2015)

(ii) the name, address and VAT registration number of the vendor;

(Section 21(3)(b)(ii) substituted by section 48(1)(c) of Act 16 of 2004)

(iii) the name, address and, where the recipient is a registered vendor, the VAT registration number of the recipient, except where the debit note relates to a supply in respect of which a tax invoice contemplated in section 20(5) was issued;

(Section 21(3)(b)(iii) substituted by section 26(1)(d) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 21(3)(b)(iii) substituted by section 176(1)(b) of Act 45 of 2003 with effect from 1 March 2005)

(Section 21(3)(b)(iii) substituted by section 48(1)(d) of Act 16 of 2004 with effect from 1 March 2005)

(iv) the date on which the debit note was issued;

(v) either –

(aa) the amount by which the value of the said supply shown on the tax invoice has been increased and the amount of the additional tax; or

(bb) where the tax charged in respect of the supply is calculated by applying the tax fraction to the consideration, the amount by which the consideration has been increased and either the amount of the additional tax or a statement that the increase includes an amount of tax and the rate of the tax included;

(Section 21(3)(b)(v) substituted by section 26(1)(e) of Act 136 of 1992 with effect from 1 April 1992)

(vi) a brief explanation of the circumstances giving rise to the issuing of the debit note;

(vii) information sufficient to identify the transaction to which the debit note refers:

Provided that –

(A) it shall not be lawful to issue more than one credit note or debit note for the amount of the excess;

(B) if any registered vendor claims to have lost the original credit note or debit note, the supplier or recipient, as the case may be, may provide a copy clearly marked “copy”;

(D) a supplier shall not be required to provide a recipient with a credit note contemplated in paragraph (a) of this subsection in any case where and to the extent that the amount of the excess referred to in that paragraph arises as a result of the recipient taking up a prompt payment discount offered by the supplier, if the terms of the prompt payment discount offer are clearly stated on the face of the tax invoice.

- (4) Where a recipient, being a registered vendor, creates a document containing the particulars specified in this section and purporting to be a credit note or a debit note in respect of a supply of goods or services made to the recipient by a supplier, being a registered vendor, that document shall be deemed to be a credit note or, as the case may be, a debit note provided by the supplier under subsection (3) where –
- (a) the Commissioner has granted prior approval for the issue of such documents by a recipient or recipients of a specified class in relation to the supplies or supplies of a specified category to which the documents relate; and
 - (b) the supplier and the recipient agree that the supplier shall not issue a credit note or, as the case may be, a debit note in respect of any supply to which this subsection applies; and
 - (c) a copy of any such document is provided to the supplier and another copy is retained by the recipient:

Provided that –

- (i) where a credit note is issued in accordance with this subsection, any credit note issued by the supplier in respect of that supply shall be deemed not to be a credit note for the purposes of this Act;
 - (ii) where a debit note is issued in accordance with this subsection, any debit note issued by the supplier in respect of that supply shall be deemed not to be a debit note for the purposes of this Act.
- (5) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or category of supplies and that it would be impractical to require that a full credit note or debit note be issued in terms of this section, the Commissioner may, subject to any conditions that the Commissioner may consider necessary, direct –
- (a) that any one or more of the particulars specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (3) shall not be contained in a credit note or, as the case may be, a debit note; or
 - (b) that a credit note or, as the case may be, a debit note is not required to be issued.

- (6) Where any recipient, being a registered vendor, has been issued with a credit note in terms of subsection (3)(a), or has written or other notice or otherwise knows that any tax invoice which the vendor holds is incorrect as a result of any one or more of the events specified in any of paragraphs (a), (b), (c), (d) or (e) of subsection (1) and has made a deduction of any amount of input tax in any tax period in respect of the supply of goods or services to which the credit note or that notice or other knowledge, as the case may be, relates, either the amount of the excess referred to in subsection (3)(a) shall be deemed to be tax charged in relation to a taxable supply made by the recipient attributable to the tax period in which the credit note was issued, or that notice or, as the case may be, other knowledge was received, or the amount of input tax deducted in terms of section 16(3) in the last-mentioned tax period shall be reduced by the amount of the said excess, to the extent that the input tax deducted in the first-mentioned tax period exceeds the output tax properly charged.

(Section 21(6) substituted by section 34(b) of Act 97 of 1993)

(Section 21(6) substituted by section 136(1)(a) of Act 25 of 2015 with effect from 1 April 2016)

- (7) Where any recipient, being a registered vendor, has been issued with a debit note in terms of subsection (3)(b) and has made a deduction of any amount of input tax in any tax period in respect of the supply of goods or services to which that debit note relates, the recipient may, subject to the provisions of section 17, make a deduction of input tax in terms of section 16(3) in respect of the amount of the excess referred to in subsection (3)(b) in the tax period in which the debit note is issued, to the extent that the output tax properly charged exceeds the input tax deducted.
- (8) Notwithstanding anything to the contrary in subsection (3), where a vendor acquires an enterprise from another vendor and as a result of that acquisition, the supplying vendor immediately ceases to be a vendor, and the purchasing vendor, within a period of six months from the date of acquisition, issues or receives a credit note or debit note, as the case may be, in respect of the acquired enterprise, that credit note or debit note may reflect the name, address and VAT registration number of the supplying vendor.

(Section 21(8) added by section 36 of Act 18 of 2009)

22. Irrecoverable debts

- (1) Subject to subsection (6), where a vendor –

(Words in section 22(1) preceding paragraph (a) substituted by section 140(1)(a) of Act 24 of 2011)

- (a) has made a taxable supply for consideration in money; and
- (b) has furnished a return in respect of the tax period for which the output tax on the supply was payable and has properly accounted for the output tax on that supply as required under this Act; and
- (c) has written off so much of the said consideration as has become irrecoverable,

the vendor may make a deduction in terms of section 16(3) of that portion of the amount of tax charged in relation to that supply as bears to the full amount of such tax the same ratio as the amount of consideration so written off as irrecoverable bears to the total consideration for the supply, the deduction so made being deemed for the purposes of the said section to be input tax:

(Words preceding the first proviso to section 22(1) substituted by section 33 of Act 136 of 1991)

Provided that –

- (i) where tax charged in respect of a supply of goods under an instalment credit agreement has become irrecoverable, any deduction in terms of section 16(3) as provided for in this section, shall be restricted to the tax content of the amount which has become irrecoverable in respect of the cash value of such supply, as applicable in respect of that agreement in terms of section 10(6);
- (ii) the amount which has become irrecoverable in respect of such cash value shall be deemed to be an amount equal to the balance of the cash value remaining after deducting therefrom so much of the sum of the payments made by the debtor in terms of the said agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to the said instalment credit agreement, may properly be regarded as having been made in respect of the cash value;
- (iii) the said tax content shall be an amount calculated by applying the tax fraction, as applicable at the time the supply under the said instalment credit agreement was in terms of section 9(3)(c) deemed to have taken place, to the amount deemed as aforesaid to be irrecoverable in respect of such cash value;

(Paragraph (iii) of the first proviso to section 22(1) substituted by section 27(a) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

- (iv) a vendor who has transferred an account receivable at face value on a –
 - (aa) non-recourse basis to any other person, shall not make any deduction in respect of such transfer in terms of this subsection; or
 - (bb) recourse basis to any other person, may make a deduction in terms of this subsection only when such account receivable is transferred back to him and he has written off so much of the consideration as has become irrecoverable:

(Paragraph (iv) of the first proviso to section 22(1) added by section 36(a) of Act 27 of 1997)

Provided further that the deduction provided for in this subsection shall not be made in terms of section 16(3) –

- (i) in respect of any amount which has become irrecoverable in respect of an instalment credit agreement, if the vendor has repossessed or is obliged to take possession of the goods supplied in terms of that agreement; or

(Paragraph (i) of the further proviso to section 22(1) substituted by section 177(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

- (ii) in the case of any vendor who is required to account for tax payable on a payments basis in terms of section 15, except in relation to any supply made by him to which section 9(2)(b) or section 9(3)(c) applies.

(1A) Where a vendor-

- (a) has made a taxable supply for consideration in money; and
- (b) has furnished a return in respect of the tax period for which the output tax on the supply was payable (at the rate of tax referred to in section 7(1)) and has properly accounted for the output tax on that supply as required in terms of this Act; and
- (c) has transferred the account receivable relating to such taxable supply at face value to another vendor (hereinafter referred to as the recipient) on a non-recourse basis on or after the date of promulgation of the Taxation Laws Amendment Act, 1997,

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

(Section 22(1A) inserted by section 36(b) of Act 27 of 1997)

- (2) Where any amount in respect of which a deduction has been made in accordance with subsection (1) is at any time wholly or partly recovered by the vendor, or becomes recoverable by him by virtue of the reassignment to him of the underlying debt, that portion of the amount of such deduction as bears to the full amount of such deduction the same ratio as the amount of the irrecoverable debt recovered or reassigned bears to the debt written off shall be deemed to be tax charged in relation to a taxable supply made during the tax period in which the debt is wholly or partly recovered or reassigned to such vendor.

(Section 22(2) substituted by section 27(b) of Act 136 of 1992)

- (3) Subject to subsection (3A), where a vendor who is required to account for tax payable on an invoice basis in terms of section 15 -

(Words in section 22(3) preceding paragraph (a) substituted by section 140(1)(b) of Act 24 of 2011)

- (a) has made a deduction of input tax in terms of section 16(3) in respect of a taxable supply of goods or services made to him; and
- (b) has, within a period of 12 months after the expiry of the tax period within which such deduction was made, not paid the full consideration in respect of such supply,
(Section 22(3)(b) substituted by section 95 of Act 30 of 1998)

an amount equal to the tax fraction, as applicable at the time of such deduction, of that portion of the consideration which has not been paid shall be deemed to be tax charged in respect of a taxable supply made in the tax period following the expiry of the period of 12 months:

(Words in section 22(3) following upon paragraph (b) substituted by section 36(c) of Act 27 of 1997)

(Words in section 22(3) following upon paragraph (b) substituted by section 86(a) of Act 20 of 2006)

Provided that-

- (i) the period of 12 months shall, if any contract in writing in terms of which such supply was made provides for the payment of consideration or any portion thereof to take place after the expiry of the tax period within which such deduction was made, in respect of such consideration or portion be calculated as from the end of the month within which such consideration or portion was payable in terms of that contract;

(Subparagraph (i) of the proviso to section 22(3) amended by section 86(b) of Act 20 of 2006)

- (ii) where-

- (aa) the estate of a vendor is sequestrated, whether voluntarily or compulsorily;

- (bb) the vendor is declared insolvent;

- (cc) the vendor has entered into a compromise in terms of section 155 of the Companies Act, 2008 (Act No. 71 of 2008), or a similar arrangement with creditors; or

*(Paragraph (ii)(cc) of the proviso to section 22(3) substituted by section 177(1)(b) of Act 31 of 2013
with effect from 1 April 2014)*

- (dd) the vendor ceases to be a vendor as contemplated in section 8(2),

within 12 months after the expiry of the tax period within which that deduction was made, not paid the full consideration, the vendor must account for output tax in terms of this section equal to the tax fraction at the rate applicable at the time of such deduction of that portion of the consideration which has not been paid—

(Words preceding section 22(3)(ii)(AA) substituted by section 66(1) of Act 23 of 2020, with effect from 1 April 2021)

(AA) at the time of sequestration, declaration of insolvency or the date on which the compromise or the arrangement or similar arrangement was entered into; or

(BB) immediately before the vendor ceased to be a vendor as contemplated in section 8(2); or
(Subparagraph (ii) of the proviso to section 22(3) substituted by section 86(c) of Act 20 of 2006)

(iii) paragraph (ii) shall not be applicable where a vendor has already accounted for tax payable in accordance with this subsection.

(Subparagraph (iii) of the proviso to section 22(3) inserted by section 86(d) of Act 20 of 2006)
(Subparagraph (iii) of the proviso to section 22(3) substituted by section 140(1)(c) of Act 24 of 2011)

(Proviso to section 22(3) substituted by section 36(c) of Act 27 of 1997)

(Proviso to section 22(3) substituted by section 110(a) of Act 31 of 2005)

(Section 22(3) added by section 25 of Act 37 of 1996)

(3A) Subject to subsection (6)(a), subsection (3) shall not be applicable in respect of a taxable supply made by a vendor which is a member of a group of companies, to another vendor which is a member of the same group of companies for as long as both vendors are members of the same group of companies.

(Section 22(3A) inserted by section 140(1)(d) of Act 24 of 2011)

(4) If a vendor who has accounted for tax payable in accordance with subsection (3) at any time thereafter pays any portion of the consideration in respect of the supply in question, he may in terms of section 16(3) make a deduction of input tax of an amount equal to the tax fraction, as applicable at the time of the deduction contemplated in paragraph (a) of the said subsection (3), of that portion of the consideration so paid.

(Section 22(4) added by section 25 of Act 37 of 1996)

(5)

(Section 22(5) added by section 25 of Act 37 of 1996)

(Section 22(5) deleted by section 177 of Act 45 of 2003)

(6)

(a) Where a vendor which is a member of a group of companies makes a taxable supply to another vendor which is a member of the same group of companies, the vendor who made the taxable supply may not make a deduction in terms of subsection (1) read with section 16(3) of any amount of tax that has become irrecoverable for as long as both vendors are members of the same group of companies.

(b) For the purposes of paragraph (a) and subsection (3A), a 'group of companies' means a group of companies as defined in section 1 of the Income Tax Act if any other company would be part of the same group of companies as that company if the expression 'at least 70 per cent of the equity

shares of' in paragraphs (a) and (b) of that definition were replaced by the expression '100 per cent of the equity shares of'.

(Section 22(6) added by section 140(1)(e) of Act 24 of 2011)

- (7) For purposes of this section, 'face value' means the amount of the account receivable at the time of transfer less the amount written off by the seller, after adjustments have been made for debit and credit notes and amounts already written off as irrecoverable by the vendor.

(Section 22(7) added by section 91(1) of Act 23 of 2018 with effect from 1 April 2019)

PART III

Registration

23. Registration of persons making supplies in the course of enterprises

- (1) Every person who, on or after the commencement date, carries on any enterprise and is not registered, becomes liable to be registered –

- (a) at the end of any month where the total value of taxable supplies made by that person in the period of 12 months ending at the end of that month in the course of carrying on all enterprises has exceeded R1 million;

(Section 23(1)(a) amended by section 92(a) of Act 53 of 1999)

(Section 23(1)(a) substituted by section 113(1)(a) of Act 60 of 2008 with effect from 1 March 2009)

- (b) at the commencement of any month where the total value of the taxable supplies in terms of a contractual obligation in writing to be made by that person in the period of 12 months reckoned from the commencement of the said month will exceed the above-mentioned amount:

(Section 23(1)(b) substituted by section 178(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

Provided that the total value of the taxable supplies of the vendor within the period of 12 months referred to in paragraph (a) or the period of 12 months referred to in paragraph (b) shall not be deemed to have exceeded or be likely to exceed the amount contemplated in paragraph (a), where the Commissioner is satisfied that the said total value will exceed or is likely to exceed such amount solely as a consequence of –

(Words in the proviso to section 23(1) preceding paragraph (i) amended by section 92(b) of Act 53 of 1999)

(Words in the proviso to section 23(1) preceding paragraph (i) substituted by section 24 of Act 4 of 2008)

- (i) any cessation of, or any substantial and permanent reduction in the size or scale of, any enterprise carried on by that person; or

- (ii) the replacement of any plant or other capital asset used in any enterprise carried on by that person; or
- (iii) abnormal circumstances of a temporary nature.

(1A) Every person who carries on any enterprise as contemplated in paragraph (b)(vi) or (vii) of the definition of “enterprise” in section 1 and is not registered becomes liable to be registered at the end of any month where the total value of taxable supplies made by that person has exceeded R1 million in any consecutive 12-month period.

(Section 23(1A) inserted by section 178(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

(Section 23(1A) substituted by section 11(1) of Act 21 of 2018 with effect from 1 April 2019)

(2) Every person who is not a resident of the Republic, and who in terms of subsection (1) or section 50A, becomes liable to be registered in accordance with Chapter 3 of the Tax Administration Act, shall be deemed not to have applied for registration, in addition to section 22(4) of the Tax Administration Act, until such person has-

- (a) appointed a representative vendor as contemplated in section 46 in the Republic and furnished the Commissioner with the particulars of such representative vendor;
- (b) opened a banking account with any bank, mutual bank or other similar institution, registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), for the purposes of his or her enterprise carried on in the Republic and furnished the Commissioner with the particulars of such banking account.

(Section 23(2) substituted by section 37 of Act 27 of 1997)

(Section 23(2) amended by section 113(1) of Act 60 of 2008)

(Section 23(2) amended by section 37(1) of Act 18 of 2009)

(Section 23(2) substituted by section 271 read with paragraph 117(a) of Schedule 1 of Act 28 of 2011)

(3) Notwithstanding the provisions of subsections (1) and (2), every person who satisfies the Commissioner that, on or after the commencement date-

- (a) that person is a ‘municipality’ as defined in section 1 or is carrying on any enterprise as contemplated in paragraph (b)(ii), (iii) or (v) of the definition of ‘enterprise’ in section 1; or

(Section 23(3)(a) substituted by section 36 of Act 32 of 2005)

(Section 23(3)(a) substituted by section 14(1) of Act 10 of 2006 with effect from 1 July 2006)

- (b) that person-

- (i) is carrying on any enterprise and the total value of taxable supplies made by that person in the course of carrying on all enterprises in the preceding period of 12 months has exceeded R50 000; or

- (ii) subject to the provisions of section 15(2B) and any regulation made by the Minister in terms of this Act, is carrying on any enterprise where the total value of taxable supplies made or to be made by that person has not exceeded R50 000 but can reasonably be expected to exceed that amount within 12 months from the date of registration,

other than any enterprise-

- (AA) as contemplated in paragraph (b)(ii) or (iii) of the definition of 'enterprise in section 1; or

- (BB) that is a 'municipality' as defined in section 1;

(Section 23(3)(b) substituted by section 14(1) of Act 10 of 2006 with effect from 1 July 2006)

(Section 23(3)(b) amended by section 93(1) of Act 17 of 2009)

(Section 23(3)(b) substituted by section 178(1)(c) of Act 31 of 2013 with effect from 1 April 2014)

- (c) that person intends to carry on any enterprise from a specified date, where that enterprise will be supplied to him as a going concern and the total value of taxable supplies made by the supplier of the going concern from carrying on that enterprise or part of the enterprise which will be supplied has exceeded R50 000 in the preceding period of 12 months; or

(Section 23(3)(c) substituted by section 93(1)(b) of Act 17 of 2009)

- (d) that person is continuously and regularly carrying on an activity of a nature set out in any regulation made by the Minister in terms of this Act and in consequence of the nature of that activity is likely to make taxable supplies only after a period of time,

(Section 23(3)(d) substituted by section 93(1)(b) of Act 17 of 2009)

(Section 23(3)(d) substituted by section 178(1)(d) of Act 31 of 2013 with effect from 1 April 2014)

may apply to the Commissioner for registration.

(Words in section 23(3) following paragraph (d) substituted by section 37(1)(b) of Act 18 of 2009)

(Words in section 23(3) following paragraph (a) substituted by section 271 read with paragraph 117(b) of Schedule 1 of Act 28 of 2011)

(Section 23(3) substituted by section 92(c) of Act 53 of 1999)

- (4) Where any person has-

- (a) applied for registration in accordance with Chapter 3 of the Tax Administration Act or subsection (2) or (3) and the Commissioner is satisfied that that person is eligible to be registered in terms of this Act, that person shall be a vendor for the purposes of this Act with effect from such date as the Commissioner may determine; or

(Section 23(4)(a) substituted by section 271 read with paragraph 117(c) of Schedule 1 of Act 28 of 2011)

- (b) not applied for registration in terms of Chapter 3 of the Tax Administration Act and the Commissioner is satisfied that that person is liable to be registered in terms of this Act, that person shall be a vendor for the purposes of this Act with effect from the date on which that person first became liable to be registered in terms of this Act: Provided that the Commissioner may, having regard to the circumstances of the case, determine that person to be a vendor from such later date as the Commissioner may consider equitable:

(Section 23(4)(b) substituted by section 271 read with paragraph 117(c) of Schedule 1 of Act 28 of 2011)

Provided that where that person is a public entity listed in Schedule 1 or Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), which was liable to be registered as a vendor for any supplies made on or before 31 March 2005, but did not register before 1 April 2005, the Commissioner must not register that person in respect of those supplies.

(Proviso to section 23(4) inserted by section 9 of Act 10 of 2005)

- (5) Notwithstanding anything in this Act to the contrary, where any enterprise is carried on by any association not for gain in branches or divisions, or separate enterprises are carried on by that association, that association may apply in writing to the Commissioner for any such branch, division or separate enterprise to be deemed to be a separate person for the purposes of this section, and if every such branch, division or separate enterprise maintains an independent system of accounting and can be separately identified by reference to the nature of the activities carried on or the location of that branch, division or separate enterprise, every such branch, division or separate enterprise shall be deemed to be a separate person, and not a part of the association, and, where any such branch, division or separate enterprise is deemed to be a separate person under this subsection, any enterprise carried on by that branch or division or any separate enterprise carried on by the association shall, to that extent, be deemed not to be carried on by the association concerned.
- (6) The provisions of this Act relating to the determination of the value of any supply of goods or services, whether such supply is made before or on or after the commencement date, shall apply for the purposes of this section, but no regard shall be had to any tax charged in respect of any such supply: Provided that any supply of services contemplated in section 11(2)(n) shall for the purposes of this section be deemed not to be a taxable supply.
- (7) Where the Commissioner is satisfied that any person who has applied for registration in terms of subsection (3) is not eligible to be registered in terms of this Act or should not be registered by reason of the fact that such person –
- (a) has no fixed place of abode or business; or
 - (b) does not keep proper accounting records relating to any enterprise carried on by him; or

- (c) has not opened a banking account with any bank, mutual bank or other similar institution for the purposes of any enterprise carried on by him; or

(Section 23(7)(c) substituted by section 20 of Act 20 of 1994)

- (d) has previously been registered as a vendor in respect of any enterprise, whether in terms of this Act or in terms of the Sales Tax Act, 1978 (Act No. 103 of 1978), but failed to perform his duties under either of the said Acts in relation to such enterprise,

the Commissioner may refuse to register the said person as a vendor in terms of this Act and shall give written notice to that person of such refusal.

- (8)

(Section 23(8) deleted by section 178 of Act 45 of 2003)

(Section 23(8) added by section 113(1)(c) of Act 60 of 2008 with effect from 1 March 2009)

(Section 23(8) deleted by section 124(1) of Act 7 of 2010 with effect from 1 March 2011)

- (9)

(Section 23(9) added by section 113(1)(c) of Act 60 of 2008 with effect from 1 March 2009)

(Section 23(9) deleted by section 141(1) of Act 24 of 2011 with effect from 1 March 2012)

24. Cancellation of registration

- (1) Subject to the provisions of subsection (2), every vendor shall cease to be liable to be registered where the Commissioner is satisfied that the total value of the vendor's taxable supplies in the period of 12 months commencing at the beginning of any tax period of the vendor will be not more than the amount referred to in section 23(1) or (1A).

(Section 24(1) substituted by section 71(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

- (2) Every vendor who wishes to have his registration cancelled in the circumstances contemplated in subsection (1), may request the Commissioner in writing to cancel his registration, and if the Commissioner is satisfied as contemplated in subsection (1), the Commissioner shall cancel the vendor's registration with effect from the last day of the tax period during which the Commissioner was so satisfied, or from such other date as may be determined by the Commissioner, and shall notify the vendor of the date on which the cancellation of the registration takes effect.

- (3) Every vendor who ceases to carry on all enterprises shall notify the Commissioner of that fact within 21 days of the date of such cessation and the Commissioner shall cancel the registration of such vendor with effect from the last day of the tax period during which all such enterprises ceased, or from such other date as may be determined by the Commissioner.

(Section 24(3) amended by section 93(a) of Act 53 of 1999)

- (4) Any notification by a vendor in terms of subsection (3) shall be made in writing to the Commissioner and shall state the date upon which that vendor ceased to carry on all enterprises and whether or not that vendor intends to carry on any enterprise within 12 months from that date.
- (5) Where the Commissioner is satisfied that a vendor-
- (a) no longer complies with the requirements for registration as contemplated in section 23(1) and (3); or
 - (b) has failed to furnish the Commissioner with a return reflecting such information as may be required for the purposes of the calculation of tax in terms of section 14 or 16,

the Commissioner may cancel such vendor's registration with effect from the last day of the tax period during which the Commissioner is so satisfied, or from such other date as may be determined by the Commissioner: Provided that where such person lodges an objection against the Commissioner's decision under this subsection the cancellation of that person's registration shall not take effect until such time as the Commissioner's decision becomes final and conclusive.

(Section 24(5) substituted by section 21 of Act 20 of 1994)

(Section 24(5) substituted by section 93(b) of Act 53 of 1999)

(Section 24(5) substituted by section 179(1) of Act 31 of 2013 with effect from 1 April 2014)

- (6) Where any person has been registered as a vendor in consequence of an application made by him under section 23(3) and subsequent to the registration of that person as a vendor it appears to the Commissioner that such person's registration should be cancelled by reason of any of the circumstances referred to in section 23(7), the Commissioner may cancel such person's registration with effect from a date determined by the Commissioner: Provided that where such person lodges an objection against the Commissioner's decision under this subsection the cancellation of that person's registration shall not take effect until such time as the Commissioner's decision becomes final and conclusive.
- (7) The Commissioner shall give written notice to the person concerned of his decision to cancel such person's registration in terms of this section or of his refusal to cancel such registration.

25. Vendor to notify change of status.

In addition to any requirement under the Tax Administration Act, every vendor shall within 21 days notify the Commissioner in writing of –

(Words in section 25 preceding paragraph (a) substituted by section 271 read with paragraph 118(a) of Schedule 1 of Act 28 of 2011)

- (a) any change in the constitution or nature of the principal enterprise or enterprises of that vendor;
(Section 25(a) substituted by section 271 read with paragraph 118(b) of Schedule 1 of Act 28 of 2011)

- (b) any change of address at or from which, or the name in which, any enterprise is carried on by that vendor;
 - (c) any change whereby that vendor ceases to satisfy the conditions provided in section 15(2), where the Commissioner has given a direction in respect of that vendor in terms of that section;
 - (d) any change whereby the provisions of section 27(3)(a) become applicable in the case of that vendor;
 - (dA)
(Section 25(dA) inserted by section 10(1) of Act 10 of 2005 with effect from August 2005)
(Section 25(dA) deleted by section 9 of Act 22 of 2018)
 - (e) any change in the composition of the members of a partnership or joint venture;
(Section 25(e) added by section 96 of Act 30 of 1998)
 - (f)
(Section 25(f) added by section 94 of Act 53 of 1999)
(Section 25(f) deleted by section 271 read with paragraph 118(c) of Schedule 1 of Act 28 of 2011)
 - (g) any change whereby the provisions of section 27(4)(a)(iii) are no longer applicable in the case of that vendor;
(Section 25(g) added by section 40 of Act 34 of 2004)
(Section 25(g) substituted by section 21(1) of Act 39 of 2013 with effect from 1 March 2014)
 - (h) any changes in the majority ownership of any company.
(Section 25(h) added by section 271 read with paragraph 118(d) of Schedule 1 of Act 28 of 2011)
-
(Proviso to section 25 deleted by section 271 read with paragraph 118(e) of Schedule 1 of Act 28 of 2011)

26. Liabilities not affected by person ceasing to be vendor

The obligations and liabilities under this Act or the Tax Administration Act of any person in respect of anything done, or omitted to be done, by that person while that person is a vendor shall not be affected by the fact that that person ceases to be a vendor, or by the fact that, being registered as a vendor, the Commissioner cancels that person's registration as a vendor.

(Section 26 substituted by section 271 read with paragraph 119 of Schedule 1 of Act 28 of 2011)

PART IV

Returns, payments and assessments

Prepared by:

27. Tax period

(1) For the purposes of this section -

“**Category A**” means the category of vendors whose tax periods are periods of two months ending on the last day of the months of January, March, May, July, September and November of the calendar year;

“**Category B**” means the category of vendors whose tax periods are periods of two months ending on the last day of the months of February, April, June, August, October and December of the calendar year;

“**Category C**” means the category of vendors whose tax periods are periods of one month ending on the last day of each of the 12 months of the calendar year;

“**Category D**” means the category of vendors whose tax periods are periods of six months ending on the last day of February and August of the calendar year or, where any vendor falling within this category makes written application therefor, on the last day of such other months as the Commissioner may approve.

“**Category E**” means the category of vendors whose tax periods are periods of twelve months ending on the last day of their 'year of assessment' as defined in section 1 of the Income Tax Act or where any vendor falling within this category makes written application therefor, on the last day of such other month as the Commissioner may approve.

(Definition of “Category E” in section 27(1) added by section 78(1)(a) of Act 30 of 2000)

“**Category F**”

(Definition of “Category F” in section 27(1) added by section 11(1)(a) of Act 10 of 2005 with effect from 1 August 2005)

(Definition of “Category F” in section 27(1) deleted by section 28(1)(a) of Act 44 of 2014 with effect from 1 July 2015)

(2)

(a) Every vendor, not being a vendor who falls within Category C, D or E as contemplated in subsection (3), (4) or (4A), shall fall within Category A or Category B.

(Section 27(2)(a) substituted by section 78(1)(b) of Act 30 of 2000)

(Section 27(2)(a) substituted by section 11(1)(b) of Act 10 of 2005 with effect from 1 August 2005)

(Section 27(2)(a) substituted by section 28(1)(b) of Act 44 of 2014 with effect from 1 July 2015)

(b) The Commissioner shall determine whether such vendor falls within Category A or Category B and notify the vendor accordingly.

- (c) The determinations made by the Commissioner under paragraph (b) shall be made so as to ensure that approximately equal numbers of vendors fall within Category A and Category B.
- (d) The Commissioner may from time to time direct that any vendor falling within Category A shall, with effect from the commencement of a future period, fall within Category B, or *vice versa*.

(3) A vendor shall fall within Category C if –

- (a) the total value of the taxable supplies of the vendor (including the taxable supplies of any branches, divisions or separate enterprises of the vendor registered as separate vendors under section 50(2)) –

(Words in section 27(3)(a) preceding subparagraph (i) substituted by section 34(a) of Act 136 of 1991)

- (i) has in the period of 12 months ending on the last day of any month of the calendar year exceeded R30 million; or
- (ii) is likely to exceed that amount in the period of 12 months beginning on the first day of any such month; or

- (b) the vendor has applied in writing for the tax periods in his case to be on a monthly basis; or

- (c) the vendor has repeatedly made default in performing any of his obligations in terms of this Act,

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 C:

Provided that a vendor falling within Category C shall cease to fall within that Category with effect from the commencement of a future period notified by the Commissioner, if the vendor has applied in writing to be placed within Category A, B, D or E and the Commissioner is satisfied that by reason of a change in the vendor's circumstances he satisfies the requirements of this section for placing within Category A, B, D or E.

(Proviso to section 27(3) substituted by section 78(1)(c) of Act 30 of 2000)

(Proviso to section 27(3) substituted by section 11(1)(c) of Act 10 of 2005 with effect from 1 August 2005)

(Words in section 27(3) following paragraph (c) substituted by section 28(1)(c) of Act 44 of 2014 with effect from 1 July 2015)

(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);

- (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 subparagraph (v) is made;
 - (iii) the total value of the taxable supplies of the vendor from agricultural, pastoral or other farming activities –
 - (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
 - (bb) is not likely to exceed that amount in the period of 12 months commencing at the end of the period referred to in item (aa);
 - (iv) the vendor does not fall within Category C; and
 - (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
- (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,

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 subparagraph (v) for the vendor to be placed within Category A, B, C or E or the Commissioner is satisfied that by reason of a change in circumstances that vendor should be placed within Category A, B, C or E.

(Words in section 27(4) following paragraph (b) substituted by section 28(1)(d) of Act 44 of 2014 with effect from 1 July 2015)

(Section 27(4) amended by section 34 of Act 136 of 1991)

(Section 27(4) amended by section 11(1) of Act 10 of 2005 with effect from 1 August 2005)

(Section 27(4) amended by section 50(1) of Act 9 of 2006 with effect from 1 July 2006)

(Section 27(4) substituted by section 30(1) of Act 21 of 2012 with effect from 1 March 2014)

(4A) A vendor shall fall within Category E if –

- (a) the vendor is a company or a trust fund;
- (b) the vendor's enterprise consists solely of one or more of the activities of-
 - (i) letting of fixed property or the renting of movable goods to; or
 - (ii) the administration or management of, companies which are connected persons in relation to the vendor;
- (c) the recipients of those supplies are all registered vendors and are entitled to deductions of the full amount of tax in respect of those supplies;
- (d) tax invoices are issued once a year and payments of consideration for these supplies, by agreement between the parties, only become due once a year at the end of the 'year of assessment' as defined in section 1 of the Income Tax Act of the vendor making the supplies; and
- (e) the vendor has made written application to the Commissioner in such form as the Commissioner may prescribe, to be placed in Category E,

and the Commissioner has directed that, with effect from a date which he considers appropriate, the vendor shall fall within Category E: Provided that a vendor falling within Category E shall cease to fall within that Category with effect from a date notified by the Commissioner if-

- (i) written application is made by the person who made the application referred to in paragraph (e) for the vendor to be placed in a different Category; or
- (ii) the Commissioner is satisfied that by reason of a change in circumstances, that vendor should be placed in Category A, B, C or D; or
 - (Section 27(4A)(ii) substituted by section 11(1)(e) of Act 10 of 2005 with effect from 1 August 2005)*
 - (Section 27(4A)(ii) substituted by section 28(1)(e) of Act 44 of 2014 with effect from 1 July 2015)*
- (iii) the vendor's placing in Category E results in any financial loss (including any loss of interest) to the State.

(Section 27(4A) inserted by section 78(1)(e) of Act 30 of 2000)

(4B)

(Section 27(4B) inserted by section 11(1)(f) of Act 10 of 2005 with effect from 1 August 2005)

(Section 27(4B) amended by section 50(1) of Act 9 of 2006 with effect from 1 July 2006)

(Section 27(4B) deleted by section 28(1)(f) of Act 44 of 2014 with effect from 1 July 2015)

(5) For the purposes of subsection (3)(a) and subsection (4)(a)(iii) –

(Words in section 27(5) preceding paragraph (a) substituted by section 22(1)(a) of Act 39 of 2013 with effect from 1 March 2014)

(a) the provisions of this Act relating to the determination of the value of any supply of goods or services, whether such supply is made before or on or after the commencement date, shall apply for the purposes of this paragraph, but no regard shall be had to any tax charged in respect of such supply; and

(b) the total value of the taxable supplies of a vendor within any period of 12 months referred to in subsection (3)(a) or (4)(a)(iii) shall not be deemed to have exceeded or be likely to exceed the amount referred to in subsection (3)(a) or the amount referred to in subsection (4)(a)(iii), as the case may be, where that total value exceeds or is likely to exceed that amount, as the case may be, solely as a consequence of –

(Words in section 27(5)(b) preceding subparagraph (i) substituted by section 25(1) of Act 4 of 2008 with effect from 1 March 2008)

(Words in section 27(5)(b) preceding item (i) substituted by section 22(1)(b) of Act 39 of 2013 with effect from 1 March 2014)

(i) any cessation of, or any substantial or permanent reduction in the size or scale of, any enterprise carried on by the vendor; or

(ii) the replacement of any plant or other capital asset used in any enterprise carried on by the vendor; or

(iii) abnormal circumstances of a temporary nature.

(Section 27(5)(b) amended by section 50(1)(c) of Act 9 of 2006 with effect from 1 July 2006)

(6) The tax periods applicable under this Act to any vendor shall be the tax periods applicable to the Category within which the vendor falls as contemplated in this section: Provided that –

(i) the first such period shall commence on the commencement date or, where any person becomes a vendor on a later date, such later date;

(ii) any tax period ending on the last day of a month, as applicable in respect of the relevant Category, may, instead of ending on such last day, end on a fixed day approved by the Commissioner,

which day shall fall within 10 days before or after such last day: Provided that the future tax period so approved by the Commissioner must be used by the vendor for a minimum period of 12 months commencing from the tax period the change is made;

(iii) the first day of any tax period of the vendor subsequent to the vendor's first tax period shall be the first day following –

(a) the last day of the vendor's preceding tax period; or

(b) the fixed day as approved by the Commissioner in terms of paragraph (ii).

(Section 27(6) amended by section 28 of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 27(6) amended by section 78(1) of Act 30 of 2000 with effect from 1 November 2000)

(Section 27(6) substituted by section 271 read with paragraph 120 of Schedule 1 of Act 28 of 2011)

28. Returns and payments of tax

(1) 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 –

(Words in section 28(1) preceding paragraph (a) substituted by section 41(a) of Act 61 of 2008)

(Words in section 28(1) preceding paragraph (a) substituted by section 31(a) of Act 21 of 2012)

(a) furnish the Commissioner with a return reflecting such information as may be required for the purpose of the calculation of tax in terms of section 14 or 16; and

(Section 28(1)(a) substituted by section 37(a) of Act 32 of 2005)

(Section 28(1)(a) substituted by section 31 of Act 8 of 2010)

(b) calculate the amounts of such tax in accordance with the said section and pay the tax payable to the Commissioner or calculate the amount of any refund due to the vendor:

Provided that-

(i)

(Paragraph (i) of the proviso to section 28(1) deleted by section 271 read with paragraph 121(a) of Schedule 1 of Act 28 of 2011)

(ii) where payment of the full amount of the tax is effected by means of a debit order and the requirements for the transfer of the tax have been met by the vendor, such debit order shall not be effected prior to the last business day of the month during which the said twenty-fifth day falls and the period within which the tax is required to be paid shall be deemed to end on the last business day of such month;

(Paragraph (ii) of the proviso to section 28(1) substituted by section 32 of Act 36 of 2007)

- (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;

(Paragraph (iii) of the proviso to section 28(1) added by section 158 of Act 60 of 2001)

(Paragraph (iii) of the proviso to section 28(1) substituted by section 32 of Act 36 of 2007)

(Paragraph (iii) of the proviso to section 28(1) substituted by section 271 read with paragraph 121(b) of Schedule 1 of Act 28 of 2011)

(Paragraph (iii) of the proviso section 28(1) substituted by section 31(b) of Act 21 of 2012)

- (iv)

(Paragraph (iv) of the proviso to section 28(1) added by section 179(a) of Act 45 of 2003)

(Paragraph (iv) of the proviso to section 28(1) deleted by section 271 read with paragraph 121(c) of Schedule 1 of Act 28 of 2011)

- (v)

(Paragraph (v) of the proviso to section 28(1) added by section 37(b) of Act 32 of 2005)

(Paragraph (v) of the proviso to section 28(1) deleted by section 271 read with paragraph 121(c) of Schedule 1 of Act 28 of 2011)

(Proviso to section 28(1) substituted by section 29 of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Proviso to section 28(1) substituted by section 79 of Act 30 of 2000)

- (2) Every vendor who is registered in terms of the provisions of Part III shall within the period allowed by subsection (1) of this section furnish the return referred to in that subsection in respect of each tax period relating to such vendor, whether or not tax is payable or a refund is due in respect of such period.

- (3)

(Section 28(3) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

- (4)

(Section 28(4) deleted by section 179(b) of Act 45 of 2003)

(Section 28(4) inserted by section 41(b) of Act 61 of 2008)

(Section 28(4) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

- (5)

(Section 28(5) added by section 44 of Act 5 of 2001)

(Section 28(5) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

(6)
(Section 28(6) added by section 44 of Act 5 of 2001)
(Section 28(6) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

(7)
(Section 28(7) added by section 44 of Act 5 of 2001)
(Section 28(7) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

(8)
(Section 28(8) added by section 118 of Act 74 of 2002)
(Section 28(8) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

(9)
(Section 28(9) added by section 118 of Act 74 of 2002)
(Section 28(9) deleted by section 271 read with paragraph 121(d) of Schedule 1 of Act 28 of 2011)

29. Special records and payments

(Heading substituted by section 10(a) of Act 22 of 2018)

Where goods are deemed by section 8(1) to be supplied in the course of an enterprise the person selling the goods (hereinafter referred to as the seller), whether or not the seller is a vendor, shall, within the period of 30 days after the date on which the sale was made –

- (a) obtain and retain the following information in the manner prescribed by the Commissioner:
- (i) the name and address of the seller and, if registered as a vendor, his or her VAT registration number;
 - (ii) the name and address of the person whose goods are sold (hereinafter referred to as the owner) and, if the owner is registered under this Act, the VAT registration number of the owner;
 - (iii) the date of the sale;
 - (iv) the description and quantity of the goods sold; and
 - (v) the selling price of the goods and the amount of tax charged in respect of the supply of goods under the sale, being the tax leviable in respect of such supply under section 7(1)(a);
(Section 29(a) amended by section 49 of Act 16 of 2004)

(Section 29(a) amended by section 271 read with paragraph 122 of Schedule 1 of Act 28 of 2011)
(Section 29(a) substituted by section 10(b) of Act 22 of 2018)

- (b) pay to the Commissioner the amount of tax so charged; and
- (c) send or deliver to the owner a copy of the document reflecting the information referred to in paragraph (a),

(Section 29(c) substituted by section 10(c) of Act 22 of 2018)

and the seller and the owner shall exclude from any return which the seller or owner is required to furnish under section 28 the tax charged on the supply of goods under the sale contemplated in this section.

(Words following section 29(c) substituted by section 10(d) of Act 22 of 2018)

30.

(Section 30 repealed by section 271 read with paragraph 123 of Schedule 1 of Act 28 of 2011)

31. Assessments

(1) The Commissioner may make an assessment of the amount of tax payable by –

(a)

(b)

(c)

(d) any person, not being a vendor, that supplies goods or services and represents that tax is charged on that supply; or

(e) any vendor that supplies goods or services and such supply is not a taxable supply or such supply is a taxable supply in respect of which tax is chargeable at a rate of zero per cent, and in either case that vendor represents that tax is charged on such supply at a rate in excess of zero per cent;

(f) any person who holds himself or herself out as a person entitled to a refund or who produces, furnishes, authorises, or makes use of any tax invoice or document or debit note and has obtained any undue tax benefit or refund under the provisions of any regulation referred to in paragraph (d) of the definition of 'exported' in section 1, to which such person is not entitled.

(Section 31(1)(f) substituted by section 29 of Act 44 of 2014)

(Section 31(1) amended by section 180 of Act 45 of 2003)

(Section 31(1) amended by section 41 of Act 34 of 2004)

(Section 31(1) amended by section 38 of Act 32 of 2005)

(Section 31(1) amended by section 87 of Act 20 of 2006)

(Section 31(1) substituted by section 271 read with paragraph 124(a) of Schedule 1 of Act 28 of 2011)

(2) For the purposes of subsection (1), the person liable for the payment of any amount of tax assessable by the Commissioner shall be –

(a)

(Section 31(2)(a) deleted by section 271 read with paragraph 124(b) of Schedule 1 of Act 28 of 2011)

(b) where the provisions of section 29 are applicable –

(i) the seller referred to in that section, unless the provisions of subparagraph (ii) are applicable; or

(ii) the owner referred to in that section, if the said seller holds a written statement contemplated in section 8(1)(b) furnished by the said owner and that written statement is incorrect; or

(c) where subsection (1)(d) is applicable, the person referred to in that provision; or

(d) where subsection (1)(e) is applicable, the vendor referred to in that provision.

(3)

(Section 31(3) deleted by section 271 read with paragraph 124(c) of Schedule 1 of Act 28 of 2011)

(4) The Commissioner must give a notice of assessment, and –

(Words in section 31(4) preceding paragraph (a) substituted by section 271 read with paragraph 124(d) of Schedule 1 of Act 28 of 2011)

(a) where the assessment is made on a seller referred to in subsection (2)(b)(i), send a copy of that notice of assessment to the owner referred to in that subsection; or

(b) where the assessment is made on an owner referred to in subsection (2)(b)(ii), send a copy of that notice of assessment to the seller referred to in that subsection.

(5)

(Section 31(5) deleted by section 271 read with paragraph 124(e) of Schedule 1 of Act 28 of 2011)

(5A)

(Section 31(5A) inserted by section 80 of Act 30 of 2000)

(Section 31(5A) deleted by section 271 read with paragraph 124(e) of Schedule 1 of Act 28 of 2011)

(6) For the purposes of this section, Part II, Part VI and sections 58, 59, 60 and 61 –

- (a) the person referred to in subsection (1)(d) shall be deemed to be a vendor; and
- (b) any tax represented to be charged on any supply referred to in subsection (1)(d) or (1)(e) shall be deemed to be tax payable by the vendor concerned and the amount thereof as assessed under this section shall be paid within the period allowed by the Commissioner.

31A.

(Section 31A inserted by section 181 of Act 45 of 2003)

(Section 31A repealed by section 271 read with paragraph 125 of Schedule 1 of Act 28 of 2011)

31B.

(Section 31B inserted by section 181 of Act 45 of 2003)

(Section 31B repealed by section 271 read with paragraph 125 of Schedule 1 of Act 28 of 2011)

PART V

Objections and appeals

32. Objections to certain decisions

(Heading of section 32 substituted by section 271 read with paragraph 126(a) of Schedule 1 of Act 28 of 2011)

(1) The following decisions of the Commissioner are subject to objection and appeal:

- (a) any decision given in writing by the Commissioner –
 - (i) in terms of section 23(7) notifying that person of the Commissioner's refusal to register that person in terms of this Act;
 - (ii) in terms of section 24(6) or (7) notifying that person of the Commissioner's decision to cancel any registration of that person in terms of this Act or of the Commissioner's refusal to cancel such registration; or
 - (iii)
 - (iv) refusing to approve a method for determining the ratio contemplated in section 17(1); or
 - (v)
 - (vi)
- (b)

- (c) any decision made by the Commissioner and served on that person in terms of section 50A(3) or (4).

(Section 32(1) amended by section 38 of Act 27 of 1997)

(Section 32(1) amended by section 97 of Act 30 of 1998)

(Section 32(1) amended by section 95 of Act 53 of 1999)

(Section 32(1) amended by section 15(a) of Act 9 of 2007)

(Section 32(1) substituted by section 271 read with paragraph 126(b) of Schedule 1 of Act 28 of 2011)

- (2)

(Section 32(2) substituted by section 182 of Act 45 of 2003)

(Section 32(2) deleted by section 271 read with paragraph 126(c) of Schedule 1 of Act 28 of 2011)

- (2A)

(Section 32(2A) inserted by section 159(a) of Act 60 of 2001)

(Section 32(2A) deleted by section 271 read with paragraph 126(c) of Schedule 1 of Act 28 of 2011)

- (3)

(Section 32(3) substituted by section 159(b) of Act 60 of 2001)

(Section 32(3) deleted by section 271 read with paragraph 126(c) of Schedule 1 of Act 28 of 2011)

- (4)

(Section 32(4) substituted by section 159(b) of Act 60 of 2001)

(Section 32(4) substituted by section 15(b) of Act 9 of 2007)

(Section 32(4) deleted by section 271 read with paragraph 126(c) of Schedule 1 of Act 28 of 2011)

- (5)

(Section 32(5) substituted by section 159(b) of Act 60 of 2001)

(Section 32(5) substituted by section 15(b) of Act 9 of 2007)

(Section 32(5) deleted by section 271 read with paragraph 126(c) of Schedule 1 of Act 28 of 2011)

- 33.**

(Section 33 amended by section 35(1) of Act 136 of 1991 with effect from 25 October 1996)

(Section 33 amended by section 160 of Act 60 of 2001)

(Section 33 amended by section 183 of Act 45 of 2003)

(Section 33 amended by section 34 of Act 36 of 2007)

(Section 33 repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

- 33A.**

(Section 33A inserted by section 36(1) of Act 136 of 1991 with effect from 25 October 1996)

(Section 33A amended by section 96 of Act 53 of 1999)

(Section 33A amended by section 65 of Act 59 of 2000)

(Section 33A amended by section 161 of Act 60 of 2001)

(Section 33A amended by section 35 of Act 36 of 2007)

(Section 33A repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

34.

(Section 34 amended by section 162 of Act 60 of 2001)

(Section 34 repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

35.

(Section 35 substituted by section 163 of Act 60 of 2001)

(Section 35 repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

36.

(Section 36 substituted by section 2 of Act 61 of 1993)

(Section 36 amended by section 18(1) of Act 140 of 1993 deemed to have come into operation on 1 April 1993)

(Section 36 amended by section 22 of Act 20 of 1994)

(Section 36 amended by section 39 of Act 27 of 1997)

(Section 36 amended by section 164 of Act 60 of 2001)

(Section 36 repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

37.

(Section 37 repealed by section 271 read with paragraph 127 of Schedule 1 of Act 28 of 2011)

PART VI

Payment, recovery and refund of tax

38. Manner in which tax shall be paid

- (1) Subject to the provisions of section 7(3)(d) and section 13(5) and (6), the tax payable under this Act must be paid in full within the time allowed by section 14 or section 28 or section 29, whichever is applicable.

(Section 38(1) substituted by section 165 of Act 60 of 2001)

(Section 38(1) substituted by section 39 of Act 32 of 2005)

- (2) Where the Commissioner is satisfied that due to circumstances beyond the control of the person liable for the payment of the tax the amount of tax due cannot be accurately calculated within the time allowed by section 14 or section 28 or section 29, whichever is applicable, the Commissioner may in his or her discretion and subject to such conditions as he or she may impose, agree to accept a payment of a deposit by such person of an amount equal to the estimated liability of such person for such tax.

(Section 38(2) substituted by section 39 of Act 32 of 2005)

- (3) Such payment shall be deemed to be a provisional payment in respect of the liability of the said person for such tax, as finally determined, and when such liability is so determined any amount paid in excess shall be refundable to such person and any amount short-paid shall be recoverable from him.

39. Penalty for failure to pay tax when due

(Heading of section 39 substituted by section 271 read with paragraph 128(a) of Schedule 1 of Act 28 of 2011)

- (1) If any person who is liable for the payment of tax and is required to make such payment in accordance with the provisions of section 14, 28(1) or 29, fails to pay any amount of such tax within the period for the payment of such tax specified in the said provisions, the Commissioner must, in accordance with Chapter 15 of the Tax Administration Act, impose a penalty equal to 10 per cent of the said amount of tax.

(Section 39(1) amended by section 30 of Act 136 of 1992)

(Section 39(1) amended by section 3 of Act 61 of 1993)

(Section 39(1) substituted by section 271 read with paragraph 128(b) of Schedule 1 of Act 28 of 2011)

- (2)

(Section 39(2) amended by section 3(c) of Act 61 of 1993)

(Section 39(2) deleted by section 271 read with paragraph 128(c) of Schedule 1 of Act 28 of 2011)

- (3) If any person who is liable for the payment of tax in accordance with the provisions of section 8(2C) or 8(2D) fails to pay any amount of such tax within the period allowed for the payment of such tax in terms of that section, the person shall, in addition to such amount of tax, pay where payment of the said amount of tax is made on or after the first day of the month following the month during which the period allowed for payment of the tax ended, interest on the said amount of tax, calculated at the prescribed rate (but subject to the provisions of section 45A) for each month or part of a month in the period reckoned from the said first day.

(Section 39(3) amended by section 3(d) of Act 61 of 1993)

(Section 39(3) deleted by section 105(a) of Act 32 of 2004)

(Section 39(3) inserted by section 114(1)(a) of Act 60 of 2008 with effect from 1 March 2009)

- (4) Where any importer of goods which are required to be entered under the Customs and Excise Act, fails to pay any amount of tax payable in respect of the importation of the goods on the date on which the goods are entered under the said Act for home consumption in the Republic or the date on which customs duty is payable in terms of the said Act in respect of the importation or, if such duty is not payable, the date on which it would be so payable if it had been payable, whichever date is later, the Commissioner must, in accordance with Chapter 15 of the Tax Administration Act, impose on that importer a penalty equal to 10 per cent of the said amount of tax.

(Section 39(4) substituted by section 37 of Act 136 of 1991)

(Section 39(4) amended by section 3(e) of Act 61 of 1993)

(Section 39(4) deleted by section 40(a) of Act 27 of 1997)

(Section 39(4) inserted by section 184(1)(a) of Act 45 of 2003 with effect from 1 April 2004 [Proc. R22 in Gazette 26204, dated 30 March 2004])

(Section 39(4) substituted by section 271 read with paragraph 128(d) of Schedule 1 of Act 28 of 2011)

- (5) Where any person who is liable for the payment of tax fails to pay any amount of such tax on the date on which in terms of the Customs and Excise Act, liability arises for the payment of the excise duty or environmental levy referred to in section 7(3)(a), the Commissioner must, in accordance with Chapter 15 of the Tax Administration Act, impose on that person a penalty equal to 10 per cent of the said amount of tax.

(Section 39(5) substituted by section 37 of Act 136 of 1991)

(Section 39(5) amended by section 3 of Act 61 of 1993)

(Section 39(5) deleted by section 166 of Act 60 of 2001)

(Section 39(5) inserted by section 50(1)(a) of Act 16 of 2004 with effect from 1 August 2004)

(Section 39(5) substituted by section 22 of Act 9 of 2005)

(Section 39(5) substituted by section 271 read with paragraph 128(e) of Schedule 1 of Act 28 of 2011)

- (6)

(Section 39(6) amended by section 3(g) of Act 61 of 1993)

(Section 39(6) deleted by section 271 read with paragraph 128(f) of Schedule 1 of Act 28 of 2011)

- (6A)

(Section 39(6A) inserted by section 23(a) of Act 20 of 1994)

(Section 39(6A) deleted by section 271 read with paragraph 128(f) of Schedule 1 of Act 28 of 2011)

- (7)

(Section 39(7) substituted by section 23(b) of Act 20 of 1994)

(Section 39(7) substituted by section 40(b) of Act 27 of 1997)

(Section 39(7) amended by section 50(1) of Act 16 of 2004)

(Section 39(7) amended by section 114(1) of Act 60 of 2008)

(Section 39(7) amended by section 105 of Act 32 of 2004)

(Section 39(7) substituted by section 39(1)(a) of Act 18 of 2009 with effect from 1 April 2010)

(Section 39(7) deleted by section 271 read with paragraph 128(f) of Schedule 1 of Act 28 of 2011)

- (8) Notwithstanding anything to the contrary in this section, the Commissioner may prescribe, by notice in the *Gazette*, that any interest on any outstanding amount payable in terms of this Act, is calculated on the daily balance owing and compounded monthly from such date and for such period as the Commissioner may prescribe.

(Section 39(8) deleted by section 184(1)(b) of Act 45 of 2003 with effect from 1 April 2004 [Proc. R22 in Gazette 26204, dated 30 March 2004])

(Section 39(8) added by section 39(1)(b) of Act 18 of 2009)

Publisher's Note:

Prepared by:

Section 39(8) is to be deleted by section 271 read with paragraph 134 of Schedule 1 of the Tax Administration Act (Act No. 28 of 2011), with effect from a date to be determined by the President by proclamation in the Gazette. This date has not yet been determined to the extent that Schedule 1 amends or repeals a provision relating to interest: (See Proclamation No. 51 in Gazette No. 35687 dated 14 September 2012)

40.

(Section 40(4)(a) substituted by section 31 of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 40 repealed by section 271 read with paragraph 129 of Schedule 1 of Act 28 of 2011)

40A.

(Section 40A inserted by section 23 of Act 9 of 2005)

(Section 40A repealed by section 100 of Act 43 of 2014)

40B.

(Section 40B inserted by section 51(1) of Act 9 of 2006 with effect from 1 July 2006)

(Section 40B repealed by section 101 of Act 43 of 2014)

40C. Liability of bargaining councils or political parties for tax and limitation of refunds

- (1) This section applies in respect of the supply of goods or services contemplated in section 12(l) or (m) before 1 January 2013, by any bargaining council or political party, as the case may be.
- (2) Where the Commissioner before 1 January 2013, issued an assessment to levy tax at the rate referred to in section 7(1) in respect of any supply of goods or services contemplated in subsection (1), the Commissioner must, on written application, reduce that assessment to the extent that the amount of tax, additional tax, penalty or interest in respect of that assessment was not yet paid on that date: Provided that the reduced assessment will not result in a refund to that bargaining council or political party.
- (3) The Commissioner may not after 1 January 2013 make any assessment in respect of any supply of goods or services contemplated in subsection (1).
- (4) If a bargaining council or political party charged tax at the rate referred to in section 7(1) in respect of any supply contemplated in subsection (1), the Commissioner may not refund any such tax or any penalty or interest that arose as a result of the late payment of such tax, received or accrued from that bargaining council or political party to the Commissioner.

(Section 40C inserted by section 151(1) of Act 22 of 2012 with effect from 1 January 2013)

40D. Liability for tax and limitation of refunds in respect of National Housing Programmes

- (1) This section applies in respect of the supply of services deemed to be made by the vendor in terms of section 8(23) which services were supplied before 1 April 2017.

- (2) Where the Commissioner issued any assessment relating to tax periods ending before 1 April 2017 for an amount of tax or additional tax in respect of any supply of services as contemplated in subsection (1) in respect of application of the provisions as contemplated in section 11(2)(s) in respect of that supply, the Commissioner must, on written application by the vendor, amend that assessment to the extent that the amount of tax, additional tax, penalty or interest that arose as a result of that assessment has not yet been paid on that date: Provided that the assessment does not result in a refund to the vendor.
- (3) The Commissioner may not make any assessment for tax periods ending before 1 April 2017 in respect of the deemed supply of services contemplated in subsection (1).
- (4) If the vendor has charged tax at the rate referred to in section 7(1) instead of the rate of tax in terms of section 11(2)(s) in respect of the supply contemplated in subsection (1), the Commissioner may not refund any such tax or any penalty or interest that arose as a result of the late payment of such tax, paid by the vendor to the Commissioner.

(Section 40D inserted by section 85(1) of Act 17 of 2017, which amendment is deemed to have come into operation on 1 April 2017)

41. Liability for tax in respect of certain past supplies or importations

Notwithstanding anything to the contrary in this Act (other than the provisions of section 41B) –

(Words in section 41 preceding paragraph (a) substituted by section 39(1)(a) of Act 21 of 2006 with effect from 1 January 2007)

(Words in section 41 preceding paragraph (a) substituted by section 11 of Act 22 of 2018)

- (a) no amount of tax otherwise properly chargeable and payable by any person or not deductible by him under this Act, shall be recoverable by the Commissioner in respect of any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to 9 July 1993 which had not been withdrawn by him at the time at which the said person became contractually obliged to supply or receive such goods or services, as the case may be, no tax was payable or a deduction was allowed in respect of such supply or importation;

(Section 41(a) substituted by section 36(a) of Act 97 of 1993)

(Section 41(a) substituted by section 98 of Act 30 of 1998)

- (b) no further amount of tax shall be recoverable by the Commissioner in respect of or in relation to any past supply of goods or services or any past importation of goods if, in terms of a general written ruling by the Commissioner or a general oral ruling given by him prior to 9 July 1993 which had not been withdrawn by him at the time of such supply or importation, the tax payable or deductible in respect of such supply or importation had been calculated and paid or had been deducted in accordance with such ruling, as the case may be;

(Section 41(b) substituted by section 36(b) of Act 97 of 1993)

(Section 41(b) substituted by section 98 of Act 30 of 1998)

- (c) where any written decision or, prior to 9 July 1993 an oral decision has been given by the Commissioner-
- (i) to the effect that any person is required or not required to be registered as a vendor in terms of the provisions of this Act; or
 - (ii) as to the taxable or non-taxable nature of any supply of goods or services by any person or of the importation of goods by any person (including any decision as to the applicability of any exemption or rate of zero per cent) or as to the deductibility or non-deductibility in terms of section 16(3) of tax in respect of the supply to any person of goods or services or the importation by any person of goods,

(Section 41(c) amended by section 36(c) of Act 97 of 1993)

(Section 41(c) substituted by section 98 of Act 30 of 1998)

and such decision is subsequently withdrawn, such withdrawal shall, as respects any contractual obligation incurred in accordance with the decision given by the Commissioner by the person concerned before such withdrawal to supply or receive the goods or services concerned, not affect the liability or non-liability of that person for the payment of tax in accordance with such decision or his entitlement or otherwise to a deduction of tax, as determined in accordance with such decision, as the case may be, provided such decision was accepted by the said person and all the material facts were known to the Commissioner when the decision was given;

(Words in section 41 following upon paragraph (c) substituted by section 98 of Act 30 of 1998)

(Proviso to section 41(c) added by section 39(1)(b) of Act 21 of 2006 with effect from 1 January 2007, which amendment has been deleted by section 27 of Act 9 of 2007 with effect from 8 August 2007)

- (d)

(Section 41(d) amended by section 32 of Act 136 of 1992)

(Section 41(d) amended by section 41 of Act 27 of 1997)

(Section 41(d) amended by section 167 of Act 60 of 2001)

(Section 41(d) amended by section 40 of Act 32 of 2005)

(Section 41(d) deleted by section 28 of Act 23 of 2015)

Provided further that paragraphs (a), (b) and (c) shall not apply to-

- (i) a written decision or a general written ruling issued by the Commissioner prior to 1 January 2007 in respect of supplies which are or will be made or goods imported on or after 1 January 2007, except to the extent that the Commissioner prescribes in writing that the written decision or the general written ruling has binding effect on or after that date; or

- (ii) a written decision or a general written ruling issued by the Commissioner on or after 1 January 2007.

(Further proviso to section 41 added by section 16(1) of Act 9 of 2007 deemed to have come into operation on 1 January 2007)

41A.

(Section 54A renumbered to 41A by section 12(1) of Act 10 of 2005 with effect from 1 October 2006 [Proclamation 43 in Gazette No. 29263, dated 29 September 2006])

(Section 41A repealed by section 271 read with paragraph 130 of Schedule 1 of Act 28 of 2011)

41A.

(Second section 41A inserted by section 40(1) of Act 21 of 2006 with effect from 1 January 2007 which amendment has been repealed by section 28 of Act 9 of 2007)

41B. VAT class ruling and VAT ruling

- (1) The Commissioner may issue a VAT class ruling or a VAT ruling and in applying the provisions of Chapter 7 of the Tax Administration Act, a VAT class ruling or a VAT ruling must be dealt with as if it were a binding class ruling or a binding private ruling, respectively:

Provided that-

- (a) the provisions of sections 79(4)(f), (k), (6) and 81(1)(b) of the Tax Administration Act shall not apply to any VAT class ruling or VAT ruling;
- (b) an application for a VAT class ruling or a VAT ruling in terms of this section shall not be accepted by the Commissioner if the application-
- (i) is for an advance tax ruling that qualifies for acceptance in terms of Chapter 7 of the Tax Administration Act; and
- (ii) falls within a category of rulings prescribed by the Minister by regulation for which applications for rulings in terms of this section may not be accepted.

(Proviso to section 41B(1) substituted by section 20 of Act 33 of 2019)

(Section 41B(1) amended by section 42(a) of Act 61 of 2008)

(Section 41B(1) amended by section 40 of Act 18 of 2009)

(Section 41B(1) substituted by section 271 read with paragraph 131 of Schedule 1 of Act 28 of 2011)

- (2) For the purposes of this section-

'VAT class ruling' means a written statement issued by the Commissioner to a class of vendors or persons regarding the interpretation or application of this Act;

'VAT ruling' means a written statement issued by the Commissioner to a person regarding the interpretation or application of this Act.

(3)

(Section 41B(3) deleted by section 42(b) of Act 61 of 2008)

(Section 41B inserted by section 17(1) of Act 9 of 2007 deemed to have come into operation on 1 January 2007)

42.

(Section 42 repealed by section 271 read with paragraph 132 of Schedule 1 of Act 28 of 2011)

43.

(Section 43 amended by section 99 of Act 30 of 1998)

(Section 43 amended by section 97 of Act 53 of 1999)

(Section 43 amended by section 81 of Act 30 of 2000)

(Section 43 repealed by section 271 read with paragraph 132 of Schedule 1 of Act 28 of 2011)

44. Refunds

(1)

(Section 44(1) amended by section 100 of Act 30 of 1998)

(Section 44(1) amended by section 37 of Act 97 of 1993)

(Section 44(1) amended by section 98 of Act 53 of 1999)

(Section 44(1) amended by section 88 of Act 20 of 2006)

(Section 44(1) deleted by section 271 read with paragraph 133(a) of Schedule 1 of Act 28 of 2011)

(2)

(Section 44(2) deleted by section 271 read with paragraph 133(a) of Schedule 1 of Act 28 of 2011)

(3) The Commissioner shall not make a refund under Chapter 13 of the Tax Administration Act, unless -

(Words in section 44(3) preceding paragraph (a) substituted by section 271 read with paragraph 133(b) of Schedule 1 of Act 28 of 2011)

(a)

(Section 44(3)(a) substituted by section 42(a) of Act 27 of 1997)

(Section 44(3)(a) deleted by section 271 read with paragraph 133(c) of Schedule 1 of Act 28 of 2011)

(b)

(Section 44(3)(b) amended by section 98(b) of Act 53 of 1999)

(Section 44(3)(b) substituted by section 88(b) of Act 20 of 2006)

(Section 44(3)(b) deleted by section 271 read with paragraph 133(c) of Schedule 1 of Act 28 of 2011)

- (c) the Commissioner is satisfied that any amount of output tax claimed to be refundable to a vendor will, if such amount has been borne by any other person, in turn be refunded by the vendor to such other person;

(Section 44(3)(c) amended by section 168(a) of Act 60 of 2001)

(Section 44(3)(c) amended by section 180(1)(a) of Act 31 of 2013 with effect from 1 April 2014)

- (d) the vendor has furnished the Commissioner in writing with particulars of the enterprise's banking account or account with a similar institution to enable the Commissioner to transfer a refund or other amount due to the vendor to such account:

Provided that where the vendor which is –

- (i) a company that is not a resident of the Republic requests that a refund or other amount be transferred to a bank account or an account with a similar institution in the Republic other than that account of the vendor; or

(ii)

- (aa) a subsidiary company, as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008), of a holding company, as defined in section 1 of that Act, requests that a refund or other amount be transferred to the bank account or the account with a similar institution in the Republic of that holding company;

- (bb) a subsidiary company, as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008), requests that a refund or other amount be transferred to the bank account or the account with a similar institution in the Republic of another subsidiary company of its holding company, as defined in section 1 of that Act; or

- (cc) a holding company, as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008), requests that a refund or other amount be transferred to the bank account or the account with a similar institution in the Republic of its subsidiary company, as defined in section 1 of that Act,

(Paragraph (ii) of the proviso to section 44(3)(d) substituted by section 180(1)(b) of Act 31 of 2013 with effect from 1 April 2014)

the vendor must notify the Commissioner in writing and must indemnify the Commissioner against any loss by the vendor or the State as a result of such instruction.

(Proviso to section 44(3)(d) substituted by section 43(1) of Act 61 of 2008 with effect from 1 April 2009)

(Section 44(3)(d) added by section 168(b) of Act 60 of 2001)

- (4)
- (a) A refund of the amount of the excess contemplated in section 16(5) may only be made by the Commissioner if the return reflecting that amount is submitted within five years after the date on which the return was due to be submitted.
- (b) The amount of an excess contemplated in section 16(5) is regarded as a payment to the National Revenue Fund if the amount is reflected on a return submitted after the period contemplated in paragraph (a).

(Section 44(4) amended by section 37(b) of Act 97 of 1993)

(Section 44(4) amended by section 98(c) of Act 53 of 1999)

(Section 44(4) substituted by section 88(c) of Act 20 of 2006)

(Section 44(4) deleted by section 271 read with paragraph 133(d) of Schedule 1 of Act 28 of 2011)

(Section 44(4) inserted by section 28(1) of Act 16 of 2016 with effect from 26 October 2016)

(5)

(Section 44(5) deleted by section 271 read with paragraph 133(d) of Schedule 1 of Act 28 of 2011)

(6)

(Section 44(6) substituted by section 100(b) of Act 30 of 1998)

(Section 44(6) deleted by section 271 read with paragraph 133(d) of Schedule 1 of Act 28 of 2011)

- (7) Where the vendor has failed to furnish a return for any tax period as required by this Act, the Commissioner may withhold payment of any amount refundable to the vendor under section 190 of the Tax Administration Act until the vendor has furnished such return as so required.

(Section 44(7) substituted by section 271 read with paragraph 133(e) of Schedule 1 of Act 28 of 2011)

(8)

(Section 44(8) substituted by section 42(b) of Act 27 of 1997)

(Section 44(8) deleted by section 271 read with paragraph 133(f) of Schedule 1 of Act 28 of 2011)

- (9) The Commissioner may make or authorise a refund of any amount of tax which has become refundable to any person under the provisions of any regulation referred to in paragraph (d) of the definition of 'exported' in section 1.

(Section 44(9) added by section 27(1) of Act 37 of 1996 and deemed to have come into operation on 30 September 1991)

(Section 44(9) substituted by section 31 of Act 44 of 2014)

- (10) The amount determined under section 191(3) of the Tax Administration Act must be accounted for as provided in section 16(5), but any refundable amount (irrespective of the quantum thereof) is refundable in full to a vendor in respect of its final tax period on the cancellation of its registration as a vendor.

(Section 44(10) added by section 271 read with paragraph 133(g) of Schedule 1 of Act 28 of 2011)

(11)

- (a) A refund of the amount erroneously paid, as contemplated in section 190(1)(b) of the Tax Administration Act, may only be made by the Commissioner where the claim for the refund of such erroneous payment is received by the Commissioner within five years after the date on which the erroneous payment was made;

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

(Section 44(11) added by section 12 of Act 22 of 2018)

45. Interest on delayed refunds

- (1) Where the Commissioner does not within the period of 21 business days after the date on which the vendor's return in respect of a tax period is received by an office of the South African Revenue Service refund any amount refundable in terms of section 44(1), interest shall be paid on such amount at the prescribed rate (but subject to the provisions of section 45A) and calculated for the period commencing at the end of the first-mentioned period to the date of payment of the amount so refundable: Provided that -

(Words in section 45(1) preceding paragraph (i) of the proviso substituted by section 169(a) of Act 60 of 2001)

- (i) where such return made by the vendor is incomplete or defective in any material respect the said period of 21 business days shall be reckoned from the date on which –

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

(Paragraph (i)(aa) of the proviso to section 45(1) substituted by section 101(a) of Act 30 of 1998)

- (bb) information is received by the Commissioner to enable him to make an assessment upon the vendor reflecting the amount properly refundable to the vendor;

(Paragraph (i)(bb) of the proviso to section 45(1) substituted by section 101(a) of Act 30 of 1998)

(Paragraph (i) of the proviso to section 45(1) substituted by section 43(a) of Act 27 of 1997)

- (iA) where the vendor is in default in respect of any of his obligations under this Act or any other Act administered by the Commissioner, to furnish a return as required by such Act, the said period of 21 business days shall be reckoned from the date on which any such outstanding return or returns furnished by the vendor as required by such Act are received by an office of the South African Revenue Service;

(Paragraph (iA) of the proviso to section 45(1) effectively inserted by section 43(a) of Act 27 of 1997)

(Paragraph (iA) of the proviso to section 45(1) substituted by section 101(b) of Act 30 of 1998)

(Paragraph (iA) of the proviso to section 45(1) substituted by section 169(b) of Act 60 of 2001)

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

(Paragraph (ii) of the proviso to section 45(1) substituted by section 101(b) of Act 30 of 1998)

- (iiA) where the vendor –

(aa) has not furnished the Commissioner with the particulars of the banking account of the enterprise; or

(bb) has not notified the Commissioner that a refund or other amount be transferred to a bank account or an account with a similar institution other than that of the vendor as contemplated in the proviso to section 44(3)(d),

the said period of 21 days shall be reckoned from the date the vendor furnishes the Commissioner with the particulars of the bank account or account with a similar institution of the enterprise or from the date the vendor has notified the Commissioner that a refund or other amount be transferred to a bank account or an account with a similar institution other than that of the vendor;

(Paragraph (iiA) of the proviso to section 45(1) inserted by section 44(1) of Act 61 of 2008 with effect from 1 April 2009)

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

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

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

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

(Paragraph (iii) of the proviso to section 45(1) added by section 43(b) of Act 27 of 1997)

(Section 45(1) amended by section 33 of Act 136 of 1992)

(Section 45(1) amended by section 4 of Act 61 of 1993)

(Section 45(1) substituted by section 24 of Act 20 of 1994)

- (2) Where the amount of any interest paid to a person in terms of subsection (1) is in excess of the correct amount, the Commissioner may recover the amount of the excess under section 40(2)(a) as if it were tax payable by such person.

Publisher's Note:

Section 45(2) is to be substituted by section 32 of Act 44 of 2014 with effect from the date on which paragraph 134 of Schedule 1 to the Tax Administration Act, 2011, comes into operation.

- (3) The payment by the Commissioner of any interest under the provisions of this section shall be deemed to be a drawback from revenue charged to the National Revenue Fund.

(Section 45(3) added by section 19(1) of Act 140 of 1993 deemed to have come into operation on 1 April 1993)

(Section 45 amended by section 33 of Act 136 of 1992)

(Section 45 amended by section 4 of Act 61 of 1993)

(Section 45 amended by section 19(1) of Act 140 of 1993)

(Section 45 amended by section 24 of Act 20 of 1994)

(Section 45 amended by section 43 of Act 27 of 1997)

(Section 45 amended by section 101 of Act 30 of 1998)

(Section 45 amended by section 169 of Act 60 of 2001)

(Section 45 amended by section 44(1) of Act 61 of 2008 with effect from 1 April 2009)

Publisher's Note:

Section 45 is to be substituted by section 271 read with paragraph 134 of Schedule 1 of the Tax Administration Act (Act No. 28 of 2011), with effect from a date to be determined by the President by proclamation in the Gazette. This date has not yet been determined to the extent that Schedule 1 amends or repeals a provision relating to interest: (See Proclamation No. 51 in Gazette No. 35687 dated 14 September 2012)

45A. Calculation of interest payable under this Act

Prepared by:

Where –

- (a) any interest is payable under the provisions of section 36, 39 or 45;
- (b) the rate at which such interest is payable has with effect from any date been altered; and
- (c) such interest is payable in respect of any period or any number of months or any part of a month which commenced before the said date,

the interest to be determined in respect of that portion of such period which ended immediately before the said date or in respect of any such months or part of a month which commenced before the said date shall be calculated as if the said rate had not been so altered.

(Section 45A inserted by section 5 of Act 61 of 1993)

Publisher's Note:

Section 45A is to be repealed by section 271 read with paragraph 135 of Schedule 1 of the Tax Administration Act (Act No. 28 of 2011), with effect from a date to be determined by the President by proclamation in the Gazette. This date has not yet been determined to the extent that Schedule 1 amends or repeals a provision relating to interest: (See Proclamation No. 51 in Gazette No. 35687 dated 14 September 2012)

PART VII

Representative vendors

46. Persons acting in a representative capacity

The natural person who resides in the Republic responsible for the duties imposed by this Act–

(Words in section 46 preceding paragraph (a) substituted by section 185 of Act 45 of 2003)

(Words in section 46 preceding paragraph (a) substituted by section 271 read with paragraph 136(a) of Schedule 1 of Act 28 of 2011)

- (a) on any company shall be the public officer thereof or, in the case of any company which is placed under business rescue in terms of Chapter 6 of the Companies Act, 2008 (Act No. 71 of 2008), or in liquidation, the business rescue practitioner or the liquidator thereof;

(Section 46(a) substituted by section 271 read with paragraph 136(b) of Schedule 1 of Act 28 of 2011)

(Section 46(a) substituted by section 33 of Act 44 of 2014)

- (b) on any public authority shall be any person responsible for accounting for the receipt and payment of moneys under the provisions of any law or for the receipt and payment of moneys or funds on behalf of such public authority;

- (c) on a municipality shall be any person responsible for accounting for the receipt and payment of moneys or funds on behalf of such municipality;
(Section 46(c) substituted by section 15(1)(a) of Act 10 of 2006 with effect from 1 July 2006)
- (d) on any corporate or unincorporate body (other than a company) shall be any person who is the treasurer of that body or whose functions are similar to those of a treasurer of that body;
- (e) on a person under legal disability shall be his guardian, curator or administrator or the other person having the management or control of his affairs;
- (f) on any person who is not a resident of the Republic or any person (other than a company) who is for the time being out of the Republic, shall be any agent of such person controlling such person's affairs in the Republic or any manager of any enterprise of such person in the Republic;
- (g) on a deceased person or his estate shall be the executor or administrator of such estate;
- (h) on an insolvent person or his estate shall be the trustee or administrator of such estate;
- (i) on any trust fund shall be the person administering the fund in a fiduciary capacity;
- (j) on a foreign donor funded project shall be any person responsible for accounting for the receipt and payment of moneys or funds on behalf of such foreign donor funded project:
(Section 46(j) added by section 41 of Act 32 of 2005)

.....

(Proviso to section 46 substituted by section 15(1)(b) of Act 10 of 2006 with effect from 1 July 2006)
(Proviso to section 46 deleted by section 271 read with paragraph 136(c) of Schedule 1 of Act 28 of 2011)

47.

(Section 47 amended by section 170 of Act 60 of 2001)
(Section 47 repealed by section 271 read with paragraph 137 of Schedule 1 of Act 28 of 2011)

48.

(Section 48 amended by section 99 of Act 53 of 1999)
(Section 48 amended by section 186 of Act 45 of 2003)
(Section 48 amended by section 106 of Act 32 of 2004)
(Section 48 amended by section 16(1) of Act 10 of 2006 with effect from 1 July 2006)
(Section 48 repealed by section 271 read with paragraph 137 of Schedule 1 of Act 28 of 2011)

49.

(Section 49 repealed by section 271 read with paragraph 137 of Schedule 1 of Act 28 of 2011)

PART VIII
Special provisions

50. Separate enterprises, branches and divisions

- (1) Where separate enterprises are carried on by any vendor or an enterprise is carried on by any vendor in branches or divisions, the vendor may apply in writing to the Commissioner for any such separate enterprise, branch or division to be registered separately for the purposes of this Act:

Provided that the activities carried on by a vendor, being an implementing agency, in the course of implementing, operating, administering or managing a foreign donor funded project shall, for the purposes of subsection (2A), be regarded as an enterprise carried on separately from that vendor's other enterprise activities.

(Proviso to section 50(1) added by section 72(1)(a) of Act 34 of 2019 with effect from 1 April 2020)

- (2) Subject to the provisions of subsection (2A), the Commissioner shall, upon application made under subsection (1), register any separate enterprise, branch or division as a separate vendor if each such separate enterprise, branch or division maintains an independent system of accounting and can be separately identified by reference to the nature of the activities carried on or the location of the separate enterprise, branch or division, and where any such separate enterprise, branch or division is so separately registered, the activities carried on by that separate enterprise, branch or division shall be deemed to be carried on by a person separate from the vendor referred to in subsection (1).

(Section 50(2) substituted by section 72(1)(b) of Act 34 of 2019 with effect from 1 April 2020)

- (2A) The implementing agency shall be required to make application to the Commissioner to register the activities referred to in the proviso to subsection (1) as a separate branch of the vendor: Provided that the activities in relation to each foreign donor funded project shall be registered as a separate branch of the vendor and such vendor shall maintain an independent system of accounting for each foreign donor funded project.

(Section 50(2A) inserted by section 72(1)(c) of Act 34 of 2019 with effect from 1 April 2020)

- (3) The Commissioner may, with effect from a date determined by him, cancel any registration in terms of subsection (2) of any separate enterprise, branch or division, if –
- (a) the vendor referred to in subsection (1) has applied to the Commissioner in writing for such registration to be cancelled; or
 - (b) it appears to the Commissioner that the duties or obligations of such separate enterprise, branch or division have not been satisfactorily performed or carried out,

and any activity carried on by that separate enterprise, branch or division shall as from the said date be deemed to be carried on by the said vendor.

- (4) The Commissioner shall cancel the separate registration of any separate enterprise, branch or division on the cancellation of the registration of the vendor referred to in subsection (1).
- (5) Where any separate enterprise, branch or division separately registered under this section fails to do anything required to be done under this Act, the liability for the doing of that thing shall revert to the vendor referred to in subsection (1).
- (6) Notwithstanding the preceding provisions of this section, any decision or determination of the Commissioner made under section 15 or 27 in respect of the vendor referred to in subsection (1) of this section shall, for the purposes of this Act, apply equally to each separate enterprise, branch or division of the vendor which is separately registered under this section: Provided that where a decision or determination is made by the Commissioner under subsection (2) of section 27 which applies in respect of any such separate enterprise, branch or division, this subsection shall not be construed as preventing the Commissioner from making a separate decision or determination under subsection (4) of the said section in the circumstances contemplated in that subsection in respect of any other separate enterprise, branch or division of the said vendor.

(Section 50(6) substituted by section 38 of Act 136 of 1991)

(Section 50(6) substituted by section 271 read with paragraph 138 of Schedule 1 of Act 28 of 2011)

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

(Section 50(7) added by section 13 of Act 22 of 2018)

50A. Separate persons carrying on same enterprise under certain circumstances deemed to be single person

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

(Section 50A(1) substituted by section 271 read with paragraph 139(a) of Schedule 1 of Act 28 of 2011)

- (2) The Commissioner shall not make a decision under this section naming any person unless he or she is satisfied-

(Words in section 50A(2) preceding paragraph (a) substituted by section 271 read with paragraph 139(b) of Schedule 1 of Act 28 of 2011)

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

(Section 50A(2)(b) substituted by section 271 read with paragraph 139(c) of Schedule 1 of Act 28 of 2011)

- (c) that, if all the taxable supplies of that enterprise were taken into account, a person carrying on that enterprise should at that time be liable to be registered in terms of subsection (1); and
- (d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in subparagraph (b) in the way he does is the avoidance of a liability to be so registered (whether that liability would be his, another person's or that of two or more persons jointly).

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

(Section 50A(3) substituted by section 271 read with paragraph 139(e) of Schedule 1 of Act 28 of 2011)

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

(Words in section 50A(4) preceding paragraph (a) substituted by section 271 read with paragraph 139(e) of Schedule 1 of Act 28 of 2011)

- (a) the date on which he began to make those taxable supplies; or
- (b) if it was later, the date with effect from which the single person referred to in the earlier decision became liable to be registered in terms of this section.

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

- (a) the date with effect from which the single person concerned became liable to be registered; or
- (b) the date of the decision,

whichever date is the later.

(Section 50A(5) substituted by section 271 read with paragraph 139(f) of Schedule 1 of Act 28 of 2011)

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

(Section 50A(6) substituted by section 271 read with paragraph 139(f) of Schedule 1 of Act 28 of 2011)

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

(Words in section 50A(7) preceding paragraph (a) substituted by section 271 read with paragraph 139(g) of Schedule 1 of Act 28 of 2011)

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

(Section 50A(7)(a) substituted by section 271 read with paragraph 139(h) of Schedule 1 of Act 28 of 2011)

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

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

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

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

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

(Section 50A inserted by section 44 of Act 27 of 1997)

51. Bodies of persons, corporate or unincorporate (other than companies)

- (1) Subject to the provisions of section 46, where any body of persons, whether corporate or unincorporate (other than a company), carries on or is to carry on any enterprise –

- (a) such body shall be deemed to carry on such enterprise as a person separate from the members of such body;
 - (b) registration of that body as a vendor shall be effected separately from any registration of any of its members in respect of any other enterprise;
 - (c) liability for tax in respect of supplies by that body shall be determined and calculated in respect of the enterprise carried on by it as an enterprise carried on independently of any enterprise carried on by any of its members, and any refund relating to that body's enterprise which is payable in terms of section 44 shall be made to that body; and
 - (d) the duties and obligations imposed by this Act on any vendor or other person shall, as respects the enterprise carried on by that body, be performed by it separately from the duties and obligations imposed on any of its members.
- (2) Where any such body is a partnership or other unincorporated body and is dissolved in consequence of the retirement or withdrawal of one or more (but not all) of its members or the admission of a new member and a new partnership or unincorporated body comes into being consisting of the remaining members of the dissolved partnership or body, as the case may be, or such remaining members and one or more new members and the new partnership or body continues to carry on the enterprise of the dissolved partnership or body as a going concern, the dissolved partnership or body and the new partnership or body, as the case may be, shall (unless the Commissioner, having regard to the circumstances of the case, otherwise directs) for the purposes of this Act be deemed to be one and the same partnership or body, as the case may be.
- (3) Subject to the provisions of section 46, every member of a partnership or joint venture shall be liable jointly and severally with other members of the partnership or joint venture for performing the duties of the partnership or joint venture in terms of this Act and paying the tax imposed by this Act on the partnership or joint venture in respect of supplies made by the partnership or joint venture while such member was a member of the partnership or joint venture: Provided that this subsection shall not apply to any such member of a partnership who, in relation to that partnership, is a partner *en commandite* or a special partner, as defined in the Special Partnerships' Limited Liability Act, 1861 (Act No. 24 of 1861), of the Cape of Good Hope or in Law No.1 of 1865 of Natal, who has not held himself out as an ordinary or general partner of the partnership concerned.

(Section 51(3) substituted by section 14 of Act 22 of 2018)

52. Pooling arrangements

- (1) Any pool managed by any body for the sale of agricultural, pastoral or other farming products, being a pool contemplated in section 17 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996) may on written application by such body, for the purposes of this Act be deemed to be an enterprise or

part of an enterprise carried on by that body separately from the members of such body: Provided that such body may-

- (i) elect in writing that the pool be treated as a separate enterprise for the purposes of this Act and may apply for such pool to be registered separately in terms of section 50; and
- (ii) notwithstanding the provisions of section 54(1) and (2), if it makes an election in writing, be treated for the purposes of this Act as a principal and not as an agent of its members.

(Section 52(1) amended by section 45 of Act 27 of 1997)

(Section 52(1) substituted by section 171(a) of Act 60 of 2001)

(2) Notwithstanding the provisions of section 54, any rental pool scheme operated and managed by any person for the benefit of some or all of-

- (a) the owners of time-sharing interests in a property time-sharing scheme as defined in section 1 of the Property Timesharing Control Act, 1983 (Act 75 of 1983);
- (b) the owners of sectional title interests in a sectional title scheme as defined in section 1 of the Sectional Title Act, 1986 (Act No. 95 of 1986); or
- (c) the shareholders in a Shareblock Company as defined in section 1 of the Shareblocks Control Act, 1980 (Act No 59 of 1980),

is regarded for the purposes of this Act as a separate enterprise carried on by such person separately from the owners and shall be registered separately under section 50: Provided that-

- (i) the owners or shareholders must elect in writing that the rental pool be treated separately; and
- (ii) such a rental pool scheme is, notwithstanding the provisions of section 54(1) and (2), treated for the purposes of this Act as a principal and not as an agent of the owners or shareholders.

(Section 52(2) substituted by section 171(b) of Act 60 of 2001)

(Section 52 substituted by section 39 of Act 136 of 1991)

53. Death or insolvency of vendor

- (1)
 - (a) Where, after the death of any vendor or the sequestration of his estate, any enterprise previously carried on by the vendor continues to be carried on by or on behalf of the executor or trustee of his estate or anything is done in connection with the termination of the enterprise, the estate of the vendor, as represented by the executor or trustee, as the case may be, shall for the purposes of this Act be deemed to be a vendor in respect of the enterprise.

- (b) Where the provisions of paragraph (a) are applicable, the deceased vendor and his estate or the vendor whose estate is sequestrated and his estate, as the case may be, shall, as respects the enterprise in question, be deemed for the purposes of this Act to be one and the same person.
- (2) Where a mortgagee is in possession of any land or other property previously mortgaged by the mortgagor, being a vendor, and the mortgagee carries on any enterprise of the mortgagor in relation to such land or other property, the mortgagee shall, from the date on which the mortgagee took possession of that land or other property, until such time as the mortgagee ceases to be in possession of that land or other property, be deemed, to the extent that the mortgagee carries on such enterprise, to be a vendor.

54. Agents and auctioneers

- (1) For the purposes of this Act, where an agent makes a supply of goods or services for and on behalf of any other person who is the principal of that agent, that supply shall be deemed to be made by that principal and not by that agent:

Provided that, where that supply is a taxable supply and that agent is a vendor, the agent may, notwithstanding anything to the contrary in this Act, issue a tax invoice or a credit note or a debit note in relation to such supply as if the agent had made a taxable supply, and to the extent that that tax invoice or credit note or debit note relates to that supply, the principal shall not also issue a tax invoice or a credit note or a debit note, as the case may be:

Provided further that where an agent issues a tax invoice on behalf of a principal, such tax invoice must be issued within 21 days of the date of that supply by that agent.

(Further proviso to section 54(1) added by section 102(1)(a) of Act 43 of 2014 with effect from 1 April 2015)

- (2) For the purposes of this Act, where any vendor makes a taxable supply of goods or services to an agent who is acting on behalf of another person who is the principal for the purposes of that supply, that supply shall be deemed to be made to that principal and not to such agent: Provided that such agent may nevertheless request that he be provided with a tax invoice and the vendor may issue a tax invoice or a credit note or debit note as if the supply were made to such agent.

(2A)

- (a) For the purposes of this Act, where any goods are imported into the Republic by an agent who is acting on behalf of another person who is the principal for the purposes of that importation, that importation shall be deemed to be made by that principal and not by such agent: Provided that a bill of entry or other document prescribed in terms of the Customs and Excise Act in relation to that importation may nevertheless be held by such agent.

(Section 54(2A) inserted by section 34(a) of Act 136 of 1992)

(Section 54(2A) renumbered to 54(2A)(a) by section 46 of Act 27 of 1997)

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

(i) the agent is a registered vendor; and

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

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

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

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

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

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

(Section 54(2A)(b) added by section 46 of Act 27 of 1997)

(2B) For the purposes of this Act, where electronic services are supplied by an intermediary, who is acting on behalf of another person who is the principal for the purposes of that supply, and—

(i) the intermediary is a vendor;

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

(iii) the electronic services are supplied or to be supplied by the principal to a person in the Republic,

that supply shall be deemed to be made by such intermediary and not by that principal.

(Section 54(2B) inserted by section 12(1) of Act 21 of 2018 with effect from 1 April 2019)

(3) Where –

(a) a tax invoice or a credit note or debit note in relation to a supply has been issued –

(i) by an agent as contemplated in subsection (1); or

(ii) to an agent as contemplated in subsection (2); or

(b) a bill of entry or other document prescribed in terms of the Customs and Excise Act in relation to the importation of goods is held by an agent as contemplated in subsection (2A),

the agent shall maintain sufficient records to enable the name, address and VAT registration number of the principal to be ascertained, and in respect of all—

(i) supplies made on or after 1 January 2000 by or to the agent on behalf of the principal, the agent shall notify the principal in writing by means of a statement within 21 days of the end of the calendar month during which the supply was made or received of the particulars contemplated in paragraphs (e), (f) and (g) of section 20(4) in relation to such supplies; or

(ii) goods imported by the agent on behalf of the principal, the agent shall notify the principal in writing by means of a statement within 21 days of the end of the calendar month during which the goods were imported of the full and proper description of the goods, the quantity or volume of the goods, the value of the goods imported and the amount of tax paid on importation of the goods, together with the receipt number of the payment of such tax.

(Words in section 54(3) following paragraph (b) substituted by section 100(a) of Act 53 of 1999)

(Words in section 54(3) following paragraph (b) substituted by section 51 of Act 16 of 2004)

(Words in section 54(3) following paragraph (b) substituted by section 102(1)(b) of Act 43 of 2014 with effect from 1 April 2015)

(Section 54(3) substituted by section 34(b) of Act 136 of 1992)

(4) For the purposes of subsection (5), the expression 'auctioneer' means a vendor carrying on an enterprise which comprises or includes the supply by him by auction, of goods as an auctioneer or agent for or on behalf of another person (hereinafter in this section referred to as a principal) and includes an agent, fresh produce agent and livestock agent as defined in section 1 of the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992).

(Section 54(4) substituted by section 40 of Act 136 of 1991)

(Section 54(4) substituted by section 100(b) of Act 53 of 1999)

(5) Notwithstanding anything in the preceding provisions of this section, where the principal and the auctioneer agree to have a supply by auction of any goods, other than a taxable supply, treated as if that supply were made by the auctioneer and not by the principal, the supply shall be charged with tax as if it were made by the auctioneer in the course or furtherance of the auctioneer's enterprise and the auctioneer may –

(a) recover the amount of tax charged on that supply from that principal as a debt together with the costs of recovery in any court of competent jurisdiction; or

- (b) retain or deduct such amount and costs out of any money in the auctioneer's hands belonging or payable to the principal:

Provided that the auctioneer or agent shall maintain the records contemplated in section 20(8) as if the principal made a supply of second-hand goods to him, not being a taxable supply.

(Proviso to section 54(5) added by section 100(c) of Act 53 of 1999)

- (6) Notwithstanding anything in subsection (2), where any vendor makes a taxable supply (other than a supply that is charged with tax at the rate of zero per cent under section 11) of goods or services to an agent who is a vendor and is acting for or on behalf of another person who is the principal for the purposes of that supply, and –

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

(b)

- (i) the supply is directly in connection with either the exportation, or the arranging of the exportation, of goods from the Republic to any country or place outside the Republic, or the importation, or the arranging of the importation, of goods to the Republic from any country or place outside the Republic, including, in either case, the transportation of those goods within the Republic as part of such exportation or importation, as the case may be; or

(Section 54(6)(b)(i) substituted by section 25 of Act 20 of 1994)

- (ii) the supply is of services which comprise the handling, pilotage, salvage or towage of any foreign-going ship or foreign-going aircraft while present in the Republic or is of services provided in connection with the operation or management of any foreign-going ship or foreign-going aircraft,

(Section 54(6)(b)(ii) substituted by section 25 of Act 20 of 1994)

this Act shall, where such agent and such principal agree, apply as if the supply were made to that agent and not to the principal.

54A.

(Section 54A inserted by section 42(1) of Act 34 of 2004 with effect from 1 October 2006

[Proclamation 43 in Gazette No. 29263, dated 29 September 2006])

(Section 54A renumbered to 41A by section 12(1) of Act 10 of 2005 with effect from 1 October 2006

[Proclamation 43 in Gazette No. 29263, dated 29 September 2006])

PART IX

Compliance

55. Records

Prepared by:

- (1) In addition to the records required under Part A of Chapter 4 of the Tax Administration Act, every vendor must, in particular, keep the following records and documents:

(Words in section 55(1) preceding paragraph (a) substituted by section 38(a) of Act 97 of 1993)

(Words in section 55(1) preceding paragraph (a) substituted by section 271 read with paragraph 140(a) of Schedule 1 of Act 28 of 2011)

- (a) a record of all goods and services supplied by or to the vendor showing the goods and services, the rate of tax applicable to the supply and the suppliers or their agents, in sufficient detail to enable the goods and services, the rate of tax, the suppliers or the agents to be readily identified by the Commissioner, and all invoices, tax invoices, credit notes, debit notes, bank statements, deposit slips, stock lists and paid cheques relating thereto: Provided that a vendor's records do not have to show the rate of tax where the vendor has been authorised by the Commissioner to calculate the tax payable by him in accordance with a method prescribed by regulation, as contemplated in section 16(1);

(Section 55(1)(a) substituted by section 38(b) of Act 97 of 1993)

(Section 55(1)(a) substituted by section 102 of Act 30 of 1998)

- (aA) a record of all importations of goods and documents relating thereto as contemplated in section 16(2)(d);

(Section 55(1)(aA) inserted by section 35 of Act 136 of 1992)

- (aB) any documentary proof required to be obtained and retained in accordance with section 16(2)(f) or (g);

(Section 55(1)(aB) inserted by section 37 of Act 36 of 2007)

(Section 55(1)(aB) substituted by section 29 of Act 16 of 2016)

- (b) the charts and codes of account, the accounting instruction manuals and the system and programme documentation which describe the accounting system used in each tax period in the supply of goods and services;

- (c) any list required to be prepared in accordance with section 15(9); and

- (d) any documentary proof required to be obtained and retained in accordance with section 11(3).

- (2)

(Section 55(2) substituted by section 38(c) of Act 97 of 1993)

(Section 55(2) deleted by section 271 read with paragraph 140(b) of Schedule 1 of Act 28 of 2011)

- (3)

(Section 55(3) substituted by section 38(d) of Act 97 of 1993)

(Section 55(3) amended by section 17(a) of Act 10 of 2006)

(Section 55(3) deleted by section 271 read with paragraph 140(b) of Schedule 1 of Act 28 of 2011)

(4)

(Section 55(4) substituted by section 38(e) of Act 97 of 1993)

(Section 55(4) amended by section 18 of Act 9 of 2007)

(Section 55(4) deleted by section 271 read with paragraph 140(b) of Schedule 1 of Act 28 of 2011)

56.

(Section 56 repealed by section 23 of Act 46 of 1996)

57.

(Section 57 substituted by section 24 of Act 46 of 1996)

(Section 57 amended by section 47 of Act 27 of 1997)

(Section 57 amended by section 172 of Act 60 of 2001)

(Section 57 amended by section 187 of Act 45 of 2003)

(Section 57 repealed by section 271 read with paragraph 141 of Schedule 1 of Act 28 of 2011)

57A.

(Section 57A inserted by section 24 of Act 46 of 1996)

(Section 57A repealed by section 271 read with paragraph 141 of Schedule 1 of Act 28 of 2011)

57B.

(Section 57B inserted by section 24 of Act 46 of 1996)

(Section 57B repealed by section 271 read with paragraph 141 of Schedule 1 of Act 28 of 2011)

57C.

(Section 57C inserted by section 24 of Act 46 of 1996)

(Section 57C amended by section 48 of Act 27 of 1997)

(Section 57C amended by section 82 of Act 30 of 2000)

(Section 57C repealed by section 271 read with paragraph 141 of Schedule 1 of Act 28 of 2011)

57D.

(Section 57D inserted by section 24 of Act 46 of 1996)

(Section 57D amended by section 49 of Act 27 of 1997)

(Section 57D amended by section 101 of Act 53 of 1999)

(Section 57D repealed by section 271 read with paragraph 141 of Schedule 1 of Act 28 of 2011)

58. Offences

(1) Any person who—

(a) being an auctioneer or supplier of goods or services wilfully—

- (i) declares to any person to whom goods or services are supplied by such auctioneer or supplier that tax has been included in, or will be added to, the price or amount chargeable in respect of such supply, where in fact no tax is payable in terms of this Act;
 - (ii) includes in, or adds to, the price or amount charged to the recipient in relation to such supply any tax, where in fact no tax is payable in terms of this Act; or
 - (iii) includes in, or adds to, the price or amount charged to the recipient in relation to such supply any tax in excess of the tax properly leviable under this Act in respect of the value of such supply; or
- (b) wilfully fails to comply with the provisions of paragraph (i) of the proviso to section 20(1) or item (A) of the proviso to section 21(3),

is guilty of an offence and is liable, upon conviction, to a fine or to imprisonment for a period not exceeding two years.

(2) Any person who—

- (a) wilfully or negligently fails to comply with the provisions of section 14, 28(1) or (2) or 29;
- (b) wilfully or negligently contravenes the provisions of section 65; or
- (c) being an agent or an auctioneer as contemplated in section 54, wilfully or negligently fails to comply with any of the requirements of section 54(3) or the proviso to section 54(5),

is guilty of an offence and is liable, upon conviction, to a fine or to imprisonment for a period not exceeding two years.

(Section 58 amended by section 41 of Act 136 of 1991)

(Section 58 amended by section 39 of Act 97 of 1993)

(Section 58 amended by section 25 of Act 46 of 1996)

(Section 58 amended by section 102 of Act 53 of 1999)

(Section 58 amended by section 72 of Act 19 of 2001)

(Section 58 amended by section 173 of Act 60 of 2001)

(Section 58 amended by section 119 of Act 74 of 2002)

(Section 58 amended by section 43 of Act 34 of 2004)

(Section 58 amended by section 42 of Act 32 of 2005)

(Section 58 amended by section 41 of Act 18 of 2009)

(Section 58 amended by section 142 of Act 24 of 2011)

(Section 58 amended section 271 of Act 28 of 2011)

(Section 58 substituted by section 21 of Act 24 of 2020, with effect from 20 January 2021)

59.

(Section 59 amended by section 40 of Act 97 of 1993)

(Section 59 amended by section 103 of Act 53 of 1999)

(Section 59 repealed by section 271 read with paragraph 143 of Schedule 1 of Act 28 of 2011)

60.

(Section 60 amended by section 42 of Act 136 of 1991)

(Section 60 amended by section 50 of Act 27 of 1997)

(Section 60 amended by section 104 of Act 53 of 1999)

(Section 60 repealed by section 271 read with paragraph 143 of Schedule 1 of Act 28 of 2011)

61. Recovery of tax from recipient

- (1) Where in respect of any supply made by a vendor, the vendor has, in consequence of any fraudulent action or any misrepresentation by the recipient of the supply, incorrectly applied a rate of zero per cent or treated such supply as being exempt from tax, the Commissioner may, notwithstanding anything to the contrary contained in this Act, raise an assessment upon the recipient for the amount of tax payable, together with any interest and penalty that has become payable in terms of Chapter 12, 15 or 16 of the Tax Administration Act, as the case may be, in respect of such amount.

(Section 61(1) substituted by section 28 of Act 37 of 1996)

(Section 61(1) substituted by section 271 read with paragraph 144(a) of Schedule 1 of Act 28 of 2011)

(2)

(Section 61(2) deleted by section 271 read with paragraph 144(b) of Schedule 1 of Act 28 of 2011)

- (3) This section shall not be construed as preventing the Commissioner from recovering the amounts of unpaid tax, penalty and interest from the vendor, but in the event of such amounts being recovered from the recipient the vendor shall be absolved from liability for the payment of the amounts due.

62.

(Section 62 amended by section 103 of Act 30 of 1998)

(Section 62 amended by section 105 of Act 53 of 1999)

(Section 62 repealed by section 271 read with paragraph 145 of Schedule 1 of Act 28 of 2011)

63.

(Section 63 amended by section 29 of Act 37 of 1996)

(Section 63 repealed by section 271 read with paragraph 145 of Schedule 1 of Act 28 of 2011)

PART X
Miscellaneous

64. Prices deemed to include tax

- (1) Any price charged by any vendor in respect of any taxable supply of goods or services shall for the purposes of this Act be deemed to include any tax payable in terms of section 7(1)(a) in respect of such supply, whether or not the vendor has included tax in such price.
- (2) The amount of any deposit payable to or refundable by a vendor in respect of a returnable container shall be deemed to include tax.

(Section 64 substituted by section 36 of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

65. Prices advertised or quoted to include tax

Any price advertised or quoted by any vendor in respect of any taxable supply of goods or services shall include tax and the vendor shall in his advertisement or quotation state that the price includes tax, unless the total amount of the tax chargeable under section 7(1)(a), the price excluding tax and the price inclusive of tax for the supply are advertised or quoted by the vendor:

Provided that –

- (i) where the price inclusive of tax and the price excluding tax for a supply are advertised or quoted, both prices shall be advertised or quoted with equal prominence and impact;
- (ii) price tickets on goods need not state that the prices include tax if this is stated by way of a notice prominently displayed at all entrances to the premises in which the enterprise is carried on and at all points in such premises where payments are effected;
- (iii) the Commissioner may in the case of any vendor or class of vendors approve any other method of displaying prices of goods or services by such vendor or class of vendors or, where the rate of tax is increased or reduced, the date on which the increased or reduced rate of tax takes effect;

(Paragraph (iii) of the proviso to section 65 substituted by section 103(1) of Act 43 of 2014 with effect from 1 April 2015)

- (iv) a vendor may not state or imply that any form of trade, cash or any other form of discount or refund is in lieu of the tax chargeable in terms of section 7(1)(a).

(Paragraph (iv) of the proviso to section 65 added by section 174 of Act 60 of 2001)

(Provisos to section 65 substituted by section 37 of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

66. Rounding-off of tax

Prepared by:

(Heading substituted by section 13(1) of Act 21 of 2018 with effect from 1 April 2018)

In determining an amount of tax under this Act –

- (a) where the tax fraction is expressed as-
 - (i) a proportion, that proportion may not be rounded off to fewer than five decimal places namely 0,13043; or
 - (ii) a percentage, that percentage may not be rounded off to fewer than three decimal places, namely 13,043; and
- (b) fractions of-
 - (i) less than half a cent, must be rounded down to the last cent; or
 - (ii) half a cent or more, must be rounded up to the next cent.

(Section 66 substituted by section 175 of Act 60 of 2001)

(Section 66 substituted by section 13(1) of Act 21 of 2018 with effect from 1 April 2018)

67. Contract price or consideration may be varied according to rate of value-added tax

- (1) Whenever the value-added tax is imposed for the first time in terms of this Act or the rate of tax applicable under section 7(1) is increased in respect of any supply of goods or services in relation to which any agreement was entered into by the acceptance of an offer made before the tax was imposed for the first time in terms of this Act or the rate of tax applicable under section 7(1) was increased, as the case may be, the vendor may, unless agreed to the contrary in any agreement in writing and notwithstanding anything to the contrary contained in any law, recover from the recipient, as an addition to the amounts payable by the recipient to the vendor, a sum equal to any amount payable by the vendor by way of the said tax or increase, as the case may be, and any amount so recoverable by the vendor shall, whether it is recovered or not, be accounted for by the vendor under the provisions of this Act as part of the consideration in respect of the said supply.

(Section 67(1) substituted by section 38(a) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 67(1) substituted by section 30(a) of Act 37 of 1996)

(Section 67(1) substituted by section 104(1)(a) of Act 43 of 2014 with effect from 1 April 2015)

- (2) Whenever the value-added tax is withdrawn or the rate of tax applicable under section 7(1) is decreased in respect of any supply of goods or services in relation to which any agreement was entered into by the acceptance of an offer made before the tax was withdrawn or the rate of tax applicable under section 7(1) was decreased, as the case may be, the vendor shall, unless agreed to the contrary in any agreement in writing and notwithstanding anything to the contrary contained in any law, reduce the

amount payable to the vendor by the recipient by way of any consideration in which the amount of such tax was included, by a sum equal to the amount of the tax withdrawn or the amount by which the rate of tax applicable under section 7(1) was decreased, as the case may be.

(Section 67(2) substituted by section 30(b) of Act 37 of 1996)

(Section 67(2) substituted by section 104(1)(a) of Act 43 of 2014 with effect from 1 April 2015)

- (3) Whenever the value-added tax is imposed for the first time in terms of this Act or withdrawn or the rate of tax applicable under section 7(1) is increased or decreased, as the case may be, in respect of any supply of goods or services subject to any fee, charge or other amount (whether it is a fixed, maximum or minimum fee, charge or other amount) prescribed by, or determined pursuant to, any Act or by any regulation or measure having the force of law, that fee, charge or other amount may be increased or shall be decreased, as the case may be, by the amount of tax or additional tax charged or chargeable or the amount of tax no longer charged or chargeable, as the case may be:

Provided that this subsection shall not apply to any fee, charge or other amount if such fee, charge or other amount has been altered in any Act, regulation or measure prescribing or determining such fee, charge or other amount to take account of any imposition of tax for the first time in terms of this Act or withdrawal of such tax or increase or decrease in the rate of tax applicable under section 7(1):

(Words in section 67(3) preceding the second proviso substituted by section 104(1)(b) of Act 43 of 2014 with effect from 1 April 2015)

Provided further that this subsection shall not be construed so as to permit any further increase or require a further decrease, as the case may be, in a fee, charge or other amount referred to in this subsection, where such fee, charge or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply of goods or services, other than a taxable supply charged with tax at the rate of zero per cent or a supply which is an exempt supply.

(Further proviso to section 67(3) added by section 38(b) of Act 136 of 1992)

(Section 67(3) added by section 43 of Act 136 of 1991)

67A. Application of increased or reduced tax rate

- (1) Subject to the provisions of subsection (3), where –
- (a) goods are provided before the date on which an increase or decrease in the rate of tax leviable under section 7(1)(a) becomes effective in respect of the supply of such goods or the date on which the tax is imposed or withdrawn in respect of the supply of such goods; or
- (Section 67A(1)(a) substituted by section 31(a) of Act 37 of 1996)*
- (b) goods are provided in respect of a supply contemplated in section 9(3)(a) or (b) during a period beginning before and ending before, on or after the said date; or

- (c) services are performed during a period beginning before and ending before, on or after the date on which an increase or decrease in the rate of tax leviable under section 7(1)(a) becomes effective in respect of the supply of such services or the date on which the tax is imposed or withdrawn in respect of the supply of such services,

(Section 67A(1)(c) substituted by section 31(b) of Act 37 of 1996)

and the supply of such goods or services, as the case may be, is in terms of section 9 deemed to be made on or after the said date, then –

- (i) in the case of the increase or decrease in the rate of the tax on the said date, the tax payable in respect of the supply of the goods referred to in paragraph (a) or the supply of the goods referred to in paragraph (b) which are provided during a period referred to in that paragraph which expires before the said date or the supply of services referred to in paragraph (c) which are performed during a period referred to in that paragraph which expires before the said date, shall be determined at the rate applicable on the day before the said date or, in the case of the imposition of the tax on the said date, any such supply of goods or services, as the case may be, shall be deemed not to be subject to such tax or, in the case of the withdrawal of the tax on the said date, any such supply of goods or services, as the case may be, shall be deemed to be subject to such tax as if such tax had not been withdrawn; and

(Section 67A(1)(i) substituted by section 31(c) of Act 37 of 1996)

- (ii) where the period referred to in paragraph (b) or the period referred to in paragraph (c) expires on or after the said date, the value of the supply in respect of the period in question shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part (hereinafter referred to as the first part) relating to the provision of the goods or the performance of the services, as the case may be, before the said date and a part (hereinafter referred to as the second part) relating to the provision of the goods or the performance of the services, as the case may be, on or after the said date, and, in the case of the increase or decrease in the rate of the tax on the said date, the tax payable in respect of each part shall be separately determined, the tax in respect of the first part being determined at the rate applicable on the day before the said date and the tax in respect of the second part at the rate applicable on the said date or, in the case of the imposition of the tax on the said date, the first part shall be deemed not to be subject to such tax or, in the case of the withdrawal of the tax on the said date, the first part shall be deemed to be subject to such tax as if such tax had not been withdrawn:

(Section 67A(1)(ii) substituted by section 31(d) of Act 37 of 1996)

Provided that this subsection shall not apply in respect of any sale of fixed property.

- (2) Subject to the provisions of subsection (3), where goods or services would in terms of section 9 be deemed to be supplied at a time within the period commencing on the date of the announcement of an increase in the rate of tax leviable in terms of section 7(1)(a) and ending on the day before the date on which the increase in the rate of tax becomes effective, that supply shall, to the extent to which it consists

of the provision of goods on or after the day following the last day of the period of 21 days after the date on which the increase of the rate becomes effective, or the performance of services on or after the date on which the increase of the rate becomes effective, be deemed not to take place at the said time, but on the date on which the increase in the rate becomes effective:

(Words in section 67A(2) preceding the proviso substituted by section 41(a) of Act 97 of 1993 with effect from 17 March 1993)

Provided that this subsection shall not apply where the supply takes place –

- (i) in consequence of any payments customarily made or becoming due or invoices customarily issued, when made, becoming due or issued at regular intervals for the provision of goods or the performance of services still to be provided or performed; or
 - (ii) under any written agreement referred to in subsection (4).
- (3) For the purposes of subsections (1) and (2) goods shall be deemed to be provided by the supplier thereof when such goods are delivered to the recipient and goods supplied under a rental agreement shall be deemed to be provided to the recipient when he takes possession or occupation thereof: Provided that where goods consist of fixed property supplied by way of a sale and transfer thereof is effected by registration in a deeds registry, that property shall for the purposes of this subsection be deemed to be delivered to the recipient when such registration is effected.
- (4) Subject to the provisions of section 78(9), where, before the date on which an increase in the rate of tax leviable in terms of section 7(1)(a) becomes effective, a written agreement is concluded for –
- (a) the sale of fixed property consisting of any dwelling together with land on which it is erected, or of any real right conferring a right of occupation of a dwelling or of any unit as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), such unit being a dwelling, or of any share in a share block company which confers a right to or an interest in the use of a dwelling; or
 - (b) the sale of fixed property consisting of land, or of any real right conferring a right of occupation of land for the sole or principal purpose of the erection by or for the purchaser of a dwelling or dwellings on the land, as confirmed by the purchaser in writing; or
 - (c) the construction by any vendor carrying on a construction enterprise of any new dwelling,
- and –
- (i) the price in respect of the sale or construction in question was determined and stated in the said agreement, as in force before the said date, and that agreement was signed by the parties thereto before the said date; and

- (ii) the supply of such fixed property or services under the said agreement is in terms of section 9 deemed to take place on or after the said date,

the rate at which tax is in terms of the said section 7(1)(a) leviable in respect of that supply, shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.

(5) Where –

- (a) goods are sold in terms of a lay-by agreement as contemplated in section 8(4)(a); or

- (b) a service is supplied in relation to the said agreement as contemplated in section 8(4)(b),

and such agreement is concluded before the date on which an increase of the rate of tax leviable in terms of section 7(1)(a) becomes effective and the deposit referred to in the said section 8(4)(a) was paid before that date, the rate at which tax is in terms of the said section 7(1)(a) leviable in respect of that supply, shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.

(Section 67A(5) added by section 41(b) of Act 97 of 1993 with effect from 17 March 1993)

(Section 67A inserted by section 6 of Act 61 of 1993 with effect from 17 March 1993)

Publisher's Note:

Section 67B is to be inserted by section 51(1) of Act 27 of 1997 with effect from a date fixed by the President by proclamation in the Gazette

68. Tax relief allowable to certain diplomats and diplomatic and consular missions

- (1) The Minister may, with the concurrence of the Cabinet member responsible for international relations and cooperation, authorize the granting of relief, by way of a refund, in respect of value-added tax paid or borne –

(Words in section 68(1) preceding paragraph (a) substituted by section 86 of Act 17 of 2017)

- (a) by any person enjoying full or limited immunity, rights or privileges under sections 3, 4, 5 and 6 of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), or under an agreement or otherwise as contemplated in section 7 of that Act or under the recognized principles of international law; or

(Section 68(1)(a) substituted by section 39 of Act 136 of 1992)

(Section 68(1)(a) substituted by section 26 of Act 20 of 1994)

(Section 68(1)(a) substituted by section 107 of Act 32 of 2004)

- (b) by any diplomatic or consular mission of a foreign country established in the Republic, relating to transactions concluded for the official purposes of such mission.

(Section 68(1)(b) substituted by section 26 of Act 20 of 1994)

- (2) The relief contemplated in subsection (1)(a) shall not be granted to any South African citizen or permanent resident of the Republic.
- (3) The Minister may authorize any relief under this section on such conditions and subject to such restrictions as he may deem fit.
- (4) Any claim for a refund of tax under this section shall be made in such form and at such time as the Commissioner may prescribe and shall be accompanied by such proof of payment of tax or certification as the Commissioner may require.

69.

(Section 69 amended by section 44 of Act 136 of 1991)

(Section 69 amended by section 40 of Act 136 of 1992)

(Section 69 amended by section 42 of Act 97 of 1993)

(Section 69 repealed by section 27 of Act 20 of 1994)

70.

(Section 70 substituted by section 120 of Act 74 of 2002)

(Section 70 repealed by section 271 read with paragraph 145 of Schedule 1 of Act 28 of 2011)

71.

(Section 71 repealed by section 271 read with paragraph 145 of Schedule 1 of Act 28 of 2011)

72. Decisions to overcome difficulties, anomalies or incongruities

- (1) If in any case the Commissioner is satisfied that in consequence of the manner in which any vendor or class of vendors conducts his, her or their business, trade or occupation, difficulties, anomalies or incongruities have arisen or may arise in regard to the application of any of the provisions of this Act and similar difficulties, anomalies or incongruities have arisen or may arise for any other vendor or class of vendors of the same kind or who make similar supplies of goods or services, the Commissioner may make a decision as to—
- (a) the manner in which such provisions shall be applied; or
- (b) the calculation or payment of tax provided in this Act,

in the case of such vendor or class of vendors or any person transacting with such vendor or class of vendors as appears to overcome such difficulties, anomalies or incongruities: Provided that such decision shall not—

- (i) have the effect of reducing or increasing the liability for tax levied under this Act; or
 - (ii) be contrary to the construct and policy intent of this Act as a whole or any specific provision in this Act.
- (2) Sections 75, 81, 83, 84, 85, 86, 87, 89 and 90 of the Tax Administration Act apply *mutatis mutandis* to a decision under subsection (1) and for this purpose the definitions of a 'binding class ruling' and a 'binding private ruling' are not limited to a 'proposed transaction'.
- (3) The Commissioner may publish by public notice a list of transactions or matters in respect of which the Commissioner may decline to make a decision.

(Section 72 substituted by section 28 of Act 20 of 1994)

(Section 72 substituted by section 271 read with paragraph 146 of Schedule 1 of Act 28 of 2011)

(Section 72 substituted by section 73(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

73. Schemes for obtaining undue tax benefits

- (1) Notwithstanding anything in this Act, whenever the Commissioner is satisfied that any scheme (whether entered into or carried out before or after the commencement of this Act, and including a scheme involving the alienation of property) –
- (a) has been entered into or carried out which has the effect of granting a tax benefit to any person; and
 - (b) having regard to the substance of the scheme –
 - (i) was entered into or carried out by means or in a manner which would not normally be employed for *bona fide* business purposes, other than the obtaining of a tax benefit; or
 - (ii) has created rights or obligations which would not normally be created between persons dealing at arm's length; and
 - (c) was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit,

the Commissioner shall determine the liability for any tax imposed by this Act, and the amount thereof, as if the scheme had not been entered into or carried out, or in such manner as in the circumstances of the case he deems appropriate for the prevention or diminution of such tax benefit.

- (2) For the purposes of this section “scheme” includes any transaction, operation, scheme or understanding (whether enforceable or not), including all steps and transactions by which it is carried into effect;

“tax benefit” includes –

- (a) any reduction in the liability of any person to pay tax; or
 - (b) any increase in the entitlement of any vendor to a refund of tax; or
 - (c) any reduction in the consideration payable by any person in respect of any supply of goods or services; or
 - (d) any other avoidance or postponement of liability for the payment of any tax, duty or levy imposed by this Act or by any other law administered by the Commissioner.
- (3) Any decision of the Commissioner under this section shall be subject to objection and appeal, and whenever in proceedings relating thereto it is proved that the scheme concerned does or would result in a tax benefit, it shall be presumed, until the contrary is proved that such scheme was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit.

74. Schedules and Regulations

(Heading of section 74 substituted by section 188(a) of Act 45 of 2003)

- (1) The Minister may make regulations in regard to any matter which is permitted or required by this Act and generally for the better carrying out of the objects and purposes of this Act.
- (1A) The Minister may make regulations prescribing the information that must be contained in a report that the Commissioner must submit to the Minister, in the form and manner and at the time that the Minister may prescribe, advising the Minister of matters as the Minister may prescribe by Regulation.
- (Section 74(1A) inserted by section 20(1) of Act 14 of 2017, which amendment is deemed to have come into operation on 1 March 2017)*
- (2) Notwithstanding anything to the contrary in this Act, where the Minister is satisfied that in consequence of the manner in which any business, trade or occupation is carried on malpractices or difficulties have arisen or may arise in regard to the collection of tax levied under this Act, the Minister may, in order to counter such malpractices or to overcome such difficulties, make regulations in regard to the application of any rate of zero per cent or any exemption or to the payment or collection of any tax in a manner other than that provided in this Act.

(3)

- (a) Whenever the Minister amends any Schedule under any provision of the Customs and Excise Act, 1964 (Act No. 91 of 1964), by notice in the *Gazette* and it is necessary to amend in consequence thereof Schedule 1 of this Act, the Minister may by like notice amend the said Schedule 1.
- (b) The provisions of section 48(6) of the Customs and Excise Act, 1964, shall apply *mutatis mutandis* in respect of any amendment by the Minister under this subsection.

(Section 74(3) added by section 188(b) of Act 45 of 2003)

75. Tax agreements

- (1) The National Executive may enter into an agreement with the government of any other country whereby arrangements are made with that government with a view to –
 - (a) the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and such other country, of value-added tax or any similar tax where the supply of goods or services is subject to such tax in either the Republic or such other country and such supply or the importation of such goods or services is also subject to such tax in the other country which is a party to the agreement;
 - (b) the refunding of value-added tax or any similar tax, or any portion of such value-added tax or similar tax, levied under the laws of the Republic and such other country in respect of the supply of goods or services in the Republic or such other country, as the case may be, where such goods or services are imported into such other country or the Republic, as the case may be;
 - (c) regulating or co-ordinating any matter with regard to the levying and collection, under the laws of the Republic and such other country, of value-added tax or any similar tax; or
 - (d) the rendering of reciprocal assistance in the administration of and the collection of value-added tax or any similar tax under the laws of the Republic and such other country, or in respect of the execution of the arrangements provided for in any agreement entered into in terms of this section.

(Section 75(1) substituted by section 52(a) of Act 27 of 1997)

- (2) As soon as may be possible after the approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by publication in the *Gazette* and thereupon the arrangements so notified shall have effect as if enacted by this Act.

(Section 75(2) substituted by section 52(a) of Act 27 of 1997)

- (3)

(Section 75(3) deleted by section 52(b) of Act 27 of 1997)

- (4)

(Section 75(4) deleted by section 52(c) of Act 27 of 1997)

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

(Section 75 amended by section 45 of Act 136 of 1991)

(Section 75 amended by section 41 of Act 136 of 1992)

(Section 75 substituted by section 29 of Act 20 of 1994)

(Section 75(5) substituted by section 52(d) of Act 27 of 1997)

76.

(Section 76 amended by section 46 of Act 136 of 1991)

(Section 76 amended by section 43 of Act 97 of 1993)

(Section 76 repealed by section 30 of Act 20 of 1994)

77.

(Section 77 substituted by section 31 of Act 20 of 1994)

(Section 77 repealed by section 86 of Act 15 of 2016)

78. Transitional matters

- (1) For the purposes of this section –

"sales tax" means the sales tax levied under the Sales Tax Act;

"Sales Tax Act" means the Sales Tax Act, 1978 (Act No. 103 of 1978), as in force immediately prior to its repeal by this Act.

(Definition of "Sales Tax Act" in section 78(1) substituted by section 47(a) of Act 136 of 1991)

- (2)

- (a) Where in the course of an enterprise carried on by a person registered as a vendor in terms of the Sales Tax Act that person has before the commencement date entered into an agreement for the sale of movable goods and sales tax would have been payable by him in respect of the taxable value of such sale if the said Act had not been repealed but the said tax is not payable by reason of the fact that the consideration payable by the purchaser in respect of such sale has not been paid in full before the commencement date and delivery of the said goods has not been effected before that date, the said person shall, if on the commencement date he is a vendor as defined in section 1 of this Act, be deemed for the purposes of this Act to have supplied the said goods at the time of delivery of the said goods or the time at which any payment in respect of the said consideration is made on or after the commencement date or the time at which an invoice in respect of such sale is issued on or after that date, whichever time is earliest.

- (b) Where any leased property has been leased by a vendor under the Sales Tax Act who is on the commencement date a vendor under this Act, to a lessee under a financial lease, as defined in section 1 of the Sales Tax Act, and such property is delivered to the lessee on or after that date, such property shall, notwithstanding the provisions of section 9 of this Act, be deemed for the purposes of this Act to have been supplied to the lessee under an instalment credit agreement at the time of delivery of such property.

(Section 78(2)(b) substituted by section 47(b) of Act 136 of 1991)

- (3) Where, on or after the commencement date, any amount accrues to a vendor who was a vendor for the purposes of the Sales Tax Act and the amount so accruing, or a portion thereof, would, but for the repeal of that Act, have been taken into account in the determination of a taxable value chargeable with sales tax –
- (a) in terms of section 5(1)(c) of that Act in respect of a rental consideration for a period which ended before the said date; or
- (b) in terms of section 5(1)(d) of that Act in respect of a taxable service completed before that date; or
- (c) in terms of section 5(1)(e) of that Act in respect of board and lodging supplied for a period which ended before that date; or
- (d) in terms of section 5(1)(f) of that Act in respect of accommodation let for a period which ended before that date,

value-added tax shall, notwithstanding anything in this Act to the contrary, be chargeable under this Act in respect of that amount as though such amount were consideration for a supply of goods or services supplied by the vendor on the date on which that amount accrued.

- (3A) This Act shall not be construed as imposing value-added tax under section 7(1)(a) in respect of –
- (a) a provision of goods under a rental agreement entered into before the commencement date for a period which ended before that date where such goods did not constitute goods as defined in section 1 of the Sales Tax Act; or
- (b) a performance of services under an agreement entered into before that date where the performance of such services is completed before that date or such services were performed during and in respect of a period which ended before that date, if in either case such services were not taxable services as contemplated in the definition of 'taxable service' in section 1 of the Sales Tax Act.

(Section 78(3A) inserted by section 47(c) of Act 136 of 1991)

- (4) Where the value of any supply of goods or services, as determined under section 10, includes any amount which has been taken into account by a vendor in the determination of a taxable value under the Sales Tax Act, and sales tax was chargeable in respect of such taxable value under section 5 of that Act or would have been so chargeable but for the provisions of section 6 of that Act, the value in respect of such supply shall for the purposes of the value-added tax be reduced by the said amount (but excluding so much of that amount as represents sales tax).

(Section 78(4) substituted by section 47(d) of Act 136 of 1991)

- (5) For the purposes of this Act, where –

- (a) goods are provided under a rental agreement for a period which commences before and ends on or after the commencement date; or

(Section 78(5)(a) substituted by section 47(e) of Act 136 of 1991)

- (b) the performance of any services is commenced before and is completed on or after that date; or

(Section 78(5)(b) substituted by section 47(e) of Act 136 of 1991)

- (c) domestic goods and services are provided for a period which commences before and ends on or after that date,

(Section 78(5)(c) substituted by section 47(e) of Act 136 of 1991)

the value of the supply, as determined under this Act, shall not be reduced to take account of any portion thereof made before the said date: Provided that –

- (i) where the goods referred to in paragraph (a) consist of fixed property, there shall be excluded from the rental consideration for the supply so much of such consideration as is attributable to the portion of the period referred to in that paragraph which ends before the said date;

- (ii) where the services referred to in paragraph (b) were not taxable services for the purposes of the Sales Tax Act –

- (aa) any progress payment in respect of that portion of the services performed before the said date shall for the purposes of this Act be ignored; and

- (bb) where any payment becomes due or is received in respect of services which were not taxable services for the purposes of the Sales Tax Act and which are commenced before and completed on or after the said date, that portion of the payment which, on the basis of a fair and reasonable apportionment, is attributable to the portion of the services performed before the said date shall be excluded from the consideration for the supply.

- (6) Where any payment is made or an invoice is issued on or after the date of promulgation of this Act and before the commencement date in respect of consideration for the supply of any goods or services (not

being a transaction in respect of which a taxable value is subject to sales tax), a supply of such goods or services shall be deemed to have been made on the commencement date to the extent to which such payment or invoice relates to the provision of goods or the performance of services on or after the commencement date: Provided that this subsection shall not apply in respect of any payments customarily made or invoices customarily issued, when made or issued at regular intervals for the provision of goods or performance of services still to be provided or performed.

(Section 78(6) substituted by section 47(f) of Act 136 of 1991)

(7)

(a) In the case of a vendor who was on the day before the commencement date a vendor for the purposes of the Sales Tax Act an adjustment shall be made in the manner provided in paragraphs (c) and (d) in respect of sales tax attributable to any amount which would, but for the repeal of that Act, have been accounted for under paragraph (d), (i), (iv) or (vi) of subsection (2) of section 11 of that Act.

(b) The sales tax attributable to such amount shall be determined by applying the formula

$$\frac{r}{100 + r} \times t,$$

in which formula "r" is the rate of sales tax, expressed as a percentage, which was in force on the day before the commencement date and "t" is the said amount.

(c) The adjustment shall be made in the tax period of the vendor under this Act which, as nearly as possible, corresponds with the tax period of the vendor which would, but for the repeal of the Sales Tax Act, have applied under that Act.

(d) The adjustment shall be made by including in the amounts of output tax accounted for under section 16(3) of this Act in respect of the relevant tax period under this Act the amount of sales tax attributable to the amount that would have been accounted for under paragraph (d) of subsection (2) of section 11 of the Sales Tax Act and by including in the amounts of input tax accounted for under the said section 16(3) such amount as would have been accounted for under paragraph (i), (iv) or (vi) of the said subsection (2).

(8) Where, in the case of a vendor who was for the purposes of the Sales Tax Act a liquor trader as defined in paragraph 1 of the Schedule to Government Notice No. 339 published in *Government Gazette* No. 10615 on 20 February 1987, an amount of an excess referred to in paragraph 4(2) of that Schedule could, but for the repeal of the Sales Tax Act, have been carried forward from the tax period under that Act ending on the day before the commencement date, that amount shall, if on that date he continued to carry on the trade of selling liquor, for the purposes of section 16(3) of this Act be deemed to be input tax paid by him in respect of a supply of liquor made to him on that date.

(9)

- (a) Notwithstanding the provisions of subsection (6), where fixed property has been disposed of under an agreement for the sale of such property concluded before the commencement date, the disposal of such property under such sale shall be deemed not to be a supply of goods for the purposes of this Act:

Provided that where an agreement for the construction of improvements on such property has been concluded before the said date and the consideration payable under such agreement is in terms of section 6(1)(c) of the Transfer Duty Act, 1949 (Act No. 40 of 1949), required for the purpose of the payment of transfer duty to be added to the consideration payable in respect of the acquisition of such property, such agreement and the agreement for the sale of the property shall for the purposes of this paragraph be deemed to be one agreement for the sale of the property.

(Proviso to section 78(9)(a) added by section 42(a) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

(Section 78(9)(a) substituted by section 47(h) of Act 136 of 1991)

- (aA) Where an agreement for the sale of fixed property consisting of any dwelling together with land on which it is erected, or of any real right conferring a right of occupation of a dwelling or of any unit as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), such unit being a dwelling, or of any share in a share block company which confers a right to or an interest in the use of a dwelling, was concluded on or before 31 March 1992 by a vendor who at the time of such sale holds such fixed property as trading stock, such sale shall, if the dwelling concerned was completed within 12 months before the commencement date, be deemed not to be a supply of goods for the purposes of this Act.

(Section 78(9)(aA) inserted by section 42(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

- (aB) Where an agreement (other than an agreement referred to in paragraph (aC) for the sale of fixed property consisting of land, or of any real right conferring a right of occupation of land, was concluded on or after the commencement date and on or before 31 March 1992 for the sole or principal purpose of the erection by or for the purchaser of a dwelling or dwellings on the land, as confirmed by the purchaser in writing, the tax chargeable under section 7(1)(a) in respect of the supply of the land or real right under such sale shall be reduced to an amount equal to 6 per cent of the value of the supply.

(Section 78(9)(aB) inserted by section 42(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

- (aC) Where fixed property includes a dwelling, and –

- (i) the erection of the dwelling was completed on or after 30 September 1991 and on or before 31 December 1991 and an agreement for the sale of such fixed property was concluded on or after 22 August 1991 and on or before 31 December 1991, the tax chargeable under section 7(1)(a) in respect of the supply of the fixed property under such sale shall be reduced to an amount equal to 3 per cent of the value of the supply; or
- (ii) the erection of the dwelling was completed on or after 30 September 1991 and on or before 31 March 1992 and an agreement for the sale of such fixed property was concluded on or after 22 August 1991 and on or before 31 March 1992, the tax chargeable under section 7(1)(a) in respect of the supply of the fixed property under such sale shall, subject to the provisions of subparagraph (i), be reduced to an amount equal to 6 per cent of the value of the supply:

Provided that –

- (i) where an agreement has been concluded for the erection of a dwelling on land supplied under a sale and the consideration payable under such agreement would in terms of section 6(1)(c) of the Transfer Duty Act, 1949, if that Act were applicable, be required for the purpose of the payment of transfer duty to be added to the consideration payable in respect of the acquisition of the property, such agreement and the sale shall, subject to the provisions of paragraph (ii) of this proviso, for the purposes of this paragraph be deemed to be one agreement for the sale of the property;
- (ii) the tax payable in respect of the supply of the land and the supply of the construction services in respect of the erection of a dwelling as contemplated in paragraph (i), shall be separately payable in respect of each supply in accordance with the provisions of this Act;
- (iii) where the agreement for the sale of such fixed property was concluded before the commencement date, the provisions of paragraph (a) of this subsection shall apply unless the seller and the purchaser under the sale agree in writing that that paragraph shall not apply and that this paragraph shall apply.

(Section 78(9)(aC) inserted by section 42(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

- (aD) Where any agreement (other than an agreement referred to in paragraph (i) of the proviso to paragraph (aC)) for the construction by any vendor carrying on a construction enterprise of any new dwelling was concluded on or before 31 March 1992 and the dwelling was to be erected in the course of such enterprise, the tax chargeable under section 7(1)(a) in respect of the supply of the construction service, including any construction service supplied to the vendor by a subcontractor, shall to the extent that such services were performed on or before 31 March 1992 be reduced to 6 per cent of the value of the supply.

(Section 78(9)(aD) inserted by section 42(b) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

- (b) For the purposes of this subsection where an option to purchase fixed property or a right of pre-emption in respect of fixed property is granted, the agreement for the sale of the property shall be deemed to be concluded when the option or right of pre-emption is exercised.
- (10) Where any vendor who is on or with effect from the commencement date registered under section 23 and on that date –
- (a) carries on a construction, civil engineering or similar enterprise and has on hand a stock of materials acquired by him prior to that date in order to be used by him for the purpose of incorporation in any building or other structure or work of a permanent nature to be erected, constructed, assembled, installed, extended or embellished by him in the course of such enterprise, and sales tax has been borne by him in respect of such materials; or
- (b) has on hand a stock of consumable goods or maintenance spares acquired under sales concluded by him or the importation by him prior to that date for the purpose of consumption or use in the course of his enterprise, and sales tax has been borne by him in respect of such sales or importation,

(Section 78(10)(b) substituted by section 42(c) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

and on or after that date any item of such stock is withdrawn by him for the purpose referred to in paragraph (a) or the purpose referred to in paragraph (b), as the case may be, the vendor may, provided he has taken stock of such materials, consumable goods or maintenance spares, as the case may be, and he retains properly prepared stock lists in respect of such stocktaking, include in the amounts of input tax deducted by him under section 16(3) in respect of the tax period during which such item is withdrawn, the amount of sales tax borne by him in respect of that item: Provided that where the vendor does not maintain records which are adequate enough to determine when items are withdrawn from such stocks or the sales tax so borne thereon in respect of sales to him of such items, the Commissioner may, on application by the vendor, authorize him to deduct the actual sales tax borne by him in respect of such sales or an amount of sales tax which on the basis of a reasonable calculation represents the amount of sales tax so borne by him on the stocks in equal instalments by way of inclusions in the input tax deducted by the vendor in his tax returns over a period of two years or such shorter period as the Commissioner may allow.

(Section 78(10) substituted by section 47(j) of Act 136 of 1991)

- (10A) Where sales tax has been borne by any vendor (being a person who is on or with effect from the commencement date registered under section 23) in respect of the acquisition of goods (other than fixed property or goods incorporated therein) under a sale or the importation of goods and such goods are held by him on the commencement date as trading stock as defined in section 1 of the Income Tax Act,

whether or not the vendor is liable for normal tax under that Act, the vendor may, provided he has taken stock of such goods and he retains properly prepared stock lists in respect of such stocktaking, include the amount of that tax in the amounts of input tax deducted by him under section 16(3) in respect of the tax period during which such goods are supplied by him in the course or furtherance of his enterprise: Provided that where it appears to the Commissioner that the keeping of records for the purposes of the preceding provisions of this subsection can be dispensed with without prejudice to revenue collections, the Commissioner may, on application by the vendor, authorize him to deduct the sales tax on stocks of such goods so held by the vendor in equal instalments by way of inclusions in the input tax deducted by the vendor in his tax returns over a period of two years or such shorter period as the Commissioner may allow.

(Section 78(10A) inserted by section 47(k) of Act 136 of 1991)

(11)

(a) Where any person –

- (i) is on the day before the commencement date registered as a vendor under the Sales Tax Act;
- (ii) at the end of that day has in his possession goods (as defined in that Act) which he has not disposed of or which he has disposed of under a sale but for which he has not received full payment and in either case sales tax was not borne by him on acquisition; and
- (iii) on the commencement date is not a vendor for the purposes of this Act,

he shall for the purposes of the Sales Tax Act be deemed to have applied such goods on the day referred to in subparagraph (i) to a use or consumption contemplated in section 5(1)(h) of that Act.

(Section 78(11)(a) amended by section 47(l) of Act 136 of 1991)

- (b) Any sales tax payable under the Sales Tax Act in respect of the taxable value of such goods shall be payable at the rate of 10 per cent and may be paid to the Commissioner within the period of three months reckoned from the day after the commencement date, without penalty.

(Section 78(11)(b) amended by section 47(m) of Act 136 of 1991)

(Section 78(11)(b) amended by section 42(e) of Act 136 of 1992 deemed to have come into operation on 30 September 1991)

78A. Transitional matters: Turnover Tax

(1) For the purposes of this section –

'taxable turnover' has the meaning assigned thereto in the Sixth Schedule to the Income Tax Act;

'turnover tax' means the turnover tax payable by a registered micro business in terms of section 48A of the Income Tax Act; and

'registered micro business' has the meaning assigned thereto in the Sixth Schedule to the Income Tax Act.

- (2) Where a person is deregistered in terms of the Sixth Schedule to the Income Tax Act and registers as a vendor, any supplies of goods or services-
- (a) made by that person before it became a vendor;
 - (b) in respect of which the time of supply would have been deemed to have taken place while that person was a registered micro business had it been registered as a vendor during that time;
 - (c) which were not included in the taxable turnover of that person while it was a registered micro business; and
 - (d) the receipts for which are received after it became a vendor,

must be deemed to be made in the course or furtherance of that vendor's enterprise in the tax period in which those receipts are received.

- (3) Subject to section 18(4)(b), where a person is deregistered in terms of the Sixth Schedule to the Income Tax Act and registers as a vendor, any value-added tax paid on expenditure it incurred while it was a registered micro business may not be deducted by that vendor as input tax.

(Section 78A inserted by section 115(1) of Act 60 of 2008 with effect from 1 March 2009)

- 79. Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988 and section 1 of Act 69 of 1989.**

Section 9 of the Transfer Duty Act, 1949, is hereby amended by the addition of the following subsection:

“(15) No duty shall be a able in respect of the acquisition of an property under any transaction which for purposes of the Value-Added Tax Act, 1991, is a taxable supply of goods to the person acquiring such property if –

- (a) the transferor of the property under such transaction, in a declaration in such form as the Commissioner may prescribe, certifies that value-added tax payable under the said Act has

been paid to him in respect of the said supply by the transferee and has been accounted for by him in a relevant return required to be furnished by him under the said Act or will be so accounted for in such return within the time allowed under that Act for the rendering of such return, or where such supply was subject to the said tax at the rate of zero per cent, such information regarding such supply as the Commissioner may require has been furnished to him;

(b) any security required by the Commissioner for the payment of such tax has been lodged, if such tax has not yet been paid; and

(c) the Commissioner has issued a certificate to the effect that the requirements of this subsection for the granting of the exemption have been met.”.

80. Amendment of section 12 of Act 40 of 1949, as substituted by section 8 of Act 103 of 1969 and amended by section 2 of Act 72 of 1970, section 2 of Act 92 of 1971, section 1 of Act 70 of 1975 and section 4 of Act 86 of 1987

Section 12 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The provisions of subsection (1) shall not apply with reference to an acquisition of property in respect of which there is lodged with the registration officer a certificate issued in terms of section 11(3)(a) or 9(15)(c).”.

81. Amendment of section 23 of Act 77 of 1968, as amended by section 20 of Act 103 of 1969, section 13 of Act 92 of 1971, section 11 of Act 89 of 1972, section 10 of Act 87 of 1982, section 5 of Act 92 of 1983, section 25 of Act 87 of 1988 and section 8 of Act 69 of 1989

Section 23 of the Stamp Duties Act, 1968, is hereby amended by the addition to paragraph (b) of subsection (4) of the following subparagraph:

“(viii) where exemption from duty is claimed under paragraph (v) of the Exemptions to Item 15(3) of Schedule 1, there is annexed to such instrument a declaration signed by the transferor containing the following particulars:

(aa) The name and address of the transferor and the registration number allocated to him as a vendor under the Value-Added Tax Act, 1991;

(bb) the name and address of the transferee;

(cc) the date of the sale or disposal of the share in respect of which the registration of transfer is to be effected, and the amount of the consideration given by the transferee for the share

under the sale or disposal, excluding value-added tax within the meaning of the said Act;
and

(dd) the amount of the said value-added tax payable in respect of the sale or disposal and the tax period under the said Act in respect of which such tax has been or will be payable.”.

82. Amendment of section 24 of Act 77 of 1968, as amended by section 21 of Act 103 of 1969, section 11 of Act 88 of 1974, section 4 of Act 70 of 1975, section 12 of Act 114 of 1977, section 6 of Act 92 of 1983, section 26 of Act 87 of 1988 and section 9 of Act 69 of 1989

(1) Section 24 of the Stamp Duties Act, 1968, is hereby amended –

(a) by the deletion of subsection (1);

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

“(a) receives or takes credit for any premium or consideration for any policy or certificate of insurance or any endorsement thereto chargeable with duty under Item 18 of Schedule 1 **[or for any renewal of any policy or certificate of insurance chargeable with duty under paragraph (4) of the said Item]** and does not within one month after receiving or taking credit for such premium or consideration make out and execute a policy, receipt or instrument; or”; and

(c) by the deletion of subsections (2A), (3), (4), (5), (6), (7), (8) and (8A).

(2) Subsection (1) shall come into operation on the commencement date: Provided that any stamp duty or other amount which but for such amendments would have been capable of being levied or recovered under subsection (4) of the said section 24 in respect of policies, certificates of insurance and endorsements thereon executed before that date and renewals thereof falling due before that date shall be levied, paid and recovered as if the said amendments had not been effected.

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

Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the addition under the heading “Exemptions from the duty under paragraph (3):” of the following subparagraph:

“(v) Any registration of transfer of an share in a share block An re company as defined in section 1 of the Share Blocks Control Act, 1980 (Act No. 59 of 1980), which confers a right to or an interest in the use of immovable property, where such registration is in consequence of a sale or disposal of such share which in terms of the Value-Added Tax Act, 1991, constitutes a supply of such share and in terms of that Act value-added tax has been or will be paid by the transferor in respect of such supply.”.

84. Amendment of Item 18 of Schedule 1 to Act 77 of 1968, as amended by section 26 of Act 103 of 1969, section 18 of Act 66 of 1973 and section 34 of Act 87 of 1988

(1) Item 18 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended –

(a) by the deletion of paragraphs (4) and (6); and

(b) by the substitution in paragraph (7) for the words “any policy” of the words “any above-mentioned policy”.

(2) Subsection (1) shall come into operation on the commencement date in respect of insurance policies, certificates of insurance and endorsements thereon executed on or after that date and renewals thereof falling due on or after that date.

85. Repeal of laws

(1) Subject to the provisions of subsection (2), the laws specified in Schedule 3 are with effect from the commencement date hereby repealed to the extent set out in the third column of that Schedule.

(2)

(Section 85(2) deleted by section 116 of Act 60 of 2008)

86. Act binding on State, and effect of certain exemptions from taxes

This Act shall bind the State, and no provision contained in any other law providing for an exemption from any tax or duty shall be construed as applying or referring, as the case may be, to the tax leviable under this Act unless such tax is specifically mentioned in such provision.

86A. Provisions relating to special economic zones

Where a provision of the Customs and Excise Act, the Manufacturing Development Act, 1993 (Act No. 187 of 1993), or the Special Economic Zones Act, or a regulation made thereunder governing the administration of special economic zones including a matter relating to the liability for or levying of value-added tax or a refund thereof or a supply of goods or services subject to tax at the zero-rate is inconsistent or in conflict with a provision of this Act, the provision of this Act will prevail.

(Section 86A inserted by section 176 of Act 60 of 2001)

(Section 86A substituted by section 30(1)(a) of Act 16 of 2016 with effect from 9 February 2016)

87. Short title

This Act shall be called the Value-Added Tax Act, 1991.

Schedule 1

(SECTION 13(3) OF THIS ACT)

EXEMPTION: CERTAIN GOODS IMPORTED INTO THE REPUBLIC

Goods imported, as contemplated in section 13(1), including imports from or via Botswana, Lesotho, Namibia or Swaziland, into the Republic and in respect of which the exemption under the provisions of section 13(3) applies, are set forth below.

1. Any of the following items imported into the Republic in respect of which the Controller has, in terms of the proviso to section 38(1)(a) of the Customs and Excise Act and which shall apply also to imports from or via Botswana, Lesotho, Namibia or Swaziland, granted permission that entry need not be made:

(Words in paragraph 1 of Schedule 1 preceding subparagraph (i) substituted by section 111(a) of Act 31 of 2005)

- (i) Containers temporarily imported;
- (ii) human remains;
- (iii) goods which in the opinion of the Commissioner are of no commercial value;
- (iv) goods imported under an international carnet; and
- (v) goods of a value for customs duty purposes not exceeding R500, and on which no such duty is payable in terms of Schedule No. 1 to the said Act.

(Paragraph 1(v) of Schedule 1 substituted by section 111(b) of Act 31 of 2005)

2. Goods, being printed books, newspapers, journals and periodicals, imported into the Republic by post of a value not exceeding R100 per parcel.
3. Goods, being gold coins imported as such and which the Reserve Bank has issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section.

4. Goods temporarily exported from the Republic which are, at the time of export, registered as such with the Controller, in such form as the Commissioner may prescribe, and thereafter returned to the exporter, no change of ownership having taken place, and which can be identified on re-importation.

(Paragraph 4 of Schedule 1 substituted by section 112 of Act 31 of 2005)

5. Goods permitted under conditions prescribed by the International Trade Administration Commission which are forwarded unsolicited and free of charge by a non-resident to-

- (a) a public authority or a municipality; or

(Paragraph 5(a) of Schedule 1 substituted by section 52(1) of Act 9 of 2006 with effect from 1 July 2006)

- (b) any association not for gain, which satisfies the Commissioner that such goods will be used by that association exclusively-

- (i) for educational, religious or welfare purposes; or

- (ii) in the furtherance of that association's objectives directed to the provision of educational, medical or welfare services or medical or scientific research; or

- (iii) for issue to, or treatment of, indigent persons:

Provided that the recipient of the goods responsible for the distribution has furnished an undertaking that-

- (a) such goods are for the exclusive use by the organisation or for free distribution;

- (b) such goods will not be sold, leased, hired or otherwise disposed of for gain; and

- (c) no consideration or other counter-performance may be accepted by any person in respect of such goods.

(Paragraph 5 of Schedule 1 amended by section 108 of Act 32 of 2004)

(Paragraph 5 of Schedule 1 substituted by section 113 of Act 31 of 2005)

6. Goods which are shipped or conveyed to the Republic for trans-shipment or conveyance to any export country: Provided that the Controller ensures that the tax is secured, in part or in full, by the lodging of a provisional payment or bond except where the Commissioner, in exceptional circumstances, otherwise directs, or in the circumstances contemplated in rule 120A.01(c) of Chapter XIIA of the Rules under the Customs and Excise Act. If proof is not furnished to the Commissioner that the goods have been duly taken out of the Republic within a period of 30 days or within such further period as the Commissioner may in exceptional circumstances allow, this exemption shall be withdrawn and tax, penalty and interest must be paid

(Paragraph 6 of Schedule 1 substituted by section 114 of Act 31 of 2005)

7. Goods consisting of -

- (a) goods and foodstuffs set forth in Part A and Part B of Schedule 2 to this Act, but subject to such conditions as may be prescribed in the said Part; or

(Paragraph 7(a) of Schedule 1 substituted by section 107 of Act 35 of 2007)

- (b) goods referred to in section 11(1)(f), but provided that such goods are supplied to and imported by the South African Reserve Bank, the South African Mint Company (Proprietary) Limited or any bank registered under the Banks Act, 1990 (Act No. 94 of 1990); or

- (c) (i) fuel levy goods referred to in fuel levy item no.-

(aa) 195.10.03: Petrol as defined in Additional Note 1(b) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act;

(bb)

(cc)

(dd) 195.10.17: Distillate fuel, as defined in Additional Note 1(g) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act;

(ee) 195.20.01: Biodiesel as defined in Additional Note 1(a) to Chapter 38 in Part 1 of Schedule No. 1 to the Customs and Excise Act; and

(ff) 195.20.03: Other biodiesel,

in Part 5A of Schedule No. 1 to the Customs and Excise Act; or

(Paragraph 7(c)(i) of Schedule 1 substituted by section 53(1)(a) of Act 9 of 2006 with effect from 1 April 2006)

- (ii) petroleum oil and oils obtained from bituminous minerals, known as crude, referred to in tariff heading no. 27.09 in Part 1 of Schedule No. 1 to the Customs and Excise Act, when supplied and imported for the purposes of being refined for the production of fuel levy goods as defined in section 1 of the Customs and Excise Act; or

(iii)

(Paragraph 7(c)(iii) of Schedule 1 deleted by section 53(1)(b) of Act 9 of 2006 with effect from 1 April 2006)

- (iv) illuminating kerosene (marked) as defined in Additional Note 1(f) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act, referred to in fuel levy item no. 195.10.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and which are not mixed or blended with another substance; or

(Paragraph 7(c)(iv) of Schedule 1 substituted by section 53(1)(c) of Act 9 of 2006)

- (d) goods referred to in section 11(1)(w), referred to in Chapter 96 in Part I of Schedule No. 1 to the Customs and Excise Act under subheading 9619.00: 'Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any material:' limited to goods referred to in item No.—

- (i) 9619.00.02: Sanitary towels (pads), of wadding of textile material;
- (ii) 9619.00.03: Pantyliners, of wadding of textile materials;
- (iii) 9619.00.11: Sanitary towels (pads), of paper pulp, paper, cellulose wadding or webs of cellulose fibres;
- (iv) 9619.00.12: Pantyliners, of paper pulp, paper, cellulose wadding or webs of cellulose fibres;
- (v) 9619.00.21: Sanitary towels (pads), of other materials of headings 39.01 to 39.14;
- (vi) 9619.00.41: Sanitary towels (pads), made up from knitted or crocheted textile material;
- (vii) 9619.00.42: Pantyliners, made up from knitted or crocheted textile material;
- (viii) 9619.00.91: Other, sanitary towels (pads) and pantyliners.

(Paragraph 7(d) added by section 74(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

(Paragraph 7 of Schedule 1 substituted by section 115 of Act 31 of 2005)

- 8. In this paragraph, goods exempt from the levying of tax, are identified by heading numbers or rebate items and the descriptions as contemplated in Schedule 1 and Schedule 4 to the Customs and Excise Act, respectively. In some instances the exemptions below contain additional requirements or limitations or relaxations which differ from the Customs and Excise Act. Where any provisions of the Customs and Excise Act and the Schedules thereto provide otherwise, the provisions of this Schedule shall prevail.

In order to qualify for an exemption-

- (i) the goods must fall under one of the descriptions below;

Prepared by:

- (ii) any requirements or limitations contained in that particular description must be complied with; and
- (iii) the Notes below must be complied with,

regardless of whether or not the goods are required to be entered, customs duty is payable or a rebate of customs duty is granted in terms of the Customs and Excise Act.

SUBHEADING	DESCRIPTION
	NOTES:
	1. The following exemptions, identified by Subheadings, shall be subject to the Notes as contemplated in Schedule No. 1 to the Customs and Excise Act.
4907.00.30	Travellers' cheques and bills of exchange, denominated in a foreign currency
4911.10.20	Publications and other advertising matter relating to fairs, exhibitions and tourism in foreign countries
ITEM NO.	DESCRIPTION
406.00	GOODS IMPORTED FOR DIPLOMATIC AND OTHER FOREIGN REPRESENTATIVES:
	NOTES:
	1. This exemption (excluding items 406.03 and 406.04) is allowed if the Director-General: Department of International Relations and Co-operation or an official acting under his or her authority has certified that any person requiring this exemption has been listed in the register maintained by Department of International Relations and Co-operation in accordance with the provisions of the Diplomatic Immunities and Privileges Act, 2001.
	2. For the purposes of item no.'s 406.03 and 406.04, "an organisation or institution" means an organisation which the Director-General: Department of International Relations and Co-operation or an official acting under his or her authority has certified as an organisation or institution with which the Republic has concluded a formal agreement, which provides, <i>inter alia</i> , for the granting of such exemption.
	3. This exemption is not allowed to South African citizens or permanent residents of the Republic unless – <ul style="list-style-type: none"> (a) they are South African citizens who are also citizens of a state the territory of which formerly formed part of the Republic; or (b) the Government of the Republic has, by agreement with an organisation or institution contemplated in Note No. 2, undertaken to

		grant an exemption to a South African citizen who is a representative, member, agent or officer, but excluding a delegate, with or to such organisation or institution.
	4.	A motor vehicle exempted in terms of item no.'s 406.02, 406.03, 406.04, 406.05 or 406.07, may not be offered, advertised, lent, hired, leased, pledged, given away, exchanged, sold or otherwise disposed of within a period of two years from the date of importation: Provided that any one of the foregoing acts with this vehicle within a period of two years from the date of importation renders the importer of the vehicle liable to pay tax as determined by the Commissioner in consultation with the Director-General: Department of International Relations and Co-operation.
	5.	Alcohol and tobacco products exempted in terms of item no.'s 406.02, 406.03, 406.04, or 406.05: Provided that the importer of the alcohol and tobacco products will be held liable to pay tax on the supply of such products to the persons contemplated in item no.'s 406.02, 406.03, 406.04 or 406.05.
<p><i>(Notes to Item 406.00 amended by GNR 154 of 2011)</i></p> <p><i>(Notes to Item 406.00 amended by GNR 1069 of 2020)</i></p> <p><i>(Notes to Item 406.00 substituted by GNR 369 dated 23 April 2021, with effect from: 1 August 2021)</i></p>		
406.02/00.00/01.00		Goods for the official use by a diplomatic mission and goods for the personal or official use by diplomatic representatives accredited to a diplomatic mission and members of their families
406.03/00.00/01.00		Goods for the personal or official use by members, agents, officers, delegates or permanent representatives of, to, or with an organisation or institution, and members of their families
406.04/00.00/01.00		Goods imported for the official use by an organisation or institution in terms of an agreement as provided for in Note no. 3.
<i>(Item 406.04/00.00/01.00 inserted by GNR 1069 of 2020)</i>		
406.05/00.00/01.00		Goods for the official use by a consular mission and goods for the personal or official use by consular representatives accredited to a consular mission and foreign representatives (excluding those referred to in item no.'s 406.02 and 406.03), and members of their families
406.06/00.00/01.00		Stationery, uniforms, furniture and equipment for the official use by a consular post headed by an honorary consular officer
406.07/00.00/01.00		Goods (excluding food, drink and tobacco in any form) imported by administrative and technical representatives accredited to diplomatic or consular missions, on their first entry on appointment by their governments, for their personal or official use, provided the said goods are imported with the approval of the Director-General: Foreign Affairs
<i>(Item 406.00 amended by GNR 1069 of 9 October 2020)</i>		

407.00	GOODS IMPORTED BY IMMIGRANTS, TOURISTS, RETURNING RESIDENTS AND OTHER PASSENGERS, FOR THEIR PERSONAL USE:		
	NOTES:		
	1.	For the purposes of item nos. 407.01 and 407.02-	
		(a)	the person referred to in these item nos. means a "traveller" as defined in rule 15.01 to the Customs and Excise Act and as contemplated in form DA331; and
		(b)	in addition to the notes to item no. 407.00, such traveller must comply with the requirements of section 15 of the Customs and Excise Act, the rules to that section and form DA331.
	2.	The exemption in terms of item no. 407.01/00.00/01.02 is allowed only if the goods can be identified as being the same goods which were removed from the Republic.	
	3.	(a)	The exemption specified in item no. 407.02 shall only be allowed in the case of –
		(i)	407.02/00.00/01.00/ once per person during a period of 30 days and shall not apply to goods imported by a person returning after an absence of less than 48 hours.
		(ii)	407.02/00.00/02.00/ during a period of 30 days and shall not apply to goods imported by a person returning after an absence of less than 48 hours; and
		(iii)	407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03 is applicable in addition to the provisions of item nos. 407.02/00.00/01.00 and 407.02/00.00/02.00 but only once per person during a period of 30 days and shall not apply to goods imported by a person returning after an absence of less than 48 hours.
	4.	(a)	The exemption in terms of item no. 407.02 shall only apply to accompanied passengers' baggage declared by returning residents of the Republic and non-residents visiting the Republic, for personal use or to dispose of as gifts.
		(b)	The exemption in terms of item no. 407.02 shall only be allowed once per person during a period of 30 days and shall not be allowed for goods imported by persons returning after an absence of less than 48 hours.

	(c)	For the purposes of item no. 407.02, any goods obtained from an inbound duty and tax free shop must be regarded as imported goods.
	(d)	The exemption in terms of item no. 407.02 may, with the exception of tobacco and alcoholic products, be claimed by children under 18 years of age, whether or not they are accompanied by their parents or guardians, provided the goods are for use by the children themselves.
	5.	A member of the crew of a ship or aircraft (including the master or pilot) is subject to the conditions laid down by the Commissioner, only entitled to-
	(a)	the exemption in terms of item no. 407.02/00.00/01.00 on new or used goods of a total value not exceeding R700 per person: and
	(b)	the exemption in terms of item no. 407.02/00.00/02.00 on new or used goods of a total value not exceeding R2 000 per person.
	6.	A member of the crew of a ship or aircraft (including the master or pilot) is not entitled to an exemption in terms of item nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03.
	7.	If the person concerned so desires and indicates accordingly before the goods are cleared, the goods in respect of which the exemption in item no. 407.02/00.00/02.00 is applicable, may be cleared at the rates of duty specified in Schedule No. 1 to the Customs and Excise Act and with payment of tax levied in terms of section 7(1)(b) of this Act.
	8.	(a) The exemption in terms of item no. 407.02/00.00/02.00 is applicable in addition to the exemption in terms of item no. 407.02/00.00/01.00.
	(b)	The exemptions in terms of item nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03 are applicable in addition to the exemptions in terms of item nos. 407.02/00.00/01.00 and 407.02/00.00/02.00.
	(c)	Wine, spirituous and other alcoholic beverages, tobacco products and perfumery imported in excess of the quantities specified in item nos. 407.02/22.00, 407.02/24.02, 407.02/24.03 and 407.02/33.03, must be cleared with payment of tax levied in terms of section 7(1)(b) of this Act.
	9.	If a person contravenes any provision of this Act, the Customs and Excise Act or any other law relating to the importation of goods, the Commissioner may refuse to grant any exemption provided for in item no. 407.02.
	10.	For the purposes of item no. 407.04/87.00/01.00 the vehicle in question shall not be deemed to be personally owned and used personally by the importer,

		unless such importer was, at all reasonable times, personally present at the place where the vehicle was used by him or her, and the importer shall be deemed to have used that vehicle from the date on which he or she took physical delivery of the vehicle until the date on which the vehicle was delivered by him or her to the shipper or the agent for the purpose of shipment or dispatch. Where a vehicle is imported on its own wheels, the date of shipment or dispatch shall be the date that the vehicle leaves the country where it was so owned and used en route to the Republic.
	11.	For the purposes of item no. 407.04. the importer shall, if that person is absent for a continuous period of longer than 3 months from the place where the vehicle is usually used in the Republic, not be deemed to have imported the vehicle for that person's personal or own use, and tax as determined by the Commissioner is payable as from the date of such absence.
	12.	The exemption in terms of item no. 407.04 is allowed once per family during a period of 3 years.
	13.	Any entry under item no. 407.04 must be supported by a duly completed form DA 304 A.
	14.	Any entry under item no. 407.06 must be supported by duly completed forms DA 304 and P1.160.
407.01	Personal effects, sporting and recreational equipment, new or used:	
407.01/00.00/01.01	Imported either as accompanied or unaccompanied passengers' baggage by non-residents of the Republic for their own use during their stay in the Republic	
407.01/00.00/01.02	Exported by residents of the Republic for their own use while abroad and subsequently re-imported either as accompanied or unaccompanied passengers' baggage by such residents	
407.02	Goods imported as accompanied passengers' baggage, including goods obtained at a licensed inbound duty and tax free shop either by non-residents or residents of the Republic and cleared at the place where such persons disembark or enter the Republic:	
407.02/00.00/01.00	New or used goods, of a total value not exceeding R5 000 per person	
407.02/00.00/02.00	Additional goods, new or used, of a total value not exceeding R20 000 per person	
407.02/22.00/01.00	Wine not exceeding 2 litres per person	
407.02/22.00/02.00	Spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre per person	
407.02/24.02/01.00	Cigarettes not exceeding 200 and cigars not exceeding 20 per person	
407.02/24.03/01.00	250g Cigarette or pipe tobacco per person	
407.02/33.03/01.00	Perfumery not exceeding 50 ml and toilet water not exceeding 250 ml per person	
407.04	Motor vehicles imported by natural persons for own use on change of permanent residence to the Republic:	
407.04/87.00/01.00	One motor vehicle per family, imported by a natural person for his or her personal or own use, who permanently changes his or her residence to the Republic and-	

	(i)	provided the vehicle so imported is the personal property of the importer and has personally been owned and used by him or her for a period of not less than 12 months prior to his or her departure to the Republic; and
	(ii)	provided the vehicle is not offered, advertised, lent, hired, leased, pledged, given away, exchanged, sold or otherwise disposed of within a period of 20 months from the date of importation
407.06	Goods imported by natural persons for own use on change of residence to the Republic:	
407.06/00.00/01.00	Household furniture, other household effects and other removable articles, including equipment necessary for the exercise of the calling, trade or profession of the person, other than industrial, commercial or agricultural plant and excluding motor vehicles, alcoholic beverages and tobacco goods, the <i>bona fide</i> property of a natural person (including a returning resident of the Republic after an absence of six months or more) and members of his or her family, imported for own use on change of his or her residence to the Republic: Provided that these goods are not disposed of within a period of six months from the date of importation	
409.00	RE-IMPORTED GOODS:	
	NOTES:	
	1.	The importer must, at the time of entry of the goods upon re-importation, attach a statement to the bill of entry or other document prescribed in terms of the Customs and Excise Act, which indicates-
	(a)	the reasons for the goods being returned;
	(b)	whether any change in the ownership of the goods took place after their exportation from the Republic;
	(c)	whether the goods have been subjected to any process of manufacture or manipulation after their exportation from the Republic and if so, to what extent;
	(d)	the number and date of the bill of entry or other document prescribed in terms of the Customs and Excise Act, relating to the export of the goods and the place where such entry was made or the document on which the goods were registered prior to export of such goods for the purposes of the subsequent re-importation thereof; and
	(e)	the place where and the number and date of the bill of entry or other document prescribed in terms of the Customs and Excise Act, on which tax was paid on the goods upon their first importation into the Republic or other documents, if applicable, to prove that the goods were previously imported and tax due was paid thereon.
	2.	This exemption (excluding item no. 409.07) is allowed only if the goods can be identified as being the same goods which were exported.

	3.	For the purposes of item no. 409.07-
	(a)	" compensating products " means the products obtained abroad during or as a result of the manufacturing, processing or repair of the goods temporarily exported for outward processing; and
	(b)	" temporarily exported for outward processing " means the customs procedure whereby goods which may be disposed of without customs restriction, are temporarily exported for manufacturing, processing or repair abroad and then re-imported.
409.01/00.00/01.00		Imported goods (including packing containers) re-exported and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or manipulation, no change of ownership having taken place subsequent to their exportation from the Republic, and which can be identified on re-importation as being the same goods: Provided that this exemption shall not apply if-
	(i)	the supply of those goods was charged with tax at the rate of zero per cent in terms of section 11(1)(a); or
	(ii)	a refund in terms of section 44(9) is granted
409.02/00.00/01.00		Goods (including packing containers) produced or manufactured in the Republic, exported therefrom and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or manipulation (excluding excisable goods exported ex a customs and excise warehouse), no change of ownership having taken place subsequent to their exportation from the Republic, and which can be identified on re-importation as being the same goods: Provided that this exemption shall not apply if-
	(i)	the supply of those goods was charged with tax at the rate of zero per cent in terms of section 11(1)(a); or
	(ii)	a refund in terms of section 44(9) is granted
409.04/00.00/01.00		Imported or locally manufactured articles sent abroad for processing or repair, provided they are exported under customs and excise supervision, retain their essential character, are returned to the exporter, no change of ownership having taken place subsequent to their exportation from the Republic, and can be identified on re-importation: Provided that this exemption shall apply only to the extent of the value of the goods sent from the Republic on the day such goods left the Republic
409.06/00.00/01.00		Excisable goods exported ex a customs and excise warehouse and thereafter returned to or brought back by the exporter, without having been subjected to any process of manufacture or manipulation and no change of ownership having taken place subsequent to their exportation from the Republic: Provided that this exemption shall not apply if-

	(i)	the supply of those goods was charged with tax at the rate of zero per cent in terms of section 11(1)(a); or
	(ii)	a refund in terms of section 44(9) is granted
409.07/00.00/01.00	Compensating products (excluding goods liable to the duties specified in Part 2 of Schedule No. 1 to the Customs and Excise Act) obtained abroad from goods temporarily exported for outward processing, in terms of a specific permit issued by the International Trade Administration Commission, provided-	
	(i)	the specific permit is obtained before the temporary exportation of the goods;
	(ii)	if the ownership of the compensating products is transferred prior to entry for customs purposes, such goods are entered in the name of the person who exported the goods;
	(iii)	any additional conditions which may be stipulated in the said permit, are complied with; and
	(iv)	that this exemption shall apply only to the extent of the value of the goods sent from the Republic on the day such goods left the Republic
410.00	GOODS FOR INDUSTRIAL AND COMMERCIAL PURPOSES:	
	1.	The exemption specified in item no. 410.04 shall only be allowed –
	(a)	if the importer is a natural person and a holder of a valid travel document or passport from a SACU or SADC member state;
	(b)	once per person during a period of 30 days; and
	(c)	if the goods are of SACU or SACU origin; and if the combined net mass of the goods does not exceed 25kg.
410.04	Handmade articles for commercial purposes:	
410.04/99.01/01.04	Leather or imitation leather articles	
410.04/99.01/02.04	Wooden articles	
410.04/99.01/03.04	Plaits and similar products of plaiting materials, basketwork, wicker work and other articles, made directly to shape from plaiting materials.	
410.04/99.01/04.04	Plastic articles	
410.04/99.01/05.04	Textile articles	
410.04/99.01/06.04	Stone articles	
410.04/99.01/07.04	Glass articles	
410.04/99.01/08.04	Base metal articles	
412.00	GENERAL	
	NOTES:	
	1.	For the purposes of item no.'s 412.03 and 412.04, the bill of entry or other document prescribed in terms of the Customs and Excise Act must be supported by an inventory of the goods and documentary proof that the goods qualify for exemption under these items.
	1A.	For the purposes of item no. 412.07-
	(a)	any offer to abandon or application to destroy any goods shall be in writing by or on behalf of the owner thereof, and shall-

		(i)	include the bill of entry, the invoices and other documents relating to the importation of the goods;
		(ii)	state the identifying particulars of the goods;
		(iii)	state the reason for abandonment, or if application is made for destruction the reason why destruction and not abandonment is requested; and
		(iv)	indemnify the Commissioner against any claim by any other person;
		(b)	the owner shall be responsible for the cost of storage in and removal to the customs and excise warehouse or any place of security indicated by the Commissioner, if such storage or removal is required by the Commissioner, and for any other expenses, including the cost of destruction;
		(c)	goods shall be destroyed under the supervision of an officer; and
		(d)	goods in respect of which security of the duty due has been furnished to the Commissioner shall be deemed to be under control of the Commissioner.
	2.	For the purposes of item no.'s 412.26 and 412.27, such exemptions are subject to compliance with sections 39 and 40 of the Customs and Excise Act and which shall apply also to imports from or via Botswana, Lesotho, Namibia or Swaziland.	
	3.	For the purposes of item no. 412.28 -	
		(a)	a duty and tax free shop means a duty and tax free shop as contemplated in the rules for section 21 of the Customs and Excise Act; and
		(b)	any word or expression used in relation to a duty and tax free shop shall have the meaning assigned thereto in the rules for section 21 of the Customs and Excise Act.
412.03/00.00/01.00	Used personal or household effects (excluding motor vehicles) bequeathed to persons residing in the Republic		
412.04/00.00/01.00	Used property of a person normally resident in the Republic who died while temporarily outside the Republic		
412.07	Goods unconditionally abandoned to the Commissioner by the owner or goods destroyed with the permission of the Commissioner: Provided that the Commissioner may decline to accept abandonment or grant permission for destruction		
412.07/00.00/01.00	Goods while still in a customs and excise warehouse or under the control of the Commissioner (excluding goods cleared under Schedule No. 3 of the Customs and Excise Act)		
412.07/00.00/02.00	Goods cleared under Schedule No. 3 of the Customs and Excise Act		

412.07/87.00/01.02	Motor vehicles cleared under any item of Schedule No. 4 of the Customs and Excise Act, damaged by accident or unavoidable cause	
412.09	Goods Lost, Destroyed or Damaged	
412.09/00.00/01.00	Goods in respect of which the customs duty, together with the fuel levy (where applicable), amounts to not less than R2 500, proved to have been lost, destroyed or damaged on any single occasion in circumstances of <i>vis major</i> or in such other circumstances as the Commissioner deems exceptional while such goods are -	
	(a)	in any customs and excise warehouse or in any appointed transit shed or under the control of the Commissioner;
	(b)	being removed with deferment of payment of duty or under rebate of duty from a place in the Republic to any other place in terms of the provisions of this Act; or
	(c)	being stored in any rebate storeroom:
	Provided that—	
	(i)	no compensation in respect of the customs duty, fuel levy or VAT on such goods has been paid or is due to the owner by any other person;
	(ii)	such loss, destruction or damage was not due to any negligence or fraud on the part of the person liable for the duty or VAT; and
	(iii)	such goods did not enter into consumption and the importer of those goods was not liable for the tax imposed in terms of section 7(1)(b) when those goods were initially imported; and
	provided further that circumstances contemplated in this item exclude a hostile act by a third party constituted by robbery or theft.	
<i>(Item 412.09/00.00/01.00 substituted by Government Notice R226 of 2020)</i>		
412.10/00.00/01.00	<i>Bona fide</i> unsolicited gifts of not more than two parcels per calendar year and which the value per parcel does not exceed R1400 (excluding goods contained in passengers' baggage, wine, spirits and manufactured tobacco products) consigned by natural persons abroad to natural persons in the Republic	
412.11/00.00/01.00	Goods imported-	
	(a)	for the relief of distress of persons in cases of famine or other national disaster;
	(b)	under any technical assistance agreement; or
	(c)	in terms of an obligation under any multilateral international agreement to which the Republic is a party:
	Provided that –	
	(i)	the importation of any goods under this item shall be subject to a certificate issued by the International Trade Administration Commission and to such other conditions as may be agreed upon by the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland; and
	(ii)	goods imported under this item shall not be sold or disposed of to any party who is not entitled to any privileges under the item, or be removed to the

		area of Botswana, Lesotho, Namibia or Swaziland without the permission of the International Trade Administration Commission.
412.12/00.00/01.00	Goods imported for any purpose agreed upon between the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland: Provided that-	
	(i)	the provisions of this item shall not apply in respect of any consignment or quantity or class of goods unless the prior approval of the Governments of Botswana, Lesotho, Namibia and Swaziland has been obtained for the application of such provisions in respect of every such consignment or quantity or class of goods;
	(ii)	the importation of any goods under this item shall be subject to a certificate issued by the International Trade Administration Commission and to such other conditions as may be agreed upon by the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland; and
	(iii)	goods imported under this item shall not be sold or disposed of to any party who is not entitled to any privileges under the item, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the Commissioner
412.26/00.00/01.00	Goods (excluding goods for upgrading) supplied free of charge to replace defective goods which are covered by a warranty agreement: Provided that-	
	(a)	a copy of the bill of entry or other document prescribed in terms of the Customs and Excise Act and the documents submitted in support of such document under which the goods were originally entered for home consumption are submitted;
	(b)	the goods are supplied by the original supplier; and
	(c)	proof that the replaced goods have been exported to the original supplier is submitted or the replaced goods are disposed of as directed by the Commissioner
412.27/00.00/01.00	Goods for upgrading supplied free of charge to replace parts which are covered by a warranty agreement: Provided that-	
	(a)	a specific permit issued by the International Trade Administration Commission, is submitted;
	(b)	a copy of the bill of entry or other document prescribed in terms of the Customs and Excise Act and the documents submitted in support of such document under which the goods were originally entered for home consumption are submitted;
	(c)	the goods are supplied by the original supplier; and
	(d)	proof that the replaced goods have been exported to the original supplier is submitted or the replaced goods are disposed of as directed by the Commissioner
412.28	Goods supplied by a licensee of a special customs and excise storage warehouse licensed as a duty and tax free shop:	

412.28/00/00/01.00	Goods supplied by a licensee of an inbound duty and tax free shop to inbound travellers.	
413.00	IMPORTED GOODS FOR SALE, CONSUMPTION OR USE DURING 2010 FIFA WORLD CUP SOUTH AFRICA WHEN IMPORTED AND ENTERED BY QUALIFYING PERSONS AND EMPLOYEES OF QUALIFYING PERSONS	
	NOTES:	
	For the purposes of this item 413.00—	
1.	(a)	the definitions in Schedule 1 of the Revenue Laws Amendment Act, 2006 shall, as may be applicable, apply in respect of any item or Note provided for in this item; and
	(b)	"qualifying person" means-
	(i)	FIFA and FIFA subsidiaries;
	(ii)	FIFA National Associations;
	(iii)	FIFA Confederations;
	(iv)	Media Representatives;
	(v)	Commercial Affiliates;
	(vi)	Merchandising Partners;
	(vii)	Licensees;
	(viii)	FIFA Flagship Store Operator;
	(ix)	FIFA Designated Service Providers including the pitch importer, Concession Operators, Hospitality Service Providers, design servicers, event management and marketing operations servicers and office suppliers; and
	(x)	The Host Broadcaster, Broadcasters and Broadcast Rights Agencies; and
	(c)	the FIFA Flagship Store Operator may only import consumable, semi-durable or promotional Championship related goods under items 413.01, 413.02 and 413.03, excluding tobacco products and cosmetics, until one month after the date of the closing ceremony of the 2010 FIFA World Cup South Africa.
2.	(a)	Any goods imported under-
	(i)	item 413.01 that have not been sold as contemplated in that item;
	(ii)	item 413.02 that have not been consumed, used or distributed as contemplated in that item;
	(iii)	item 413.03 that have not been used as contemplated in that item; or
	(iv)	item 413.04 that have not been consumed during the secondment, shall be –
	(aa)	entered for home consumption and payment of tax;

			(bb)	abandoned or destroyed under item 413.05;
			(cc)	donated under item 413.06;
			(dd)	exported within any period contemplated in paragraph (b); or
			(ee)	otherwise dealt with as the Commissioner may determine.
		(b)	The goods contemplated in subparagraph (dd) of Note 2(a) shall be exported in the case of-	
			(i)	goods imported by—
			(aa)	FIFA and FIFA subsidiaries under item 413.01, 413.02 or 413.03 within a period of 24 months after the date of the Championship closing ceremony;
			(bb)	qualifying persons, other than FIFA and FIFA subsidiaries, under item 413.01, 413.02 or 413.03, within a period of 12 months after the date of the Championship closing ceremony;
			(ii)	goods imported under item 413.04 within a period of 12 months after the date of the Championship closing ceremony:
			Provided that the Commissioner may, on good cause shown, and subject to such conditions as he or she may impose, extend such periods.	
		(c)	Goods not exported must be entered for payment of tax, abandoned, donated or otherwise dealt with as contemplated in paragraph (a), within such time as the Commissioner may determine.	
	3.	(a)	Whenever goods are sold, distributed, donated, used contrary to the provisions of this item or not re-exported within the periods contemplated in Note 2(b), tax shall be payable upon demand by the Commissioner.	
		(b)	The value for tax purposes in respect of goods contemplated in paragraph (a), shall be –	
			(i)	the lower of the cost or market value on the earlier of the—
			(aa)	date upon which such goods are sold, donated or used contrary to the relevant item; or
			(bb)	date of expiry of the applicable period for re-exportation,
			as if the goods were imported on that date;	
			(ii)	if donated otherwise than contemplated in item 413.06, the lower of the cost or market value on the date of that donation

			as if the goods were imported by the donee (recipient) on that date;
		(iii)	if disposed of by a person to whom donated in terms of item 413.06 within five years after the date of acquiring the donation, the lower of the cost or market value at the date of the donation as if the goods were imported on that date;
		(c)	Whenever tax is payable, the rate of tax shall be the rate applicable on the date contemplated in paragraph (b).
	4.		Any import under item 413.04 shall be supported by an inventory of all household goods and by the particulars of any motor vehicle imported for own use which shall include its colour, make, model, chassis number and engine number.
	5.		For the purposes of item 413.05 any offer to abandon or any application to destroy goods shall be made in writing by, or on behalf of, the qualifying person, employee or donee contemplated in the items concerned and shall-
		(a)	include the bill of entry and all applicable invoices and other documents relating to the importation of the goods; and
		(b)	state the identifying particulars of the goods.
	6.		Notwithstanding other paragraphs or items provided for in this Schedule, goods may only be imported and entered for sale, consumption or use in the 2010 FIFA World Cup South Africa under item 413.00.
413.01/00.00/01.00			Consumable or semi-durable goods imported by qualifying persons for sale at any site during the Championship.
413.02/00.00/01.00			Goods, including consumable goods and promotional material individually of little value imported by qualifying persons not for sale but for consumption, use or distribution in connection with the Championship.
413.03/00.00/01.00			Samples of consumable and semi-durable goods imported by a qualifying person not for sale, but for distribution at any site during the Championship.
413.04/00.00/01.00			Household furniture, other household effects and other removable articles, excluding alcoholic beverages and tobacco goods, including equipment necessary for the exercise of his or her calling, trade or profession and one motor vehicle, the <i>bona fide</i> property of any employee, not resident in the Republic for income tax purposes, of any qualifying person and members of his or her family, imported for own use on his or her temporary secondment to the Republic for purposes of the 2010 FIFA World Cup South Africa.
413.05/00.00/01.00			Goods of any description cleared under items 413.01, 413.02, 413.03 and 413.04 unconditionally abandoned to the Commissioner or goods destroyed with the permission of the Commissioner: Provided that the Commissioner may decline to accept abandonment or grant permission for destruction.
413.06/00.00/01.00			Goods of any description cleared under items 413.01, 413.02, 413.03 and 413.04 unconditionally donated to a person exempt from income tax in terms of section

	10 of the Income Tax Act, or any public benefit organisation as contemplated in paragraph (a) of the definition of `public benefit organisation' in section 30(1) of that Act that has been approved by the Commissioner in terms of section 30(3) of that Act: Provided that if the goods are disposed of by that person or public benefit organisation within five years from the date of acquiring such donation, tax shall be payable as contemplated in Note 3.	
414.00	IMPORTED GOODS ADMITTED UNDER REBATE OF DUTY FOR CONSUMPTION OR USE AT AN INTERNATIONAL SPORTING EVENT APPROVED BY THE MINISTER, WHEN IMPORTED AND ENTERED BY THE CONTROLLING BODY OF A PARTICIPATING VISITING TEAM, A TEAM DOCTOR, AN OFFICIAL SPONSOR OF THE EVENT OR THE HOST OF THE EVENT ON BEHALF OF A PARTICIPATING VISITING TEAM	
	NOTES:	
	1.	The event may be approved by the Minister having regard to -
	(i)	the foreign participation in that event; and
	(ii)	the economic impact that event may have on the country as a whole.
	2.	"Official sponsor" means a sponsor of the event appointed by -
	(i)	the international organiser of the event; or
	(ii)	the host of the event in the Republic.
414.01/00.00/01.00	Pharmaceutical goods (including medicaments) imported by-	
	(i)	a controlling body of a participating visiting team;
	(ii)	a team doctor of a participating visiting team accredited by the Department of Health; or
	(iii)	the host of the event on behalf of a participating visiting team,
	in such quantities as the Department of Health may allow by specific permit.	
414.02/00.00/01.00	Non-alcoholic beverages and foodstuffs imported by a controlling body of a participating visiting team or the host of the event on behalf of a participating visiting team, for consumption by members of the team during their stay.	
414.03/00.00/01.00	Promotional material, individually of little value, imported by an official sponsor of the event or the host of the event on behalf of an official sponsor, not for sale but for distribution or use at an event venue	
460.23	GOODS IMPORTED OR CLEARED FROM A CUSTOMS AND EXCISE WAREHOUSE FOR THE EXPLORATION FOR PETROLEUM OR PRODUCTION OF PETROLEUM AS CERTIFIED BY THE DIRECTOR-GENERAL: MINERAL RESOURCES	
	Goods imported or cleared from a Customs and Excise warehouse by a person who-	
	(i)	is certified by the Director-General: Mineral Resources or Chief Executive Officer of the agency designated in terms of section 70 of the Mineral and

		Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) to be a person who, in the Republic-	
		(1)	explores for petroleum in terms of an exploration right issued in terms of section 80 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
		(2)	produces petroleum in terms of a production right issued in terms of section 84 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or
		(3)	is a contractor of any person referred to in paragraph (1) or (2); or
	(ii)	subject to the approval of the Director-General: Mineral Resources or the Chief Executive Officer of the agency designated in terms of section 70 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 2002), is a person (including, if a company, any subsidiary of such company) referred to in paragraph (1) or (3) who supplies such goods directly to any person or of any contractor or any person referred to in paragraph (2), for use in the manufacture of any equipment, installation or device, for use solely in operations in connection with the exploration for, or production of petroleum, and except for the purposes of item 460.23/00.00/02.00, in such quantities and at such times as the International Trade Administration Commission, may allow by specific permit, excluding-	
		(a)	distillate fuels, residual fuel oil and biodiesel;
		(b)	goods for the personal use of any person; or
		(c)	goods for use in the exploration or processing of any product other than petroleum as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
	NOTES:		
	1.	For the purposes of paragraph (ii), the person entering such goods under rebate of duty shall be liable for the duty rebated unless-	
		(a)	he or she proves that such goods have been so supplied or used in the manufacture of the equipment, installation or device which has been delivered to the person referred to in paragraph (2); or
		(b)	on request by the person who entered the goods under rebate of duty, and subject to the permission of the Commissioner the goods have been-
		(i)	entered for home consumption and any duty and value-added tax payable in terms of the Value-Added Tax Act. 1991 (Act No. 89 of 1991) have been paid;
		(ii)	destroyed or abandoned in terms of item 412.07; or
		(iii)	exported.
460.23/00.00/01.00	Goods imported or cleared from a customs and excise warehouse for the exploration for or production of petroleum as contemplated in the notes to this item.		

460.23/00.00/02.00	Goods free of duty imported or cleared from a customs and excise warehouse for the exploration for or production of petroleum as contemplated in the notes to this item.		
470.00	GOODS TEMPORARILY ADMITTED FOR PROCESSING, REPAIR, CLEANING, RECONDITIONING OR FOR THE MANUFACTURE OF GOODS EXCLUSIVELY FOR EXPORT:		
	NOTES:		
	1.	The Commissioner may require the importer to register a rate of yield of the processed or manufactured goods that will be obtained per unit of the imported goods.	
	2.	(a)	The exemption in terms of item no. 470.03 is allowed only for goods to be used for the processing or manufacture of goods for export and the processed or manufactured goods must be exported –
			(i) for the purposes of item 470.03 (01.00 and 02.00) within 12 months from the date of entry thereof; and
			(ii) for the purposes of item 470.03 (03.00) within three (3) years from the date of entry thereof;
		(b)	The exemption in terms of item no. 470.02 is allowed only for parts to be used and the goods submitted for repair, cleaning or reconditioning must be exported within 6 months from the date of importation thereof:
		Provided that -	
		(i)	the Commissioner may, in exceptional circumstances, extend the period specified in each case for a further period as deemed reasonable; and
		(ii)	the application for such extension is made prior to the expiry of the period of 3 years, 12 months or 6 months, as the case may be.
	3.	This exemption is allowed only if the Controller ensures that the tax is secured, in part or in full, by the lodging of a provisional payment or bond except where the Commissioner, in exceptional circumstances, otherwise directs, or in the circumstances contemplated in rule 120A.01(c) of Chapter XIIA of the Rules under the Customs and Excise Act.	
	4.	If proof is not furnished to the Commissioner that the goods imported have been repaired, cleaned, reconditioned, processed or used in repairing, cleaning, reconditioning or processing and have been duly exported 1 within the time period prescribed in note number 2, this exemption shall be withdrawn and tax, penalty and interest must be paid.	
	5.	For the purposes of Item No. 470.03/00.00/02.00:	

		(a)	Where the importer is contractually entitled to keep a portion of the goods manufactured, processed, finished, equipped or packed in lieu of payment for the operations carried out, that importer must-	
			(i)	also export those goods within the period of 12 months contemplated in Note 2(a); or
			(ii)	(aa) process a bill of entry at the office of the Controller for payment of the value-added tax on the goods retained; and
				(bb) adjust by voucher of correction the rebate bill of entry in respect of the quantity and value of the goods used to manufacture the goods retained.
		(b)	The importer is required to maintain the records prescribed in terms of section 75 of the Customs and Excise Act.	
470.02/00.00/01.00	Goods (including parts therefore) for repair, cleaning or reconditioning			
470.02/00.00/02.00	Parts for goods temporarily imported for repair, cleaning or reconditioning			
470.03/00.00/01.00	Goods for use in the manufacturing, processing, finishing, equipping or packing of goods exclusively for export			
470.03/00.00/02.00	Goods free of duty, for use in the manufacture, processing, finishing, equipping or packing of goods exclusively for export.			
470.03/00.00/03.00	Goods for use in the manufacturing, processing, finishing or equipping of yachts exclusively for export			
480.00	GOODS TEMPORARILY ADMITTED FOR SPECIFIC PURPOSES:			
	NOTES:			
	1.	The exemption in terms of item no. 480.35 is allowed-		
		(a)	only if the samples are imported by-	
			(i)	commercial travellers and other representatives of firms abroad who visit the Republic temporarily with their samples for the purpose of securing orders;
			(ii)	persons or firms established in the Republic, including agents for foreign firms, to whom samples may be sent by firms abroad, free of charge, for the same purpose; or
			(iii)	a prospective customer in the Republic to whom a sample is sent on free loans for inspection and demonstration with a view to obtaining an order for similar goods;
		(b)	except with the permission of the Commissioner, for only one sample of each description, range, type or colour of an article; and	

	(c)	only if each sample is an article representative of a particular category of goods already produced or to be produced abroad, imported solely for the purpose of being shown or demonstrated free of charge to prospective customers.
	2.	All goods shall be re-exported-
	(a)	in the case of goods under an international carnet within the period of validity of such carnet; and
	(b)	in the case of other goods within 6 months from the date of importation, thereof or within such further period as the Commissioner may in exceptional circumstances, allow.
	3.	This exemption is allowed only if the Controller ensures that the tax is secured, in part or in full, by the lodging of a provisional payment or bond except where the Commissioner, in exceptional circumstances, otherwise directs, or in the circumstances contemplated in rule 120A.01(c) of Chapter XIA of the Rules under the Customs and Excise Act.
	4.	If proof is not furnished to the Commissioner that the goods have been duly re-exported within the time period prescribed in Note no. 2, this exemption shall be withdrawn and tax, penalty and interest must be paid.
	5.	Notwithstanding this exemption, the importer shall remain liable for tax, until he proves that the goods have been duly re-exported or that the goods have been exported under the supervision of an officer, as defined in section 1 of the Customs and Excise Act.
	6.	On request by the importer, and subject to the permission of the Commissioner, temporary admission may be terminated by entering the goods for home consumption or by abandonment or destruction of the goods whereupon tax must be paid.
480.05/00.00/01.00		Containers and other articles used as packing, whether or not filled at the time of importation: Provided that such articles do not become the property of the importer
480.10/00.00/01.00		Goods for display or use at exhibitions, fairs, meetings or similar events
480.15/00.00/01.00		Professional equipment (including ancillary apparatus and accessories) owned by persons resident abroad, for use solely by or under the supervision of a visiting person
480.20/00.00/01.00		Welfare material for seafarers for cultural, educational, recreational, religious or sporting activities
480.25/00.00/01.00		Instruments, apparatus and machines (including accessories therefore), for use by institutions approved by the Commissioner, for scientific research or education
480.30/00.00/01.00		Models, instruments, apparatus, machines and other pedagogic material (including accessories therefore) imported by institutions approved by the Commissioner, for educational or vocational training

480.35/00.00/01.00	Commercial samples owned abroad and imported for the purpose of being shown or demonstrated in the Republic for the soliciting of orders for goods to be supplied from abroad
490.00	GOODS TEMPORARILY ADMITTED SUBJECT TO EXPORTATION IN THE SAME STATE:
	NOTES:
	1. Goods shall be re-exported-
	(a) in the case of goods under an international carnet within the period of validity of such carnet; and
	(b) in the case of other goods within 6 months from the date of importation thereof or within such further period as the Commissioner may in exceptional circumstances, allow.
	2. This exemption is allowed only if the Controller ensures that the tax is secured, in part or in full, by the lodging of a provisional payment or bond except where the Commissioner, in exceptional circumstances, otherwise directs, or in: the circumstances contemplated in rule 120A.01(c) of Chapter XIIA of the Rules under the Customs and Excise Act.
	3. If proof is not furnished to the Commissioner that the goods have been duly re-exported within the time period prescribed in Note no. 1, this exemption shall be withdrawn and tax, penalty and interest must be paid.
	4. Notwithstanding this exemption, the importer shall remain liable for tax, until he proves that the goods have been duly re-exported or that the goods have been exported under the supervision of an officer, as defined in section 1 of the Customs and Excise Act.
	5. On request by the importer, and subject to the permission of the Commissioner, temporary admission may be terminated by entering the goods for home consumption, whereupon tax must be paid, or by abandonment or destruction. The provisions of item no. 412.07 will apply to the abandonment or destruction of the goods concerned.
490.03/87.00/01.00	Private motor vehicles belonging to a person taking up temporary residence in the Republic
490.05/00.00/01.00	Postcards and other mail matter, imported in bulk, for despatch to addresses beyond the borders of the Republic
490.10/00.00/01.00	Models or prototypes, to be used in the manufacture of goods
490.11/00.00/01.00	Matrices, blocks, plates, and similar articles, on loan or hire, for printing illustrations in periodicals or books
490.12/00.00/01.00	Matrices, blocks, plates, moulds and similar articles, on loan or hire, to be used in the manufacture of articles that are to be delivered abroad
490.13/00.00/01.00	Instruments, apparatus, machines and other articles to be tested by the South African Bureau of Standards

490.14/00.00/01.00	Instruments, apparatus and machines, made available free of charge to a customer by or through a supplier, pending delivery or repair of similar goods
490.15/00.00/01.00	Costumes, scenery and other theatrical equipment on loan or hire to dramatic societies or theatres
490.20/00.00/01.00	Animals and sport requisites (including yachts and motor vehicles) belonging to a person resident abroad, for use by that person or under his supervision in sports contests (including motor car rallies and transcontinental excursions)
490.25/00.00/01.00	Photographs and transparencies to be shown in a public exhibition or competition for photographers
490.30/00.00/01.00	Specialised equipment arriving by ship and used on shore at ports of call for the loading, unloading or handling of containers of tariff heading No.86.09 of Schedule No. 1 to the Customs and Excise Act
490.35/00.00/01.00	Pallets, whether or not laden with cargo at importation
490.40/00.00/01.00	Machinery or plant (excluding tower cranes) for use on contract in civil engineering or construction work, in such quantities and at such times and subject to such conditions as the Commissioner, on the recommendation of the International Trade Administration Commission, may allow by specific permit
490.50/00.00/01.00	Motor vehicles, yachts and other removable articles (including spare parts and normal accessories and equipment therefore) imported by foreign tourists and travellers resident in foreign countries for their own use
490.60/00.00/01.00	Commercial road vehicles used in the conveyance of imported merchandise
490.90/00.00/01.00	Machinery or plant (excluding tower cranes) for use on contract other than for purposes of civil engineering or construction work, in such quantities and at such times and subject to such conditions as the Commissioner, on the recommendation of the International Trade Administration Commission, may allow by specific permit
490.90/00.00/02.00	Goods not specified in item no.'s 470.00, 480.00 or 490.00, temporarily admitted for purposes approved by the Commissioner.
498.00	IMPORTED GOODS FOR USE IN A CUSTOMS CONTROLLED AREA
	NOTES:
	1. Goods may only be imported and entered into a customs controlled area under this item where such goods are imported by a customs controlled area enterprise or an SEZ operator.
	2. Goods may only be entered under item 498.02 by a registered SEZ operator as contemplated in rule 21A.04.
498.01/00.00/01.00	Goods that are imported into a customs controlled area by a customs controlled area enterprise
498.02/00.00/01.00	Goods of any description imported by a registered SEZ operator for use in the construction and maintenance of the infrastructure of a CCA in an SEZ

(Paragraph 8 of Schedule 1 amended by section 58 of Act 30 of 2002)

(Paragraph 8 of Schedule 1 amended by section 121 of Act 74 of 2002)

(Paragraph 8 of Schedule 1 amended by Government Notice 111 of 2003)

(Paragraph 8 of Schedule 1 amended by section 189 of Act 45 of 2003)

(Paragraph 8 of Schedule 1 amended by sections 52 to 55 of Act 16 of 2004)

(Paragraph 8 of Schedule 1 amended by section 108 of Act 32 of 2004)

(Paragraph 8 of Schedule 1 amended by section 116 to 123 of Act 31 of 2005)

(Paragraph 8 of Schedule 1 amended by section 89 of Act 20 of 2006)

(Paragraph 8 of Schedule 1 amended by section 85(1) of Act 8 of 2007 deemed to have come into operation on 1 April 2006)

(Paragraph 8 of Schedule 1 amended by Government Notice R958 of 2007)

(Paragraph 8 of Schedule 1 amended by Government Notice R766 of 2009)

(Paragraph 8 of Schedule 1 amended by Government Notice R154 of 2011)

(Paragraph 8 of Schedule 1 amended by Government Notice R157 of 2011)

(Paragraph 8 of Schedule 1 amended by section 143(1) of Act 24 of 2011)

(Paragraph 8 of Schedule 1 amended by Government Notice R187 of 2012)

(Paragraph 8 of Schedule 1 amended by Government Notice R506 of 2012)

(Paragraph 8 of Schedule 1 amended by Government Notice R1072 of 2012)

(Paragraph 8 of Schedule 1 amended by Government Notice 995 of 2012)

(Paragraph 8 of Schedule 1 amended by section 181(1) of Act 31 of 2013 with effect from 1 January 2014)

(Paragraph 8 of Schedule 1 amended by Government Notice R288 of 2014)

(Paragraph 8 of Schedule 1 amended by Government Notice R723 of 2015)

(Paragraph 8 of Schedule 1 amended by Government Notice R558 of 2016)

(Paragraph 8 of Schedule 1 amended by section 87 of Act 15 of 2016)

(Paragraph 8 of Schedule 1 amended by section 31(1) of Act 16 of 2016 with effect from 9 February 2016)

(Paragraph 8 of Schedule 1 amended by Government Notice R226 in Government Gazette 43051 dated 28 February 2020)

(Paragraph 8 of Schedule 1 amended by Government Notice R1069 of 9 October 2020)

(Schedule 1 amended by section 48 of Act 136 of 1991)

(Schedule 1 amended by section 43(1) of Act 136 of 1992)

(Schedule 1 amended by Government Notice 2244 of 1992)

(Schedule 1 amended by section 44(1) of Act 97 of 1993)

(Schedule 1 amended by section 32 of Act 20 of 1994)

(Schedule 1 amended by section 32(1) of Act 37 of 1996)

(Schedule 1 amended by section 32 of Act 20 of 1994)

(Schedule 1 amended by section 53 of Act 27 of 1997)

(Schedule 1 substituted by section 177 of Act 60 of 2001)

(Schedule 1 amended by section 108 of Act 32 of 2004)

Schedule 2

PART A

(Heading of Part A of Schedule 2 inserted by section 44(1)(a) of Act 136 of 1992 with effect from 1 April 1992)

(SECTION 11(1)(g) OF THIS ACT)

ZERO RATE: SUPPLY OF GOODS USED OR CONSUMED FOR AGRICULTURAL, PASTORAL OR OTHER FARMING PURPOSES

1. The goods in respect of the supply of which the rate of zero per cent shall apply under the provisions of section 11(1)(g) of this Act shall, subject to the provisions of paragraph 2, be as hereinafter set forth:

Item 1 *Animal feed*, i.e. goods consisting of –

(a)

(i) any substance obtained by a process of crushing, gristing or grinding, or by addition to any substance or the removal therefrom of any ingredient; or

(ii) any condimental food, vitamin or mineral substance or other substance which possesses or is alleged to possess nutritive properties; or

(iii) any bone product; or

(iv) any maize product,

intended or sold for the feeding of livestock, poultry, fish or wild animals (including wild birds); or

(b) any stock lick or substance which is of a kind which can be and is in fact used as a stock lick, whether or not such stock lick or substance possesses medicinal properties

Item 2 *Animal remedy*, i.e. goods consisting of a substance intended or offered for use in respect of livestock, poultry, fish or wild animals (including wild birds), for the diagnosis, prevention, treatment or cure of any disease, infection or other unhealthy condition, or for the maintenance or improvement of health, growth, production or working capacity

Item 3 *Fertilizer*, i.e. goods consisting of a substance in its final form which is intended or offered for use in order to improve or maintain the growth of plants or the productivity of the soil

Item 4 *Pesticide*, i.e. goods consisting of any chemical substance or biological remedy, or any mixture or combination of any such substance or remedy, intended or offered for use –

- (a) in the destruction, control, repelling, attraction, disturbance or prevention of any undesired microbe, alga, bacterium, nematode, fungus, insect, plant, vertebrate or invertebrate; or
- (b) as a plant growth regulator, defoliant, desiccant, adjuvant or legume inoculant, and anything else which the Minister of Agriculture has by notice in the *Gazette* declared to be a pesticide

Item 5 *Plants*, i.e. goods consisting of living trees and other plants, bulbs, roots, cuttings and similar plant products in a form used for cultivation

Item 6 *Seed* in a form used for cultivation

(Paragraph 1 of Schedule 2 amended by section 49(a) of Act 136 of 1991)

(Paragraph 1 of Schedule 2 substituted by section 44(1)(b) of Act 136 of 1992 with effect from 1 June 1992)

2. The provisions of paragraph 1 shall apply only if –

- (a) the Commissioner, in respect of a vendor registered under this Act, is satisfied that that vendor, being the recipient of any such goods, carries on agricultural, pastoral or other farming operations and has issued to him a notice of registration in which authorization is granted whereby the goods concerned may be supplied to him at the rate of zero per cent: Provided that where a vendor to whom such notice of registration has been issued is in default in respect of his obligation under this Act to furnish any return or to pay tax or he has ceased to carry on the said operations or he has utilized such notice of registration for purposes other than the carrying on of such operations, the Commissioner may, by notice in writing to the vendor, cancel such authorization with immediate effect or with effect from a date determined by the Commissioner and require the vendor to surrender such notice of registration in order that an amended notice of registration, excluding the said authorization, may if necessary be issued to the vendor;

(Paragraph 2(a) of Part A of Schedule 2 substituted by section 33 of Act 20 of 1994)

- (b) the goods concerned are supplied to a vendor who is in possession of a valid notice of registration as a vendor and an authorization contemplated in paragraph (a);
- (c) a tax invoice in respect of the relevant supply is issued containing such particulars as required by section 20(4) of this Act;

(Paragraph 2(c) of Part A of Schedule 2 substituted by section 56(1) of Act 16 of 2004 with effect from 1 March 2005)

- (d) the acquisition, disposal, sale or use of the said goods is not prohibited in terms of section 7bis of the Fertilizers, Farm Feed, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(Paragraph 2 of Schedule 2 substituted by section 44(1)(b) of Act 136 of 1992 with effect from 1 June 1992)

PART B

(SECTION 11(1)(j) OF THIS ACT)

ZERO RATE: SUPPLY OF GOODS CONSISTING OF CERTAIN FOODSTUFFS

1. The goods in respect of the supply of which the rate of zero per cent shall apply under the provisions of section 11(1)(j) of this Act shall, subject to the provisions of paragraph 2, be as hereunder set forth:

Item 1	Brown bread and whole wheat brown bread as defined respectively in Regulation 1 of the Regulations in terms of Government Notice No. R.405 published in <i>Government Gazette</i> No. 40828 of 5 May 2017.
Item 2	Maize meal graded as super maize meal, special maize meal, sifted maize meal or unsifted maize meal, not further processed other than by the addition of minerals and vitamins not exceeding one per cent by mass of the final product, solely for the purpose of increasing the nutritional value
Item 3	samp, not further prepared or processed
Item 4	mealie rice, not further prepared or processed
Item 5	Dried silo screened mealies or dried mealies not further prepared or processed or packaged as seed, but excluding pop corn (<i>zea mays everta</i>)
Item 6	dried beans, whole, split, crushed or in powder form but not further prepared or processed or where packaged as seed
Item 7	lentils, dried, whole, skinned or split
Item 8	pilchards or sardinella supplied in tins or cans consisting mainly of such products regardless of whether flavoured, seasoned or preserved in oil, but excluding such products as are supplied as pet food or sardines supplied in tins or cans
Item 9	milk powder: unflavoured, being the powder obtained by the removal of water from milk and which falls under the following classifications determined by the Minister of Agriculture under the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or any regulation under that Act: High-fat milk powder Full-fat milk powder Medium-fat milk powder Low-fat milk powder Fat-free milk powder, provided the fat or protein content of such milk powder consists solely of milk fat or milk protein
Item 10	dairy powder blend, being any dairy powder blend which falls under the following classifications determined by the Minister of Agriculture under the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or any regulation under that Act: High-fat dairy powder blend

	Full-fat dairy powder blend Medium-fat dairy powder blend Low-fat dairy powder blend Fat-free dairy powder blend
Item 11	Rice whether husked, milled, polished, glazed, parboiled or broken.
Item 12	Vegetables, not cooked or treated in any manner except for the purpose of preserving such vegetables in their natural state, but excluding dehydrated, dried, canned or bottled vegetables or such vegetables as are described under separate Items in this PART.
Item 13	Fruit, not cooked or treated in any manner except for the purposes of preserving such fruit in its natural state, but excluding dehydrated, dried, canned or bottled fruit and nuts.
Item 14	Vegetable oil, marketed and supplied for use in the process of cooking food, but excluding olive oil.
Item 15	Milk, including high-fat, full-fat, low-fat or fat-free milk, being the milk of cattle, sheep or goats that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any other process other than homogenization or preservation by pasteurization, ultra-high temperature treatment, sterilization, chilling or freezing or the addition of minerals, vitamins, enzymes and other similar additives not exceeding one per cent by volume of the final product, solely for the purpose of increasing the nutritional value.
Item 16	Cultured milk, being cultured milk as classified under the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), with the following class designation: Cultured high-fat milk Cultured full-fat milk Cultured low-fat milk Cultured fat-free milk.
Item 17	Brown wheaten meal, being pure, sound wheaten meal, but excluding separated wheaten bran, wheaten germ and wheaten semolina.
Item 18	Eggs, being raw eggs laid by hens of the species <i>gallus domesticus</i> , whether supplied in their shells or in the form of egg pulp being raw pulp consisting of the yolk and white which is obtained from such eggs after the shells have been removed.
Item 19	Edible legumes and pulse of leguminous plants, dried, whole, split, crushed, skinned or in powder form, but not further prepared or processed or where packaged as seed or such pulse as are described under separate items in this PART.
Item 20	Cake wheat flour as defined in Regulation 1 of the Regulations in terms of Government Notice No. R.405 published in Government Gazette No. 40828 of 5 May 2017.
Item 21	White bread wheat flour as defined in Regulation 1 of the Regulations in terms of Government Notice No. R.405 published in Government Gazette No. 40828 of 5 May 2017.
Item 22

(Paragraph 1 of Part B of Schedule 2 amended by section 45(1)(a) and (b) of Act 97 of 1993 with effect from 7 April 1993)

(Paragraph 1 of Part B of Schedule 2 amended by section 104(a) and (b) of Act 30 of 1998)

(Paragraph 1 of Part B of Schedule 2 amended by section 73 of Act 19 of 2001)

(Paragraph 1 of Part B of Schedule 2 amended by section 108 of Act 35 of 2007)

(Paragraph 1 of Part B of Schedule 2 amended by section 87 of Act 17 of 2017)

(Paragraph 1 of Part B of Schedule 2 amended by section 14(1)(a) of Act 21 of 2018 with effect from 1 April 2018)

(Paragraph 1 of Part B of Schedule 2 amended by section 14(1)(b) of Act 21 of 2018 with effect from 1 April 2019)

(Paragraph 1 of Part B of Schedule 2 amended by section 75(1)(a) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

2. The provisions of paragraph 1 shall not apply where any goods mentioned in that paragraph are supplied in the course of carrying out any agreement for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink, as the case may be, so as to be ready for immediate consumption when so supplied.

3.

(Paragraph 3 of Part B of Schedule 2 deleted by section 45(1)(c) of Act 97 of 1993)

(Part B of Schedule 2 added by section 44(1)(c) of Act 136 of 1992 with effect from 1 April 1992)

PART C

(SECTION 11(1)(w) OF THIS ACT)

Item 1 Goods referred to in section 11(1)(w), referred to in Chapter 96 in Part I of Schedule No. 1 to the Customs and Excise Act under subheading 9619.00: 'Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any material:' limited to goods referred to in item No.—

- (i) 9619.00.02: Sanitary towels (pads), of wadding of textile material;
- (ii) 9619.00.03: Pantyliners, of wadding of textile materials;
- (iii) 9619.00.11: Sanitary towels (pads), of paper pulp, paper, cellulose wadding or webs of cellulose fibres;
- (iv) 9619.00.12: Pantyliners, of paper pulp, paper, cellulose wadding or webs of cellulose fibres;
- (v) 9619.00.21: Sanitary towels (pads), of other materials of heading 39.01 to 39.14;
- (vi) 9619.00.41: Sanitary towels (pads), made up from knitted or crocheted textile material;
- (vii) 9619.00.42: Pantyliners, made up from knitted or crocheted textile material; and
- (viii) 9619.00.91: Other, sanitary towels (pads) and pantyliners.

(Part C of Schedule 2 added by section 75(1)(b) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 April 2019)

Schedule 3

(SECTION 85 OF THIS ACT)

LAWS REPEALED

Number and year of law	Short title	Extent of repeal
Act No. 103 of 1978	Sales Tax Act, 1978	The whole
Act No. 111 of 1979	Sales Tax Amendment Act, 1979	The whole
Act No. 105 of 1980	Sales Tax Amendment Act, 1980	The whole
Act No. 97 of 1981	Sales Tax Amendment Act, 1981	The whole
Act No. 40 of 1982	Sales Tax Amendment Act, 1982	The whole
Act No. 90 of 1982	Second Sales Tax Amendment Act, 1982	The whole
Act No. 95 of 1983	Sales Tax Amendment Act, 1983	The whole
Act No. 99 of 1984	Sales Tax Amendment Act, 1984	The whole
Act No. 102 of 1985	Sales Tax Amendment Act, 1985	The whole
Act No. 70 of 1986	Sales Tax Amendment Act, 1986	The whole
Act No. 108 of 1986	Taxation Laws Amendment Act, 1986	Sections 14, 15 and 16
Act No. 31 of 1987	Sales Tax Amendment Act, 1987	The whole
Act No. 86 of 1987	Taxation Laws Amendment Act, 1987	Sections 12 to 25
Act No. 87 of 1988	Taxation Laws Amendment Act, 1988	Sections 37 to 47
Act No. 69 of 1989	Taxation Laws Amendment Act, 1989	Sections 17 to 25

Prepared by:

Act No. 89 of 1990	Taxation Laws Amendment Act, 1990	Sections 1 to 7
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