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THE PRESIDENCY

No. 708 8 August 2007

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

No.9 of 2007: Taxation Laws Second Amendment Act, 2007.

DIE PRESIDENSIE

No. 708 8 Augustus 2007

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

No.9 van 2007: Tweede Wysigingswet op Belastingwette, 2007.

GENERAL EXPLANATORY NOTE:

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 24 July 2007.)*

ACT

To amend the->

- Income Tax Act, 1962, so as to **effect** certain textual and consequential amendments;
- Customs and Excise Act, 1964, so as to amend provisions relating to international agreements and to effect certain textual and consequential amendments;
- Value-Added Tax Act, 1991, so as to extend the payments basis to certain persons; to provide for the right to object against a decision not to remit interest or penalties; to amend and further provide for the issuing of binding VATclass rulings and VATrulings; and to further regulate issues regarding recordkeeping and tax invoices;
- Tax on Retirement Funds Act, 1996, so as to provide for the settlement of disputes;
- Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, so as to include certain trusts in the amnesty process;
- Second Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, so as to **effect** a textual amendment; and
- Revenue Laws Second Amendment Act, 2006, so as to provide for the effective date of certain provisions; and to **effect** certain textual and consequential amendments;

and to provide for matters connected therewith.

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

Amendment of section 3 of Act 58 of 1962, as amended by section 3 of Act 141 of 1992, section 3 of Act 21 of 1994, section 3 of Act 21 of 1995, section 20 of Act 30 of 1998, section 3 of Act 59 of 2000, section 6 of Act 5 of 2001, section 4 of Act 19 of 2001, section 18 of Act 60 of 2001, section 7 of Act 74 of 2002, section 13 of Act 45 of 2003, section 4 of Act 16 of 2004 and section 2 of Act 21 of 2006

1. (1) Section 3 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:

“ (4) Any decision of the Commissioner under the following provisions of this Act shall be subject to objection and appeal, namely- 10

(a) the definitions of 'benefit fund', 'pension fund', 'provident fund', 'retirement annuity fund' and 'spouse' in section 1[,Ji

(b) section 6, section 8(4)(b), (c), (d) and (e), section 9D, section 10(1)[(cH), (cK),J (e), (iA), (j) and (nB), section 11(e), (f), (g), (gA), 0), (l), (t). (u) and (w), section 12C, section 12E, section 120, section 13, section 14, section 15, 15

ALGEMENE VERDUIDELIKENDE NOTA:

Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 24 Julie 2007.)

WET

Tot wysiging van die---

- Inkomstebelastingwet, 1962, ten einde sekere tekstuele en gevolglike wysigings aan te bring;
- Doeane- en Aksynswet, 1964, ten einde bepalinge betreffende internasionale ooreenkomste te wysig en sekere tekstuele en gevolglike wysigings aan te bring;
- Wet op Belasting op Toegevoegde Waarde, 1991, ten einde die betalingsbasis na sekere persone uit te brei; voorsiening te maak vir die reg om beswaar te maak teen 'n besluit om nie rente of boete kwyt te skeld nie; die uitreiking van bindende BTW-beslissings en BTW-k1asbeslissings te wysig en verder vir hul uitreiking voorsiening te maak; en voorts die vraagstukke wat verband hou met bewaring van rekords en belasting-fakture te reguleer;
- Wet op Belasting op Uittreefondse, 1996, ten einde vir die beslegting van geskille voorsiening te maak;
- Wet op Kleinbesigheidsbelastingamnestie en Wysiging van Belastingwette, 2006, ten einde sekere trusts in die amnestieproses in te sloot;
- Tweede Wet op Kleinbesigheidsbelastingamnestie en Wysiging van Belastingwette, 2006, ten einde 'n tekstuele wysiging aan te bring; en
- Tweede Wysigingswet op Inkomstewette, 2006, ten einde vir die effektiewe datum van sekere bepalinge voorsiening te maak; en sekere tekstuele en gevolglike wysigings aan te bring;

en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 3 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 141 van 1992, artikel 13 van Wet 21 van 1994, artikel 13 van Wet 21 van 1995, artikel 20 van Wet 30 van 1998, artikel 3 van Wet 59 van 2000, artikel 6 van Wet 5 van 201n, artikel 14 van Wet 19 van 2001, artikel 18 van Wet 60 van 2001, artikel 7 van Wet 74 van 2002, artikel 13 van Wet 45 van 2003, artikel 4 van Wet 16 van 2004 en artikel 2 van Wet 21 van 2006

1. (1) Artikel 3 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Enige beslissing van die Kommissaris kragtens die volgende bepalinge van hierdie Wet is aan beswaar en appèl onderhewig, naamlik-

(a) die omskrywings van 'bystandsfonds', 'gade', 'pensioenfonds', 'uittreding-annuïteitsfonds' en 'voorsorgfonds' in artikel I[,];

(b) artikel 6, artikel 8(4)(b), (c), (d) en (e), artikel 9D, artikeIIO(I)[(cH), (cK),l (e), (iA), (j) en (nB), artikel 11 (e), (f), (g), (gA), (j), (l), (t), (u) en (w), artikel 12C, artikel 12E, artikel 12G, artikel 13, artikel 14, artikel 15,

- section 22(1), (3) and (5), section 24(2), section 24A(6), section 24C, section 24D, section 241, section 25D, section 27, section 30, section 30A, section 31, section 35(2), section 37A, section 38(4), [section 41(4)] section 44(13)(a), section 47(6)(c)(i), section 57, section 76A, section 80B and section 80S[.];
- (c) paragraphs 6, 7, 9, 13, 13A, 14, 19 and 20 of the First Schedule[.]; - 5
- (d) [paragraph (b) of the definition of 'formula A' in **paragraph 1** and] paragraph 4 of the Second Schedule[.];
- (e) paragraphs 18, 19(I), 20, 21, 24 and 27 of the Fourth Schedule[.];
- (f) paragraphs 2, 3, 6, 9 and II of the Seventh Schedule; and -
- (g) paragraphs 29(2A), 29(7), 31(2), 65(1)(d) and 66(1)(e) of the Eighth 10
Schedule[, shall be subject to objection and appeal]."

(2) Subsection (I), to the extent that it deletes the expression "paragraph (b) of the definition of 'formula A' in paragraph 1and", shall come into operation on 1 October 2007.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, 30
section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, section 8 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006 and section 10 of Act 20 of 2006

2. (I) Section 10 of the Income Tax Act, 1962, is hereby amended by the substitution 35
in subsection (I) for the proviso to paragraph (t) of the following proviso:

" : Provided that [all entities] any entity contemplated in this paragraph must comply with such reporting requirements as the Commissioner may determine;"

(2) Subsection (I) shall be deemed to have come into operation on 1 January 2007 and shall apply in respect of any year of assessment ending on or after that date. 40

Amendment of section IID of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006

3. (I) Section IID of the Income Tax Act, 1962, is hereby amended-

(a) by the substitution for subsections (II), (16) and (17), respectively, of the following subsections: 45

"(II) In respect of each year of assessment during which any taxpayer is eligible for any deduction contemplated in [subsections] subsection (I) or (2), [or would be so eligible were it not for the provisions of subsection (8)] whether or not that deduction is limited in terms of this section, that taxpayer must submit to the Minister of Science and 50
Technology such information as that Minister may require in such form and manner (including electronically) and at such place and within such time as that Minister may from time to time prescribe.";

TWEDE WYSIGINGSWET OP
BELASTINGWETTE. 2007

Wet No.9, 2007

artikeI22(1), (3) en (5), artikeI24(2), artikeI24A(6), artikeI24C, artikeI24D, artikeI24I, artikeI 25D, artikeI 27, artikeI 30, artikeI 30A, artikeI 31, artikeI 35(2), artikeI37A, artikeI 38(4), [artikeI 41(4),] artikeI 44(13)(a), artikeI 47(6)(c)(i), artikeI 57, artikeI 76A, artikeI80B en artikeI80S["I]

- (c) paragraawe 6, 7, 9,13, 13A, 14, 19 en 20 van die Eerste Bylael.; 5
 (d) [paragraaf (b) van die omskrywing van 'formule A' in paragraaf 1 en] paragraaf 4 van die Tweede Bylael.;
 (e) paragraawe 18, 19 (I), 20, 21, 24 en 27 van die Vierde Bylael.;
 (f) paragraawe 2, 3, 6, 9 en 11 van die Sewende Bylae; en
 (g) paragraawe 29(2A), 29(7), 31(2), 65(1)(d) en 66(1)(e) van die Agtste Bylae [is 10
 aan beswaar en appel onderhewig]."

(2) SubartikeI (1), insoverre dit die uitdrukking "paragraaf (b) van die omskrywing van 'formule A' in paragraaf 1 en", skrap, tree op 1 Oktober 2007 in werking,

Wysiging van artikeI10 van Wet 58 van 1962, soos gewysig deur artikeI8 van Wet 90 van 1962, artikeI 7 van Wet 72 van 1963, artikeI 8 van Wet 90 van 1964, artikeI 10 van Wet 88 van 1965, artikeI11 van Wet 55 van 1966, artikeI10 van Wet 95 van 1967, artikeI 8 van Wet 76 van 1968, artikeI13 van Wet 89 van 1969, artikeI 9 van Wet 52 van 1970, artikeI 9 van Wet 88 van 1971, artikeI 7 van Wet 90 van 1972, artikeI 7 van Wet 65 van 1973, artikeI10 van Wet 85 van 1974, artikeI8 van Wet 69 van 1975, artikeI 9 van Wet 103 van 1976, artikeI 8 van Wet 113 van 1977, artikeI 4 van Wet 101 van 1978, artikeI 7 van Wet 104 van 1979, artikeI7 van Wet 104 van 1980, artikeI 8 van Wet 96 van 1981, artikeI 6 van Wet 91 van 1982, artikeI 9 van Wet 94 van 1983, artikeI10 van Wet 121 van 1984, artikeI 6 van Wet 96 van 1985, artikeI 7 van Wet 65 van 1986, artikeI3 van Wet 108 van 1986, artikeI 9 van Wet 85 van 1987, artikeI 7 van Wet 90 van 1988, artikeI36 van Wet 9 van 1989, artikeI 7 van Wet 70 van 1989, artikeI10 van Wet 101 van 1990, artikeI12 van Wet 129 van 1991, artikeI10 van Wet 141 van 1992, artikeI7 van Wet 113 van 1993, artikeI4 van Wet 140 van 1993, artikeI 9 van Wet 21 van 1994, artikeI 10 van Wet 21 van 1995, artikeI 8 van Wet 36 van 1996, artikeI9 van Wet 46 van 1996, artikeI10 van Wet 28 van 1997, artikeI 29 van Wet 30 van 1998, artikeI 18 van Wet 53 van 1999, artikeI 21 van Wet 30 van 2000. artikeI 13 van Wet 59 van 2000, artikeI 9 van Wet 78 van Wet 19 van 2001, artikeI 26 van Wet 60 van 2001. artikeI 13 van Wet 30 van 2002, artikeI18 van Wet 74 van 2002, artikeI36 van Wet 12 van 2003, artikeI26 van Wet 45 van 2003, artikeI8 van Wet 16 van 2004, artikeI14 van Wet 32 van 2004, artikeI 5 van Wet 9 van 2005, artikeI16 van Wet 31 van 2005, artikeI 23 van Wet 9 van 2006 35
 en artikeI 10 van Wet 20 van 2006

2. (1) ArtikeI 10 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikeI (1) die voorbehoudsbepaling tot paragraaf (t) deur die volgende voorbehoudsbepaling te vervang:

" : Met dien verstande dat [aile entiteite] enige entiteit soos bedoel in hierdie 40
 paragraaf die verslagdoeningsvereistes moet nakom war die Kommissaris bepaal;"

(2) SubartikeI (I) word geag op I Januarie 2007 in werking te getree het en is van toepassing op enige jaar van aanslag wat op of na daardie datum eindig.

Wysiging van artikeI IID van Wet 58 van 1962, soos ingevoeg deur artikeI 13 van 45
 Wet 20 van 2006

3. (1) ArtikeI IID van die Inkomstebelastingwet, 1962, word hierby gewysig-
 (a) deur subartikels (II), (16) en (17) onderskeidelik deur die volgende subartikels te vervang:

"(II) Ten opsigte van elke jaar van aanslag waarin 'n belastingpligtige 50
 op enige aftrekking in subartikeI (I) of (2) bedoel geregtig is, [of aldus geregtig sou wees by ontstentenis van die bepalings van subartikeI (8)] ongeag of daardie aftrekking ingevolge hierdie artikeI beperk word al dan nie, moet daardie belastingpligtige die inligting aan die Minister van Wetenskap en Tegnologie verskaf wat daardie Minister vereis in die 55
 vorm en op die wyse (ook elektronies) en op die plek en binne die tydperk wat daardie Minister van tyd tot tyd voorskryf.";

"(16) Any person who contravenes the provisions of subsection [(13)] (11) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [12]24 months and any person who has been so convicted shall, if he or she fails within any period deemed by the Minister of Science and Technology to be reasonable and of which notice has been given to him or her by that Minister, to submit the information in respect of which the offence was committed, be guilty of an offence and liable on conviction to a fine of R50 for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding 12 months."

(17) Any person who contravenes the provisions of subsection [(11) or (14)] (13) shall be guilty of an offence and liable on conviction to a fine [of R50 for each day that he or she is so in contravention] or to imprisonment [without the option of a fine] for a period not exceeding [12 months] 24 months."; and

(hi) by the addition of the following subsection:

"(18) Any person employed or engaged as contemplated in subsection (13) who carries out any of the provisions of this section before he or she has taken the prescribed oath or solemn declaration shall be guilty of an offence and liable on conviction to a fine not exceeding R500."

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006.

Amendment of section 76G of Act 58 of 1962, as inserted by section 12 of Act 34 of 2004

4. (1) Section 76G of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1)(d) for subparagraph (ii) of the following subparagraph:

"(ii) alternative courses of action by the applicant (or requests or requires the [rending] rendering of an opinion, conclusion or determination regarding such alternative courses of action); or".

(2) Subsection (1) shall be deemed to have come into operation on 1 October 2006.

Amendment of section 79 of Act 58 of 1962, as amended by section 26 of Act 69 of 1975, section 23 of Act 91 of 1982, section 32 of Act 21 of 1995, section 23 of Act 36 of 1996, section 26 of Act 5 of 2001, section 14 of Act 34 of 2004 and section 33 of Act 20 of 2006

5. (1) Section 79 of the Income Tax Act, 1962, is hereby amended-

(a) by the substitution in subsection (1) for subparagraph (ee) of paragraph (iv) of the proviso of the following subparagraph:

"(ee) the settlement of a dispute in terms of Part IIIA of Chapter III of this Act, [unless the Commissioner is satisfied that the decision, order, concession or resolution of the dispute or the settlement in question was obtained by fraud or misrepresentation or non-disclosure of material facts; or]"; and

(b) by the addition in subsection (1) to paragraph (iv) of the first proviso of the following words:

"unless the Commissioner is satisfied that the decision, order, concession or resolution of the dispute or the settlement in question was obtained by fraud or misrepresentation or non-disclosure of material facts; or".

(2) Subsection (1) shall be deemed to have come into operation on 7 February 2007.

TWEEDE WYSIGINGSWET OP
BELASTINGWETTE, 2007

Wet No.9, 2007

"(16) Enige persoon wat die bepalings van subartikel [13] (11) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens [12] 24 maande en enige persoon wat aldus skuldig bevind word, indien hy of sy binne enige tydperk wat die Minister van Wetenskap en Tegnologie as redelik bepaal en ten opsigte waarvan kennis deur daardie Minister aan hom of haar gegee is, versuim om die inligting ten opsigte waarvan die oortreding begaan is te verskaf, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van R50 vir elke dag wat sodanige versuim voortduur of gevangenisstraf sonder die keuse van 'n boete vir 'n tydperk van hoogstens 12 maande.

(17) Enige persoon wat die bepalings van subartikel [(11) of (14)] 13 oortree is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete [van R50 vir elke dag wat hy of sy oortree] of gevangenisstraf [sonder die keuse van 'n boete] vir 'n tydperk van hoogstens [12 maande] 24 maande."; en

(b) deur die volgende subartikel by te voeg:

"(18) Iemand wat soos beoog in subartikel (13) diens doen of betrek word en wat enige van die bepalings van hierdie artikel uitvoer voordat hy of sy die voorgeskrewe e00 afgele het of die beedigde verklaring gemaak het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500.".

(2) Subartikel (1) word geag op 2 November 2006 in werking te getree het.

Wysiging van artikel 76G van Wet 58 van 1962, sods ingevoeg deur artikel12 van Wet 34 van 2004

4. (1) Artikel 76G van die Inkomstebelastingwet, 1962, word hierby gewysig deur in die Engelse teks subparagraaf (ii) van subartikel (1)(d) deur die volgende subparagraaf te vervang:

"(ii) alternative courses of action by the applicant (or requests or requires the [rending] rendering of an opinion, conclusion or determination regarding such alterative courses of action); or".

(2) Subartikel (1) word geag op 1 Oktober 2006 in werking te getree het.

Wysiging van artikel 79 van Wet 58 van 1962, sods gewysig deur artikel26 van Wet 69 van 1975, artikel23 van Wet 91 van 1982, artikel32 van Wet 21 van 1995, artikel 23 van Wet 36 van 1996, artikel 26 van Wet 5 van 2001, artikel14 van Wet 34 van 2004 en artikel 33 van Wet 20 van 2006

5. (1) Artikel 79 van die Inkomstebelastingwet, 1962, word hierby gewysig-

(a) deur in die Engelse teks in subartikel (1) subparagraaf (ee) in paragraaf (iv) van die voorbehoudsbepaling deur die volgende subparagraaf te vervang:
“(ee) the settlement of a dispute in terms of Part IIIA of Chapter III of this Act, [unless the Commissioner is satisfied that the decision, order, concession or resolution of the dispute or the settlement in question was obtained by fraud or misrepresentation or non-disclosure of material facts; or]"; en

(b) deur in die Engelse teks die volgende woorde na paragraaf (iv) van die eerste voorbehoudsbepaling in subartikel (1) by te voeg:
"unless the Commissioner is satisfied that the decision, order, concession or resolution of the dispute or the settlement in question was obtained by fraud or misrepresentation or non-disclosure of material facts; or".

(2) Subartikel (1) word geag op 7 Februarie 2007 in werking te getree het.

Act No.9, 2007

TAXATION LAWS SECOND
AMENDMENT ACT, 2007

Amendment of section 800 of Act 58 of 1962, as inserted by section 6 of Act 21 of 2006

6. (1) Section 800 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The reportable arrangement must be disclosed within 60 days after any amount is first received by or accrued to any participant or is first paid or actually incurred by any participant in terms of the arrangement." 5

(2) Subsection (1) shall come into operation when section 800 of the Income Tax Act, 1962, comes into operation.

Amendment of section 80P of Act 58 of 1962, as inserted by section 6 of Act 21 of 2006 10

7. (1) Section 80P of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) a detailed description of the assumed tax benefits for all participants, including, but not limited to, tax deductions and deferred income;" IS

(2) Subsection (1) shall come into operation when section 80P of the Income Tax Act, 1962, comes into operation.

Amendment of section 102 of Act 58 of 1962 as substituted by section 28 of Act 69 of 1975, amended by section 27 of Act 91 of 1982, section 44 of Act 30 of 1998 and section 61 of Act 60 of 2001, substituted by section 30 of Act 30 of 2002 and amended by section 35 of Act 20 of 2006 20

8. Section 102 of the Income Tax Act, 1962, is hereby amended-

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

"(IA) The Commissioner may refuse to authorise a refund under subsection (1), if that person- 25

(a) has failed to furnish a return for any year of assessment as required by this Act, until that person has furnished such return as required; or

(b) has failed to furnish the Commissioner in writing with particulars of that person's banking account or account with a similar institution to enable the Commissioner to transfer a refund, if any, to that account."; and 30

(b) by the deletion in subsection (2) of paragraphs (c) and (d).

Amendment of section 102A of Act 58 of 1962, as inserted by section 40 of Act 94 of 1983 and amended by section 28 of Act 36 of 1996 35

9. The Income Tax Act, 1962, is hereby amended by the substitution in section 102A for the words following paragraph (b) of the following words:

"the amount of his or her liability for normal tax for the said year either exceeds or falls short of the aggregate of the amounts of employees tax deducted or withheld from the said remuneration under the provisions of the Fourth Schedule, such excess shall not be recoverable by the Commissioner from the said person if the amount thereof is less than R25 or such other amount as the Commissioner may determine by notice in the Gazette, or such shortfall shall not be refundable by the Commissioner to the said person if the amount thereof is less than R2 or such other amount as the Commissioner may so determine." 40 45

TWEDE WYSIGINGSWET OP
BELASTINGWETTE, 2007

WeI No.9, 2007

Wysiging van artikel 800 van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 21 van 2006

6. (1) Artikel 800 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die rapporteerbare reeling moet binne 60 dae na enige bedrag eerste ontvang word of toeval aan enige deelnemer of eerste betaal word of werklik aangegaan is deur enige deelnemer ingevolge die reëling, openbaar word.” 5

(2) Subartikel (1) tree in werking wanneer artikel 800 van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 80P van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 21 van 2006 10

7. (1) Artikel 80P van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) 'n gedetailleerde beskrywing van die veronderstelde belastingvoordele vir aile deelnemers, wat insluit, maar nie beperk is nie tot, belastingaftrekkings en uitgestelde inkomste;”. 15

(2) Subartikel (1) tree in werking wanneer artikel 80P van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 102 van Wet 58 van 1962 soos vervang deur artikel 28 van Wet 69 van 1975, gewysig deur artikel 27 van Wet 91 van 1982, artikel 44 van Wet 30 van 1998 en artikel 61 van Wet 60 van 2001, vervang deur artikel 30 van Wet 30 van 2002 en gewysig deur artikel 35 van Wet 20 van 2006 20

8. Artikel 102 van die Inkomstebelastingwet, 1962, word hierby gewysig-

(a) deur die invoeging na subartikel (I) van die volgende subartikel:

“(1A) Die Kommissaris magtig nie 'n terugbetaling ingevolge subartikel (I) nie waar daardie persoon- 25

(a) nagelaat het om 'n opgawe soos deur hierdie Wet vereis vir enige jaar van aanslag in te dien, todat daardie persoon bedoelde opgawe ingedien het soos vereis; of

(b) versuim het om die Kommissaris skriftelik te voorsien van besonderhede van daardie persoon se bankrekening of rekening by 'n soortgelyke instelling ten einde die Kommissaris in staat te stel om 'n terugbetaling, indien enige, na daardie rekening te maak.” en 30

(b) deur in subartikel (2) paragrafe (c) en (d) te skrap.

Wysiging van artikel 102A van Wet 58 van 1962, soos ingevoeg deur artikel 140 van Wet 94 van 1983 en gewysig deur artikel 28 van Wet 36 van 1996 35

9. Artikel 102A van die Inkomstebelastingwet, 1962, word hierby gewysig deur die woorde wat volg op paragraaf (b) deur die volgende woorde te vervang:

“sy ofhaar aanspreeklikheid vir normale belasting vir genoemde jaar die totaal van die bedrae aan werknemersbelasting wat ingevolge die bepalings van die Vierde Bylae van genoemde besoldiging afgetrek of teruggehou is, òf oorskry òf tekortsiet, is bedoelde oorskryding nie deur die Kommissaris op genoemde persoon verhaalbaar nie indien die bedrag daarvan minder is as R25 of die ander bedrag wat die Kommissaris by kennisgewing in die Staatskoerant bepaal, of is bedoelde tekort nie deur die Kommissaris aan genoemde persoon terugbetaalbaar nie indien die bedrag daarvan minder is as R2 of die ander bedrag wat die Kommissaris by kennisgewing in die Staatskoerant bepaal.”. 40 45

Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987, section 30 of Act 60 of 1989, section 1 of Act 68 of 1989, section 1 of Act 59 of 1990, section 1 of Act 19 of 1994, section 34 of Act 34 of 1997, section 57 of Act 30 of 1998, section 46 of Act 53 of 1999, section 58 of Act 30 of 2000, section 60 of Act 59 of 2000, section 113 of Act 60 of 2001, section 131 of Act 45 of 2003, section 66 of Act 32 of 2004, section 85 of Act 31 of 2005 and section 7 of Act 21 of 2006

10. Section 1 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“In this section, except in the definition of 'package', and in sections 4, 6, 7, 18, 38, 44, 64A, 87(2) and [106] 107, 'container' means transport equipment of tariff heading 86.09-”.

Amendment of section 8 of Act 91 of 1964, as inserted by section 36 of Act 19 of 2001 and amended by section 117 of Act 60 of 2001

11. (I) The following section is hereby substituted for section 8 of the Customs and Excise Act, 1964:

"Cargo Reports

8. (1) Notwithstanding the provisions of sections 7 and 12, the Commissioner may by rule prescribe requirements in respect of the report of cargo and may prescribe that-

- (a) any report including any manifest or other report listing and describing cargo carried by or loaded or to be loaded on to any ship], aircraft, railway train] or [other] vehicle arriving at or departing from any place in the Republic, as the case may be; or
- (b) any outturn report or other report concerning goods landed from or unpacked from or packed into or loaded on to or to be packed into or to be loaded on to any such ship or [aircraft] vehicle, as the case may be; or
- (c) any outturn report or other report in respect of any imported goods received or unpacked while under the control of any person after landing thereof at any place [approved by the Commissioner] licensed in terms of this Act.

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

(2) Where the Commissioner prescribes that any report must be submitted prior to cargo for export being packed into or loaded on to a ship or vehicle, no cargo shall be so packed or loaded before-

- (a) such report is received by the Controller; and
- (b) release of the cargo has been granted as prescribed in the rules.

(3) (a) Any such outturn report or other report shall reflect full particulars concerning any excess or deficiency in respect of any goods landed, received, unpacked, packed or loaded, as the case may be, according to any manifest or other report contemplated in subsection (1).

(b) Where any imported goods reported in any manifest or other report are not landed ~~or-~~

- (i) any such goods not reported are landed; or
- (ii) any container or package is landed with visible evidence of tampering or any deficiency is suspected.

any person completing any outturn report on landing of the goods shall

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Wysiging van artikel 1 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 95 van 1965, artikel 1 van Wet 57 van 1996, artikel 1 van Wet 105 van 1969, artikel 1 van Wet 98 van 1970, artikel 1 van Wet 71 van 1975, artikel 1 van Wet 112 van 1977, artikel 1 van Wet 110 van 1979, artikels 1 en 15 van Wet 98 van 1980, artikel 1 van Wet 89 van 1984, artikel 1 van Wet 84 van 1987, artikel 1 van Wet 68 van 1989, artikel 1 van Wet 59 van 1990, artikel 1 van Wet 19 van 1994, artikel 57 van Wet 30 van 1998, artikel 46 van Wet 53 van 1999, artikel 58 van Wet 30 van 2000, artikel 60 van Wet 59 van 2000, artikel 113 van Wet 60 van 2001, artikel 131 van Wet 45 van 2003, artikel 1 van Wet 32 van 2004, artikel 85 van Wet 31 van 2005 en artikel 7 van Wet 21 van 2006

10. Artikel I van die Doeane- en Aksynswet, 1964, word hierby gewysig deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

"In hierdie artikel, behalwe in die omskrywing van 'pak' en in artikels 4, 6, 7, 18, 38,44, 64A, 87(2) en [106] 107, beteken 'houer' vervoertoerusting van tariefpos 86.09-",

Wysiging van artikel 8 van Wet 91 van 1964, soos ingevoeg deur artikel 36 van Wet 19 van 2001 en gewysig deur artikel 117 van Wet 60 van 2001

11. (1) Die volgende artikel vervang artikel 8 van die Doeane- en Aksynswet, 1964:

"Vragrapporte

8. (1) Ondanks die bepalings van artikels 7 en 12, kan die Kommissaris by reël vereistes ten opsigte van die rapporteer van vrag voorskryf en voorskryf dat-

(a) enige rapport met inbegrip van enige manifes of ander rapport wat die vrag gedra deur of gelaai op of wat gelaai gaan word op enige skip[, vliegtuig, spoorwegtrein] of [ander] voertuig wat by enige plek in die Republiek aankom of daarvandaan vertrek, na gelang van die geval, lys en beskryf; of

(b) enige opbrengsrapport of ander rapport aangaande goedere geland van of uitgepak uit, of gepak in of gelaai op of wat gepak gaan word in of gelaai gaan word op enige sodanige skip of [vliegtuig] voertuig, na gelang van die geval; of

(c) enige opbrengsrapport of ander rapport ten opsigte van enige ingevoerde goedere ontvang of uitgepak terwyl dit na landing daarvan onder beheer van enige persoon is by enige plek [deur die Kommissaris goedgeken] wat ingevolge hierdie Wet gelisensieer is, in so 'n vorm moet wees en sodanige besonderhede moet bevat en aan die Kontroleur voorgele moet word deur sodanige persoon in sodanige omstandighede en op sodanige tye wat in sodanige reël [voorgeskryf] bepaal word.

(2) Waar die Kommissaris voorskryf dat enige rapport voorgele moet word voordat vrag vir uitvoer gepak word in of gelaai word op 'n skip of voertuig, word geen vrag aldus gepak of gelaai nie voordat-

(a) sodanige rapport deur die Kontroleur ontvang is; en

(b) lossing van die vrag toegestaan is soos in die reëls voorgeskryf word.

(3) (a) Enige sodanige opbrengsrapport of ander rapport moet volledige besonderhede weergee aangaande enige oorskot of tekort ten opsigte van enige goedere geland, ontvang, uitgepak, gepak of gelaai, na gelang van die geval, volgens enige manifes of ander rapport wat in subartikel (1) beoog word.

(b) Waar enige ingevoerde goedere in enige manifes of ander rapport gerapporteer nie geland word nie of-

(i) enige sodanige goedere nie gerapporteer nie, geland word; of

(ii) enige houer of pak geland word met sigbare tekens van knoeyery of enige tekort vermoed word,

moet enige persoon wat enige opbrengsrapport by die landing van die goedere voltooi sodanige goedere ondersoek en daarvoor rapporteer in die

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examine and report on such goods in the presence of the carrier or the agent of the carrier, as may be prescribed by rule.

(4) (a) Any exporter who-

(i) packs or loads cargo or causes cargo to be packed or loaded in contravention of subsection (2); or

(ii) fails to report cargo or makes any false or misleading statement in connection with any report to which this section relates, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

(b) Such cargo shall be liable to forfeiture in accordance with the provisions of this Act."

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

Amendment of section 49 of Act 91 of 1964, as substituted by section 55 of Act 53 of 1999 and amended by section 60 of Act 30 of 2000, section 127 of Act 60 of 2001, section 46 of Act 30 of 2002 and section 24 of Act 34 of 2004

12, Section 49 of the Customs and Excise Act, 1964, is hereby amended-

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

"Whenever any international agreement which binds the Republic as contemplated in section 231 of the Constitution of the Republic of South Africa, 1996 [(Act No. 108 of 1996)], is an agreement [with the government of any country or countries or group of countries]-"; and

(b) by the addition of the following subsection:

"(10) Notwithstanding anything to the contrary contained in this Act, the Commissioner may, for the purposes of administering any provision of any agreement relating to customs administration which is not enacted into law as contemplated in this section-

(a) decide on or determine any matter, perform any duty or function, exercise any power or impose any condition in connection with a provision so administered; and

(b) make rules concerning any matter contemplated in paragraph (a);".

Amendment of section 15 of Act 89 of 1991, as amended by paragraph 8 of Government Notice 2695 of 8 November 1991, section 20 of Act 136 of 1992, section 31 of Act 27 of 1997, section 90 of Act 30 of 1998, section 46 of Act 9 of 2006 and section 37 of Act 21 of 2006

13. (1) Section 15 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(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) a regional electricity distributor established after 30 June 2005 that is-

(aa) a public entity regulated under the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(bb) a wholly owned subsidiary or entity of that public entity if the operations of the subsidiary or entity are ancillary or complementary to the operations of that public entity; or

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teenwoordigheid van die karweier of die agent van die karweier, soos by reël voorgeskryf word.

(4) (a) Enige uitvoerder wat-

- (i) strydig mel subartikel (2) vrag pak of laai of vrag laat pak of laai; of
- (ii) versuim om vrag te rapporteer of enige vals of misleidende verklaring maak in verband met enige rapport waarop hierdie artikel betrekking her,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met beide sodanige boete en gevangenisstraf.

(b) Sodanige vrag is ooreenkomstig die bepalings van hierdie Wet aan verbeming onderhewig."

(2) Subartikel (I) tree in werking op 'n datum deur die President by proklarnasie in die *Staatskoerant* bepaal.

Wysiging van artikel 49 van Wet 91 van 1964, soos vervang deur artikel 55 van Wet 53 van 1999 en gewysig deur artikel 60 van Wet 30 van 2000, artikel 127 van Wet 60 van 2001 en artikel 46 van Wet 30 van 2002

12. Artikel 49 van die Doeane- en Aksynswet, 1964, word hierby gewysig-

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

"Wanneer enige internasionale ooreenkoms wat die Republiek verbind soos beoog in artikel 231 van die Grondwet van die Republiek van Suid-Afrika, 1996 [(Wet No. 108 van 1996)], 'n ooreenkoms is [met enige regering van enige land of lande of groep lande]-"; en

(b) deur die volgende subartikel in te voeg:

"(10) Ondanks andersluidende bepalings van hierdie Wet, kan die Konunissaris, met die doel om enige bepaling van enige ooreenkoms betreffende doeane-administrasie wat nie tot wet verorden is soos in hierdie artikel beoog nie, te administreer -

(a) oor enige aangeleentheid besluit of dit bepaal of enige plig of werksaamheid verrig, enige bevoegdheid uitoefen of enige voorwaarde ople in verband met 'n bepaling aldus geadministreer; en

(b) reëls uitvaardig aangaande enige aangeleentheid in paragraaf (a) beoog;"

Wysiging van artikel 15 van Wet 89 van 1991, soos gewysig deur paragraaf 8 van Staatskennisgewing 2695 van 8 November 1991, artikel 20 van Wet 136 van 1992, artikel 31 van Wet 27 van 1997, artikel 90 van Wet 30 van 1998, artikel 46 van Wet 9 van 2006 en artikel 37 van Wet 21 van 2006

13. (1) Artikel 15 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf (a) in subartikel (2) deur die volgende paragraaf te vervang:

"{a} die ondernemer=

(i) 'n openbare bestuur is;

(ii) 'n watteraad of enige ander instelling is wat soortgelyke magte het as enige sodanige raad gelys in Deel B van Bylae 3 by die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), wat aan die omskrywing van 'n 'plaaslike bestuur' in artikel 1 sou voldoen het, voordat daardie omskrywing deur artikel 40(1)(i) van die Wet op Kleinbesigheidsbelastingamnestie en Wysiging van Belastingwette, 2006 (Wet No.9 van 2006), geskrap is;

(iii) 'n streekselektorisiteitsverspreider is tot stand gebring na 30 Junie 2005 wat-

(aa) 'n openbare entiteit onder die beheer van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No.1 van 1999), is;

(bb) 'n filiaal of entiteit in volle besit van daardie openbare entiteit is indien die bedryf van die filiaal of entiteit aanvullend of komplementêrend is tot die bedryf van daardie openbare entiteit; of

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- (cc) a company contemplated in paragraph (a) of the definition of 'company' in section I of the Income Tax Act, which is wholly owned by one or more municipalities;
- (iv) a 'municipal entity' as defined in section I 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; or
- (vi) an association not for gain; or".
- (2) Subsection (1) shall be deemed to have come into operation on 1 July 2006.

Amendment of section 20 of Act 89 of 1991, as amended by paragraph 11 of Government Notice 2695 of 8 November 1991, section 25 of Act 136 of 1992, section 33 of Act 97 of 1993, section 35 of Act 27 of 1997, section 94 of Act 30 of 1998, section 91 of Act 53 of 1999, section 157 of Act 60 of 2001, section 175 of Act 45 of 2003, section 47 of Act 16 of 2004, section 104 of Act 32 of 2004 and section 38 of Act 21 of 2006

14. Section 20 of the Value-Added Tax Act, 1991, is hereby amended by the deletion in subsection (5) of the further proviso.

Amendment of section 32 of Act 89 of 1991, as amended by section 38 of Act 27 of 1997, section 97 of Act 30 of 1998, section 95 of Act 53 of 1999, section 159 of Act 60 of 2001 and section 182 of Act 45 of 2003

15. Section 32 of the Value-Added Tax Act, 1991, is hereby amended-
- (a) by the addition to subsection (1)(a) of the following subparagraph:
- "(vi) refusing to remit, in whole or in part, any interest or penalty in terms of section 39(7); or"; and
- (b) by the substitution for subsections (4) and (5), respectively, of the following subsections:
- "(4) The Commissioner may on receipt of a notice of objection to a decision, direction, supplementary direction or an assessment alter the decision, direction, supplementary direction or assessment or may disallow the objection and must send the [taxpayer] person notice of such alteration or disallowance, and record any alteration or disallowance made in the decision, direction, supplementary direction or assessment.
- (5) Where no objection is lodged against any decision, direction, supplementary direction or assessment by the Commissioner as contemplated in subsection (1), or where any objection has been [disallowed] allowed in full or withdrawn [or any decision has been altered or any assessment has been altered, as the case may be], such decision, direction, supplementary direction, assessment or altered decision, direction, supplementary direction or [such assessment or altered] assessment, as the case may be, is final and conclusive."

Amendment of section 41 of Act 89 of 1991, as amended by section 32 of Act 136 of 1992, section 36 of Act 97 of 1993, section 41 of Act 27 of 1997, section 98 of Act 30 of 1998, section 167 of Act 60 of 2001, section 40 of Act 32 of 2005 and section 39 of Act 21 of 2006

16. (1) Section 41 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following further proviso:

" : Provided further that paragraphs (a), (b) and (e) 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

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- (cc) 'n maatskappy is soos beoog in paragraaf (a) van die omskrywing van 'maatskappy' in artikel 1 van die Inkomstebelastingwet, wat in volle besit is van een of meer munisipaliteite;
- (iv) 'n 'munisipale entiteit' is soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), waar daardie munisipale entiteit-
- (aa) elektrisiteit, gas of water verskaf; of
- (bb) die dienste bestaande uit dreinerings, verwydering of wegdoening van rioolvuil of vullis verskaf;
- (v) 'n munisipaliteit is; of
- (vi) 'n vereniging sonder winsoogmerk is; of".
- (2) Subartikel (1) word geag op 1 Julie 2006 in werking te getree het.

Wysiging van artikel 20 van Wet 89 van 1991, soos gewysig deur paragraaf 8 van Staatskennisgewing 2695 van 8 November 1991, artikel 25 van Wet 136 van 1992, artikel 33 van Wet 97 van 1993, artikel 35 van Wet 27 van 1997, artikel 94 van Wet 30 van 1998, artikel 91 van Wet 53 van 1999, artikel 157 van Wet 60 van 2001, artikel 175 van Wet 45 van 2003, artikel 147 van Wet 16 van 2004, artikel 104 van Wet 32 van 2004 en artikel 38 van Wet 21 van 2006

14. Artikel 20 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die verdere voorbehoudsbepaling tot subartikel (5) te skrap.

Wysiging van artikel 32 van Wet 89 van 1991, soos gewysig deur artikel 38 van Wet 27 van 1997, artikel 97 van Wet 30 van 1998, artikel 95 van Wet 53 van 1999, artikel 159 van Wet 60 van 2001 en artikel 182 van Wet 45 van 2003

15. Artikel 32 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

- (a) deur die volgende subparagraaf by subartikel (1)(a) te voeg:
- "(vi) van 'n weiering om rente of boete ingevolge artikel 39(7) in geheel of gedeeltelik kwyt te skeld; of"; en
- (b) deur subartikels (4) en (5), onderskeidelik, deur die volgende subartikels te vervang:
- "(4) Die Kommissaris kan by ontvangs van 'n kennisgewing van beswaar teen 'n beslissing, bevel, aanvullende bevel of 'n belastingaanslag die beslissing, bevel, aanvullende bevel of belastingaanslag wysig of die beswaar van die hand wys en moet 'n kennisgewing van die wysiging of afwysing aan die [belastingbetaler] persoon stuur en enige wysiging of afwysing van die beslissing, bevel, aanvullende bevel of belastingaanslag aanteken.
- (5) Waar geen beswaar ingedien word nie teen 'n beslissing, bevel, aanvullende bevel of aanslag deur die Kommissaris soos in subartikel (1) beoog of waar 'n beswaar [van die hand gewys] ten volle gehandhaaf of teruggetrek is, [of 'n beslissing gewysig is of 'n aanslag gewysig is, na gelang van die geval,] is die beslissing, bevel, aanvullende bevel of gewysigde beslissing, bevel, aanvullende bevel of [die aanslag of gewysigde] aanslag, na gelang van die geval, finaal en afdoende."

Wysiging van artikel 41 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1992, artikel 36 van Wet 97 van 1993, artikel 41 van Wet 27 van 1997, artikel 98 van Wet 30 van 1998, artikel 167 van Wet 60 van 2001, artikel 40 van Wet 32 van 2005, artikel 39 van Wet 21 van 2006

16. (I) Artikel 41 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende verdere voorbehoudsbepaling by te voeg:

- ": Met dien verstande voorts dat paragraawe (a), (b) en (c) nie van toepassing sal wees nie op-
- (i) 'n skriftelike beslissing of 'n algemene skriftelike beslissing wat deur die Kommissaris voor 1 Januarie 2007 uitgereik is met betrekking tot lewerings wat gemaak is of gemaak sal word, of goed wat ingevoer is op of na 1 Januarie 2007, behalwe tot die mate wat die Kommissaris skriftelik

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."

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2007. 5

Insertion of section 418 of Act 89 of 1991

17. (1) The following section is hereby inserted in the Value-Added Tax Act, 1991, after section 41A:

"VAT class ruling and VAT ruling

418. (1) The Commissioner may issue a VAT class ruling or a VAT ruling and in applying the provisions relating to Part IA of Chapter I of the Income Tax 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-

- (i) the provisions of sections 76E (other than subsection 76E(2)(m) and 76F of the Income Tax Act shall not apply to any VAT class ruling or VAT ruling;
- (ii) 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-
- (aa) is for an advanced tax ruling that qualifies for acceptance in terms of section 41A; and
- (bb) 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.

(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) Notwithstanding Part IA of Chapter III of the Income Tax Act, the Commissioner may not publish a VAT class ruling or a VAT ruling that is the same as a VAT class ruling, a VAT ruling or a binding general ruling already published.

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2007. 35

Amendment of section 55 of Act 89 of 1991, as amended by section 35 of Act 136 of 1992, section 38 of Act 97 of 1993, section 102 of Act 30 of 1998 and section 17 of Act 10 of 2006

18. Section 55 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph: 40

"(a) The Commissioner may, subject to such conditions as [he] the Commissioner may determine, authorise the retention of the information contained in any records or documents referred to in subsection (3) (other than ledgers, cash books[,] and journals [and paid cheques]) in a form, including any electronic form, acceptable to [him] the Commissioner, in lieu of the retention of the originals of such records or documents." 45

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voorskryf dat die skriftelike beslissing of algemene skriftelike beslissing op of na daardie datum bindend is; of

- (ii) 'n skriftelike beslissing of 'n algemene skriftelike beslissing wat deur die Kommissaris or of na 1 Januarie 2007 uitgereik is."
- (2) Subartikel (1) word geag op 1 Januarie 2007 in werking te getree het. 5

Invoeging van artikel 41B van Wet 89 van 1991

17. (1) Die volgende artikel word hierby na artikel 41A in die Wet op Belasting op Toegevoegde Waarde, 1991 ingevoeg:

"BTW-beslissing en BTW.klasbeslissing

41B. (1) Die Kommissaris kan 'n BTW-klasbeslissing of 'n BTW- 10
beslissing uitreik en by die toepassing van die bepalings wat verband hou
met Deel IA van Hoofstuk III van die Inkomstebelastingwet, moet 'n
BTW-klasbeslissing of 'n BTW-beslissing gehanteer word asof dit
onderskeidelik 'n bindende klasbeslissing of 'n bindende privaat beslissing
is: Met dien verstande dat-

- (i) die bepalings van artikels 76E (behalwe artike176E(2)(m)) en 76F van
die Inkomstebelastingwet nie van toepassing is op enige BTW-
klasbeslissing of BTW-beslissing nie; 15
- (ii) 'n aansoek om 'n BTW-klasbeslissing of 'n BTW-beslissing ingevolge
hierdie artikel nie deur die Kommissaris aanvaar sal word nie indien
die aansoek- 20
- (aa) om 'n vooraf belastingbeslissing is wat kwalifiseer vir
aanvaarding ingevolge artikel41A; en
- (bb) binne die kategorie van beslissings val wat deur die Minister by
regulasie voorgeskryf word waarvoor aansoeke vir beslissings 25

(2) By die toepassing van hierdie artikel beteken-
'BTW-beslissing' 'n skriftelike verklaring uitgereik deur die Kommissaris
aan 'n persoon met betrekking tot die uitleg of toepassing van hierdie Wet;
'BTW-klasbeslissing' 'n skriftelike verklaring uitgereik deur die
Kommissaris aan 'n klas van ondernemers of persone mel betrekking tot die
uitleg of toepassing van hierdie Wet. 30

(3) Ondanks Deel IA van Hoofstuk III van die Inkomstebelastingwet,
mag die Kommissaris nie 'n BTW-klasbeslissing of 'n BTW-beslissing
publiseer wat soortgelyk is aan 'n BTW-klasbeslissing, 'n BTW-beslissing
of 'n bindende algemene beslissing wal alreeds gepubliseer is nie." 35

- (2) Subartikel (1) word geag op 1 Januarie 2007 in werking te getree het,

Wysiging van artikel 55 van Wet 89 van 1991, soos gewysig deur artike135 van Wet
136 van 1992, artikel 38 van Wet 97 van 1993, artikel 102 van Wet 30 van 1998 en
artike117 van Wet 10 van 2006 40

18. Artikel55 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby
gewysig deur paragraaf (a) in subartikel (4) deur die volgende paragraaf te vervang:

H(a) Die Kommissaris kan, behoudens die voorwaardes wat [hy] die
Kommissaris bepaal, magtiging verleen vir die behoud van die inligting vervat in
enige aantekeninge of stukke bedoel in subartikel (3) (behalwe grootboeke,
kasboeke[,] en joernale [en betaalde tjeks]) in 'n vorm, ingesluit enige 45
elektroniese vorm wat vir [hom] die Kommissaris aanvaarbaar is, in plaas van die
behoud van die oorspronklikes van daardie aantekeninge of stukke."

Act No.9, 2007

TAXATIONLAWS SECOND
AMENDMENT ACT, 2007

Amendment of section 16 of Act 38 of 1996, as amended by section 59 of Act 27 of 1997, section 69 of Act 59 of 2000

19. (1) Section 16 of the Tax on Retirement Funds Act, 1996, is hereby amended-
- (a) by the insertion after paragraph (l) of the following paragraph: 5
"(fA) the settlement of disputes;"; and
- (b) by the insertion after paragraph (v) of the following paragraph:
"(vA) the settlement of any dispute;".
- (2) Subsection (1) shall be deemed to have come into operation on 1 March 2007.

Insertion of section 11A in Act 9 of 2006

20. (1) The following section is hereby inserted in the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 after section 11: 10

"Reduced assessments and objections

11A. No reduced assessment may be issued in terms of section 79A of the Income Tax Act and no objection may be made in terms of section 81 of that Act in respect of the 2006 year of assessment or any preceding year of assessment based on any relief granted in terms of section 8." 15

- (2) Subsection (1) shall be deemed to have come into operation on 1 August 2006.

Amendment of section 2A of Act 10 of 2006, as inserted by section 45 of Act 21 of 2006

21. (1) Section 2A of the Second Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection: 20

"(2) The registered auditor must [posses] possess written proof of an appointment to assist or advise an entity in connection with an application or prospective application for amnesty in terms of the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 (Act No.9 of 2006), to qualify for the exemption provided for in subsection (1)." 25

- (2) Subsection (1) shall be deemed to have come into operation on 1 August 2006.

Amendment of long title to Act 21 of 2006

22. (1) The long title to the Revenue Laws Second Amendment Act, 2006, is hereby amended by the deletion of the following expression: 30

"to amend the Second Revenue Laws Amendment Act, 2004, so as to delete the Advance Tax Ruling provisions from the Value-Added Tax Act; to amend the Taxation Laws Second Amendment Act, 2005, so as to delete the Advance Tax Ruling provisions from the Value-Added Tax Act;" 35

- (2) Subsection (1) shall be deemed to have come into operation on 7 February 2007,

Amendment of section 2 of Act 21 of 2006

23. (1) Section 2 of the Revenue Laws Second Amendment Act, 2006, is hereby amended-

- (a) by the substitution for subsection (2) of the following subsection: 40

"(2) Subsection (1), in so far as it relates to section 80B, shall come into operation when Part IIA of Chapter III of the Income Tax Act, 1962, comes into operation."; and

- (b) by the addition of the following subsection:

"(3) Subsection (1), in so far as it relates to section 80S, shall come into operation when Part IIB of Chapter III of the Income Tax Act, 1962, comes into operation." 45

- (2) Subsection (1) shall be deemed to have come into operation on 7 February 2007.

TWEEDE WYSIGINGSWET OP
BELASTINGWETTE, 2007

Wet No.9, 2007

Wysiging van artikel 16 van Wet 38 van 1996, soos gewysig deur artikel 59 van Wet 27 van 1997 en artikel 69 van Wet 59 van 2000

19. (I) Artikel 16 van die Wet op Belasting op Uureefondse, 1996, word hierby gewysig-

(a) deur die volgende paragraaf na paragraaf (f) in te voeg: 5

"(fA) die beslegting van geskille."; en (b)

deur die volgende paragraaf na paragraaf (v) in te voeg:

"(vA) die beslegting van enige geskil;".

(2) Subartikel (1) word geag op 1 Maart 2007 in werking te getree het.

Invoeging van artikel 11A in Wet 9 van 2006 10

20. (1) Die volgende artikel word na artikel 11 van die Wet op Kleinbesigheidsbejastingamnestie en Wysiging van Belastingwette, 2006, ingevoeg:

"Verminderde aanslae en besware

11A. Geen verminderde aanslag mag ingevolge artikel 79A van die Inkomstebelastingwet uitgereik word en geen beswaar mag ingevolge artikel 81 van daardie Wet gemaak word ten opsigte van die 2006 jaar van aanslag of enige voorafgaande jaar van aanslag gebaseer op enige verligting toegestaan ingevolge artikel 8 nie. 15

(2) Subartikel (1) word geag op 1 Augustus 2006 in werking te getree het.

Wysiging van artikel 2A van Wet 10 van 2006, soos ingevoeg deur artikel 45 van Wet 21 van 2006 20

21. (1) Die Engels leks van artikel 2A van die Tweede Wet op Kleinbesigheidsbelastingamnestie en Wysiging van Belastingwette, 2006, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) The registered auditor must [posses] possess written proof of an appointment to assist or advise an entity in connection with an application or prospective application for amnesty in terms of the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 (Act No.9 of 2006), to qualify for the exemption provided for in subsection (1)." 25

(2) Subartikel (1) word geag op 1 Augustus 2006 in werking te getree het. 30

Wysiging van lang titel van Wet 21 van 2006

22. (1) Die lang titel van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur die volgende uitdrukking te skrap:

"tot wysiging van die Tweede Wysigingswet op Inkomstewette, 2004, ten einde die Vooraf belastingbeslissingsbepalings in die Wet op Belasting op Toegevoegde Waarde te skrap; tot wysiging van die Tweede Wysigingswet op Belastingwette, 2005, ten einde die Vooraf belastingaanwysingsbepalings in die Wet op Belasting op Toegevoegde Waarde te skrap;" 35

(2) Subartikel (1) word geag op 7 Februarie 2007 in werking te getree het.

Wysiging van artikel 2 van Wet 21 van 2006 40

23. (I) Artikel 2 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby gewysig-

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Subartikel (1), in soverre dit betrekking het op artikel 80B, tree in werking wanneer Deel IIA van Hoofstuk III van die Inkomstebelastingwet, 1962, in werking tree."; en 45

(b) deur die volgende subartikel by te voeg:

"(3) Subartikel (1), in soverre dit betrekking het op artikel 80S, tree in werking wanneer Deel IIB van Hoofstuk III van die Inkomstebelastingwet, 1962, in werking tree." 50

(2) Subartikel (1) word geag op 7 Februarie 2007 in werking te getree het.

Repeal of section 13 of Act 21 of 2006

24. Section 13 of the Revenue Laws Second Amendment Act, 2006, is hereby repealed.

Amendment of section 28 of Act 21 of 2006

25. Section 28 of the Revenue Laws Second Amendment Act, 2006, is hereby amended by the substitution for subsection (I) of the following subsection: 5

"(I) The following section is hereby inserted in the Customs and Excise Act, 1964, after section 64L:

'Licensing of transit sheds

64M. (1) (a) Every transit shed shall be licensed in accordance with the provisions of section 60, this section, any applicable note in Schedule No. 8 and any rule relating to such licence. 10

(b) Application for such a licence shall be made on the prescribed form and shall be supported by the documents and information specified in such form and as the Commissioner may require from each applicant. 15

(e) Before any licence is issued the applicant for a licence must furnish security as contemplated in section 60(1)(e): Provided that the Commissioner may on good cause shown, to the extent considered reasonable in each case, reduce the amount of such security or exempt any person from furnishing security. 20

(d) Before commencing operations, or from a date thereafter specified by the Commissioner by rule, every transit shed operator shall register for the purposes of electronic communication as a user and enter into a user agreement in terms of section 101A and the rules made thereunder. 25

(2) (a) (i) Except if determined otherwise by rule, break bulk goods for export must be delivered to and exported from a transit shed or a combination terminal. 30

(ii) The transit shed operator shall-
(aa) be responsible for ensuring that goods for export are delivered to a combination terminal or are loaded on a ship or vehicle for export; and
(bb) in addition to any liability for duty incurred by any person under any other provision of this Act, be liable for the duty on any goods received for export and such liability shall cease when it is proved that the goods have been delivered to a combination terminal or have been loaded on a ship or vehicle as contemplated in subparagraph (aa). 35

(iii) The transit shed operator shall produce such proof to the Controller as may be prescribed by rule that the goods have been delivered to a combination terminal or have been loaded on a ship or vehicle for export. 40

(iv) Goods received in a transit shed may not be opened or withdrawn therefrom without the permission of the Controller and in compliance with such procedures as may be prescribed by rule. 45

(v) The receipt, storage and handling of goods in a transit shed shall be in accordance with the requirements that may be prescribed by rule.

(b) Except where goods have been entered for home consumption and released thereafter or any other procedure is authorised by rule, the provisions of section 18 shall apply *mutatis mutandis* to any movement of any imported goods from a transit shed. 50

(3) The Controller may require any break bulk goods to be detained in a transit shed for examination of the package or its contents, including by non-intrusive inspection methods contemplated in section 4(8A).

(4) (a) The Commissioner may refuse an application for a transit shed licence or cancel or suspend such a licence.

Herroeping van artikel 13 van Wet 21 van 2006

24. Artikel 13 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby herroep.

Wysiging van artikel 28 van Wet 21 van 2006

25. Artikel 28 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur subartikel (I) deur die volgende subartikel te vervang: 5

"(I) Die volgende artikel word hierby na artikel 64L in die Doeane- en Aksynswet, 1964, ingevoeg:

'Lisensiering van deurvoerloodse

64M. (1)(a) Elke deurvoerloods moet gelisensieer wees ooreenkomstig die bepalings van artikel 60, hierdie artikel, enige toepaslike opmerking in Bylae No.8 en enige reël wat op sodanige Jisensie betrekking het. 10

(b) Aansoek om so 'n lisensie word gedoen op die voorgeskrewe vorm en moet ondersteun word deur die dokumente en inligting in sodanige vorm vermeld en soos die Kommissaris van elke aansoeker vereis. 15

(c) Voordat enige lisensie uitgereik word, moet die aansoeker om 'n lisensie sekerheid verskaf soos in artikel 60(I)(c) beoog: Met dien verstande dat die Kommissaris op goeie gronde aangetoon, in die mate redelik geag in elke geval, die bedrag van sodanige sekerheid kan verminder of enige persoon van die verskaffing van sekerheid kan vrystel. 20

(d) Voordat werksaamhede begin, of vanaf 'n datum daarna deur die Kommissaris by reël bepaal, moet elke deurvoerloodsbediener vir die doeleindes van elektroniese kommunikasie as 'n gebruiker registreer en ingevolge artikel 10IA en die reëls daarkragtens uitgevaardig 'n gebruikersooreenkoms aangaan. 25

(2) (a) (i) Behalwe waar anders by reël bepaal word, moet breekklading-goedere vir uitvoer afgelewer word aan 'n deurvoerloods of 'n kombinasie-eindpunt en daarvandaan uitgevoer word.

(ii) Die deurvoerloodsbediener is -

(aa) aanspreeklik om te verseker dat goedere vir uitvoer afgelewer word aan 'n kombinasie-eindpunt of op 'n skip of voertuig vir uitvoer gelaai word; en 30

(bb) benewens enige aanspreeklikheid vir reg deur enige persoon kragtens enige ander bepaaing van hierdie Wet opgeloo, aanspreeklik vir die reg op enige goedere ontvang vir uitvoer en sodanige aanspreeklikheid verval wanneer dit bewys word dat die goedere aan 'n kombinasie-eindpunt afgelewer is of op 'n skip of voertuig gelaai is soos in subparagraaf (aa) beoog word. 35

(iii) Die deurvoerloodsbediener moet die bewys aan die Kontroleur voorle wat by reël voorgeskryf word dat die goedere aan 'n kombinasie-eindpunt afgelewer is of op 'n skip of voertuig vir uitvoer gelaai is. 40

(iv) Goedere ontvang in 'n deurvoerloods mag nie geopen of daarvandaan onttrek word sonder die toestemming van die kontroleur nie en by nakoming van sodanige prosedures war by reël voorgeskryf word nie. 45

(v) Die ontvangs, opberging en hantering van goedere in 'n deurvoerloods is ooreenkomstig die vereistes wat by reël voorgeskryf word. 50

(b) Behalwe waar goedere vir binnelandse verbruik geklaar is en daarna gelos is of waar enige ander prosedure by reël toegelaat word, is die bepalings van artikel 18 *mutatis mutandis* op enige beweging van enige ingevoerde goedere vanuit 'n deurvoerloods van toepassing. 55

(3) Die Kontroleur kan vereis dat enige breekkladinggoedere in 'n deurvoerloods aangehou moet word vir ondersoek van die pak of die inhoud daarvan, met inbegrip van nie-indringende inspeksiemetodes wat in artikel 4(8A) beoog word.

(4) (a) Die Kommissaris kan 'n aansoek om 'n deurvoerloodslisensie weier of sodanige lisensie kanselleer of opskon,

(b) The provisions of section 60(2) shall apply *mutatis mutandis* for the purposes of paragraph (a).

(5) The Commissioner may prescribe by rule-

- (a) the security requirements regarding the premises, equipment of the transit shed and control measures to be observed in a transit shed; 5
- (b) any procedure or obligation in connection with packages received which are-
 - (i) in excess of manifested quantities;
 - (ii) unmanifested excess consolidated packings or packages; 10
 - (iii) manifested but not received;
- (c) reports to be made and procedures to be followed relating to packages received with signs of damage, tampering or other discrepancy;
- (d) records to be kept in respect of the storage and movement of goods and any other activity in the operation of the transit shed;
- (e) all matters that are required or permitted in terms of this section to be prescribed by rule; and 15
- (f) any other matter which is necessary to prescribe and useful to achieve the efficient and effective administration of the activities of a transit shed.' ”.

Repeal of section 37 of Act 21 of 2006 20

26. Section 37 of the Revenue Laws Second Amendment Act, 2006, is hereby repealed.

Amendment of section 39 of Act 21 of 2006

27. Section 39 of the Revenue Laws Second Amendment Act, 2006, is hereby amended by the deletion in subsection (I) of paragraph (b). 25

Repeal of section 40 of Act 21 of 2006

28. Section 40 of the Revenue Laws Second Amendment Act, 2006, is hereby repealed.

Amendment of section 43 of Act 21 of 2006

29. Section 43 of the Revenue Laws Second Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection: 30

"(2) Subsection (1) shall come into operation on the date Part A of Chapter [X] XA comes into operation,".

Short title and commencement

30. (1) This Act is called the Taxation Laws Second Amendment Act, 2007. 35

(2) Save in so far as is otherwise provided for in this Act or the context indicates otherwise, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2008. 40

TWEEDE WYSIGINGSWET OP
BELASTINGWETTE. 2007

Wet No.9, 2007

- (b) Die bepalings van artikel 60(2) is *mutatis mutandis* vir die doeleindes van paragraaf (f) van toepassing.
- (5) Die Kommissaris kan by reël voorskryf -
- (a) die sekuriteitsvereistes aangaande die perseel, toerusting van die deurvoerloods en beheermaatreels wat in 'n deurvoerloods nagekom moet word; 5
- (b) enige prosedures of verpligting in verband met pakke ontvang wat -
- (i) meer is as die hoeveelhede op die manifes;
- (ii) surplus gekonsolideerde verpakkings of pakke is wat nie gemanifes is nie; 10
- (iii) gemanifes is maar nie ontvang is nie;
- (c) rapporte wat gelewer moet word en prosedures wat gevolg moet word aangaande pakke ontvang met tekens van beskadiging, peuteiry of ander afwyking;
- (d) rekords wat gehou moet word ten opsigte van opberging en beweging van goedere en enige ander aktiwiteit by die werking van die deurvoerloods; 15
- (e) aile aangeleenthede wat ingevolge hierdie artikel by reël voorgeskryf moet of kan word; en
- (j) enige ander aangeleentheid wat nodig is om voor te sktyf en wat nuttig is om die doeltreffende en effektiewe administrasie van die aktiwiteite van 'n deurvoerloods te bewerkstellig: ". 20

Herroeping van artikel 37 van Wet 21 van 2006

26. Artikel 37 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby herroep. 25

Wysiging van artikel 39 van Wet 21 van 2006

27. Artikel 39 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur paragraaf (b) in subartikel (1) te skrap.

Herroeping van artikel 40 van Wet 21 van 2006

28. Artikel 40 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby herroep. 30

Wysiging van artikel 43 van Wet 21 van 2006

29. Artikel 43 van die Tweede Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang: 35

"(2) Subartikel (1) Iree in werking op die datum waarop Deel A van Hoofstuk [X] XA van die Doeane- en Aksynswet, 1964, in werking tree."

Kart titel en inwerkingtreeding

O. 30. (1) Hierdie Wet heet die Tweede Wysigingswet op Belastingwette, 2007.

(2) Tensy hierdie Wet anders bepaal of dit uit die samehang anders blyk, word die wysigings aan die Inkomstebelastingwet, 1962, deur hierdie Wet aangebring, vir die doeleindes van aanslae ten opsigte van normale belasting kragtens die Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van die begin van jare van aanslag war op of na I Januarie 2008 eindig. 40