

DRAFT

**Tax Administration Laws Amendment
Bill, 2015**

DRAFT

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.

DRAFT BILL

To—

- amend the Transfer Duty Act, 1949, so as to effect an amendment to a penalty provision;
- amend the Income Tax Act, 1962, so as to effect consequential and textual amendments; to delete a provision; and to amend certain provisions;
- amend the Customs and Excise Act, 1964, so as to insert certain provisions and to amend certain provisions;
- amend the Value-Added Tax Act, 1991, so as to amend certain provisions;
- amend the Skills Development Levies Act, 1999, so as to amend provisions;
- amend the Unemployment Insurance Contributions Act, 2002, so as to insert a provision;
- amend the Taxation Laws Second Amendment Act, 2008, so as to amend an effective date;
- amend the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, so as to amend a penalty provision;
- amend the Tax Administration Act, 2011, so as to amend certain provisions; to effect technical corrections; and to effect textual and consequential amendments;
- amend the Customs Duty Act, 2014, so as to effect technical corrections; to effect consequential amendments; and to insert a provision;
- amend the Customs Control Act, 2014, so as to amend certain provisions; to effect consequential amendments; and to insert a provision;

DRAFT

- amend the Tax Administration Laws Amendment Act, 2014, so as to effect technical corrections;

and to provide for matters connected therewith.

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

Amendment of section 4 of Act 40 of 1949, as amended by section 2 of Act 70 of 1963, section 1 of Act 72 of 1970, section 3 of Act 87 of 1982, section 7 of Act 60 of 2001, section 1 of Act 32 of 2004 and section 271 of Act 28 of 2011 read with paragraph 3 of Schedule 1 to that Act

1. Section 4 of the Transfer Duty Act, 1949, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If any duty **[in respect of any transaction entered into before 1 March 2005,]** remains unpaid after the date of the expiration of the period referred to in section 3, the Commissioner must in accordance with Chapter 15 of the Tax Administration Act impose a penalty**[, at the rate of] equal to 10 per cent **[per annum on the amount]** of the unpaid duty**[, calculated in respect of each completed month in the period from that date to the date of payment].**”.**

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, section 2 of Act 21 of 2006, section 1 of Act 9 of 2007, section 3 of Act 36 of 2007, section 1 of Act 4 of 2008, section 2 of Act 61 of 2008, section 5 of Act 60 of 2008, section 14 of Act 8 of 2010, section 271 of Act 28 of 2011, read with paragraph 25 of Schedule 1 to that Act, section 2 of Act 39 of 2013 and section 2 of Act 44 of 2014

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

DRAFT

“(4) Any decision of the Commissioner under the following provisions of this Act is subject to objection and appeal in accordance with Chapter 9 of the Tax Administration Act, namely—

- (a) the definitions of [**‘benefit fund’**,] ‘pension fund’, ‘pension preservation fund’, ‘provident fund’, ‘provident preservation fund’[,] and ‘retirement annuity fund’ [**and ‘spouse’**] in section 1;
- (b) [**section 8(5)(b) and (bA)**,] section 10(1)(cA)[,] and (e)(i)(cc), [(j) and (nB), **section 10A(8)**,] section 11(e), [(f), (g), (gA)] (j) and (l), [**section 12B(6), section 12C, section 12E**,] section 12J(6), (6A) and (7), [**section 13**,] section 15, section 18A[(**5C**)] (5), (5A) and (5B), section 22(1) [**and (3), section 23H(2)**,] section 23K, section 24(2), section 24A(6), [**section 24C, section 24D**,] section 24I(1) [**and (7)**], section 24J(9), [**section 24P, section 25A, section 27**,] section 28(9), section 30, section 30A, section 30B, section 30C, [**section 31**,] section 37A, [**section 38(2)(a) and (b) and (4)**,] section 44(13)(a), section 47(6)(c)(i), section 62(1)(c)(iii) and (d) and (2)(a) and (4), section 80B and section 103(2);
- (c) paragraphs 6, [**7, 9**,] 13, 13A[, **14, 19**] and 20 of the First Schedule;
- (d) paragraph 4 of the Second Schedule;
- (e) paragraphs 5(2), 14(6), 21(2) and 24 of the Fourth Schedule;
- (f) paragraphs 10(3)[,] and 11(2) [**and 13**] of the Sixth Schedule;
- (g) paragraphs [**2(h)**,] 3, [**6(4)(b)**,] 7(6), [(**7) and (8)**,] 11 and 12A(3) of the Seventh Schedule; and
- (h) [**paragraphs**] paragraph (bb)(A) of the proviso to paragraph 12A(6)(e), paragraphs 29(2A), 29(7), 31(2), 65(1)(d) and 66(1)(e) of the Eighth Schedule.”.

Amendment of section 35A of Act 58 of 1962, as inserted by section 30 of Act 32 of 2004 and amended by section 5 of Act 32 of 2005, section 59 of Act 24 of 2011 and section 271 of Act 28 of 2011 read with paragraph 43 of Schedule 1 to that Act

3. Section 35A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (3) of the following subsection:

DRAFT

“(3) The amount withheld from any payment to the seller in terms of subsection (1) is—

- (a) an advance in respect of that seller’s liability for normal tax for the year of assessment during which that property is disposed of by that seller; or
- (b) subject to the right of SARS to issue assessments under the Tax Administration Act, if the seller does not submit a return in respect of that year of assessment within one year of the due date for that return, deemed to be the final tax payable in terms of this section.”.

Amendment of section 61 of Act 58 of 1962, as amended by section 25 of Act 90 of 1962, section 29 of Act 90 of 1988, section 57 of Act 45 of 2003, section 271 of Act 28 of 2011 read with paragraph 51 of Schedule 1 to that Act and section 13 of Act 21 of 2012

4. Section 61 of the Income Tax Act, 1962, is hereby amended by the deletion of paragraph (g).

Amendment of Fourth Schedule to Act 58 of 1962, as inserted by section 19 of Act 6 of 1963 and amended by section 16 of Act 140 of 1993 and section 3 of Act 168 of 1993

5. The Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the heading of the following heading:

“AMOUNTS TO BE DEDUCTED OR WITHHELD BY EMPLOYERS AND PROVISIONAL PAYMENTS IN RESPECT OF NORMAL TAX **[AND PROVINCIAL TAXES]**”

(Section **[*eighty-nine bis*]** 5 of this Act)”.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of

DRAFT

Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of 2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008, section 66 of Act 60 of 2008, section 17 of Act 18 of 2009, section 18 of Act 8 of 2010, section 93 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 77 of Schedule 1 to that Act and section 7 of Act 44 of 2014

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

(a) in the definition of “employee” by the deletion of the word “and” at the end of paragraphs (b), (c) and (d) and by the substitution for the word “and” at the end of paragraph (e) of the word “or”;

(b) by the substitution in the definition of “personal service provider” for the words following paragraph (c) of the following words:

“except where such company or trust throughout the year of assessment employs three or more full-time employees who are on a full-time basis engaged in the business of such company or trust of rendering any such service, other than any employee who is a holder of a share in the company or **[member]** settlor or beneficiary of the trust or is a connected person in relation to such person;”;

(c) by the substitution for the definition of “provisional tax” of the following definition:

“ **‘provisional tax’** means any payment in respect of liability for normal tax required to be made in terms of paragraph 17;”;

(d) by the substitution in the exclusion in the definition of “provisional taxpayer” for paragraphs (dd) and (ee) of the following paragraphs:

“(dd) **[a person exempt from payment of provisional tax in terms of paragraph 18]** any—

DRAFT

(A) person in respect of whose liability for normal tax for the relevant year of assessment payments are required to be made under section 33 of this Act;

(B) natural person who does not derive any income from the carrying on of any business, if—

(AA) the taxable income of that person for the relevant year of assessment will not exceed the tax threshold; or

(BB) the taxable income of that person for the relevant year of assessment which is derived from interest, dividends, foreign dividends and rental from the letting of fixed property will not exceed R30 000; and

(ee) a small business funding entity[.];”;

(e) by the substitution in the definition of “remuneration” for paragraph (a) of the following paragraph:

“(a) any amount referred to in paragraph (a), (c), (cA), (cB), (d), (e), (eA) or (f) of the definition of ‘gross income’ in section 1 of this Act;” and

(f) by the substitution in the definition of “remuneration” for paragraph (e) of the following paragraph:

“(e) any **[gain determined in terms of]** amount referred to in section 8C which is required to be included in the income of that person;”.

Amendment of paragraph 5 of Fourth Schedule to Act 58 of 1962, as amended by section 19 of Act 18 of 2009 and section 271 of Act 28 of 2011 read with paragraph 79 of Schedule 1 to that Act

7. Paragraph 5 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraphs (2) and (3) of the following subparagraphs:

“(2) Where the employer has failed to deduct or withhold employees’ tax in terms of paragraph 2 and **[the Commissioner is satisfied that]** the failure was not due to an intent to postpone payment of the tax or to evade the employer’s obligations

DRAFT

under this Schedule, the Commissioner may, on application by the employer and if he is satisfied that there is a reasonable prospect of ultimately recovering the tax from the employee, absolve the employer from his liability under sub-paragraph (1) of this paragraph.

(3) An employer who has not been absolved from liability as provided in sub-paragraph (2) shall have a right of recovery against the employee in respect of the amount paid by the employer in terms of sub-paragraph (1) in respect of that employee, and such amount may in addition to any other right of recovery be deducted from future remuneration which may become payable by the employer to that employee, in such manner as the Commissioner **[may determine]** on application by the employer decides.”.

Amendment of paragraph 9 of Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001, section 41 of Act 20 of 2006, section 56 Act 8 of 2007, sections 66 and 116 of Act 35 of 2007, section 66 of Act 3 of 2008, section 68 of Act 60 of 2008, section 20 of Act 18 of 2009 and section 95 of Act 24 of 2011

8. Paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (3) for item (b) of the following item:

“(b) Paragraph (a) does not apply to any amount required to be included in the gross income of any person in terms of paragraph (e) of the definition of ‘gross income’ and paragraph 2(1)(b)(iB) of the Second Schedule as a result of a transaction contemplated in section 14(1) of the Pension Funds Act[, **1956 (Act No. 24 of 1956)**], other than an amount that is transferred for the benefit of the person to any provident fund as defined in paragraph 1 of the Second Schedule from any pension fund or pension preservation fund as defined in that paragraph.”; and

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

DRAFT

“(6) There must be deducted from the amount to be withheld or deducted by way of employees’ tax as contemplated in paragraph 2 the amount—

(a) of the medical scheme fees tax credit that applies in respect of that employee in terms of section 6A; and

(b) where the employee is entitled to a rebate under section 6(2)(b), of the additional medical expenses tax credit that applies in respect of that employee in terms of section 6B(3)(a)(i),

if—

[(a)](i) the employer effects payment of the medical scheme fees as contemplated in section 6A(2)(a); or

[(b)](ii) the employer does not effect payment of the medical scheme fees as contemplated in section 6A(2)(a), at the option of the employer, if proof of payment of those fees has been furnished to the employer.”.

Amendment of paragraph 11A of Fourth Schedule to Act 58 of 1962, as inserted by section 45 of Act 89 of 1969 and amended by section 47 of Act 28 of 1997, section 19 of Act 34 of 2004, section 51 of Act 31 of 2005 and section 67 of Act 35 of 2007

9. Paragraph 11A of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (c) and the words following it of the following item and words:

“(c) any **[gain made are a result of the vesting of any equity instrument as contemplated]** amount referred to in section 8C which is required to be included in the income of that employee,

the amount of that gain or that amount must for the purposes of this Schedule be deemed to be an amount of remuneration which is payable to that employee by the person by whom that right was granted or from whom that equity instrument or qualifying equity share was acquired, as the case may be.”.

Repeal of paragraph 11B of Fourth Schedule to Act 58 of 1962

10. Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby repealed.

DRAFT

Amendment of paragraph 11C of Fourth Schedule to Act 58 of 1962, as inserted by section 22 of Act 19 of 2001 and amended by section 85 of Act 45 of 2003, section 271 of Act 28 of 2011 read with item 83 of Schedule 1 to that Act and section 10 of Act 39 of 2013

11. Paragraph 11C of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (1) of paragraph (i) of the proviso.

Amendment of paragraph 13 of Fourth Schedule to Act 58 of 1962, as amended by section 24 of Act 72 of 1963, section 29 of Act 113 of 1977, section 49 of Act 101 of 1990, section 23 of Act 19 of 2001, section 21 of Act 4 of 2008 and section 11 of Act 39 of 2013

12. Paragraph 13 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(1) Subject to the provisions of paragraphs 5, **[11C(5)]** 14(5) and 28, every employer who during any period contemplated in subparagraph (1A) deducts or withholds any amount by way of employees’ tax as required by paragraph 2 shall within the time allowed by subparagraph (2) of this paragraph deliver to each employee or former employee to whom remuneration has during the period in question been paid or become due by such employer, an employees’ tax certificate in such form as the Commissioner may prescribe or approve, which shall show the total remuneration of such employee or former employee and the sum of the amounts of employees’ tax deducted or withheld by such employer from such remuneration during the said period, excluding any amount of remuneration or employees’ tax included in any other employees’ tax certificate issued by such employer unless such other certificate has been surrendered to such employer by the employee or former employee and has been cancelled by such employer and dealt with by **[him]** the employer as provided in subparagraph (10).”;

(b) by the substitution in subparagraph (2) for item (c) of the following item:

DRAFT

- “(c) if the said employer has ceased to be an employer, within **[seven] 14** days of the date on which he has so ceased,”.

Amendment of paragraph 14 of Fourth Schedule to Act 58 of 1962, as amended by section 40 of Act 88 of 1971, section 50 of Act 101 of 1990, section 57 of Act 74 of 2002, section 22 of Act 4 of 2008, section 16 of Act 61 of 2008, section 21 of Act 18 of 2009, section 22 of Act 8 of 2010, section 271 of Act 28 of 2011 read with item 85 of Schedule 1 to that Act and section 20 of Act 21 of 2012

13. Paragraph 14 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (5) for the following subparagraph:

“(5) Unless the Commissioner otherwise directs, no employees’ tax certificate as contemplated in paragraph 13(2)(a) or (c) shall be delivered by the employer until such time as the return contemplated in subparagraph (3)**[(a) or (b), as the case may be,]** has been rendered to the Commissioner.”.

Amendment of paragraph 17 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 27 of Act 90 of 1964, section 4 of Act 88 of 1971, section 33 of Act 103 of 1976, section 30 of Act 104 of 1980, section 51 of Act 101 of 1990, section 57 of Act 59 of 2000, section 271 of Act 28 of 2011 read with item 88 of Schedule 1 to that Act and section 12 of Act 39 of 2013

14. Paragraph 17 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subparagraph (3) of the following subparagraph:

“(3) Where for the purpose of determining any amount of provisional tax required to be paid by any provisional taxpayer in respect of any year of assessment the liability of such taxpayer for normal tax is required to be estimated in respect of such year, such liability shall be deemed to be the amount of normal tax which, calculated at the relevant rate referred to in subparagraph (4), would be payable by the provisional taxpayer in respect of the amount of taxable income estimated by such taxpayer in terms of paragraph 19(1) during the period prescribed by this

DRAFT

Schedule for the payment of the said amount of provisional tax[, **or any extension of such period granted in terms of paragraph 25(2),**] or if the amount so estimated has been increased by the Commissioner in terms of paragraph 19(3), the amount of normal tax which, calculated at the said rate, would be payable by the provisional taxpayer in respect of the amount of taxable income as so increased, or if the Commissioner has estimated the provisional taxpayer's taxable income in terms of paragraph 19(2), the amount of normal tax which, calculated at the said rate, would be payable by the provisional taxpayer in respect of the amount of taxable income so estimated."; and

(b) by the deletion of subparagraph (8).

Repeal of paragraph 18 of Fourth Schedule to Act 58 of 1962

15. Paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962, is hereby repealed.

Amendment of paragraph 19 of Fourth Schedule to Act 58 of 1962, as amended by section 28 of Act 88 of 1965, section 46 of Act 89 of 1969, section 43 of Act 88 of 1971, section 50 of Act 85 of 1974, section 49 of Act 94 of 1983, section 52 of Act 101 of 1990, section 44 of Act 21 of 1995, section 37 of Act 5 of 2001, section 87 of Act 45 of 2003, section 54 of Act 31 of 2005, section 46 of Act 3 of 2008, section 18 of Act 61 of 2008, section 23 of Act 18 of 2009, section 271 of Act 28 of 2011, read with item 90 of Schedule 1 to that Act, section 22 of Act 21 of 2012, section 13 of Act 39 of 2013 and section 9 of Act 44 of 2014

16. Paragraph 19 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for items (a) and (b) of the following items:

“(a) Every provisional taxpayer (other than a company) shall, during every period within which provisional tax is or may be payable by that provisional taxpayer as provided in this Part, submit to the Commissioner **[(should the Commissioner so require)]** a return of an estimate of the total taxable income which will be derived

DRAFT

by the taxpayer in respect of the year of assessment in respect of which provisional tax is or may be payable by the taxpayer: Provided that such estimate will not include any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit received by or accrued to or to be received by or accrue to the taxpayer during the relevant year of assessment.

(b) Every company which is a provisional taxpayer shall, during every period within which provisional tax is or may be payable by it as provided in this Part submit to the Commissioner **[(should the Commissioner so require)]** a return of an estimate of the total taxable income which will be derived by the company in respect of the year of assessment in respect of which provisional tax is or may be payable by the company.”;

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

“(3) The Commissioner may call upon any provisional taxpayer to justify any estimate made by **[him]** the taxpayer in terms of subparagraph (1), or to furnish particulars of **[his]** the taxpayer’s income and expenditure or any other particulars that may be required, and, if the Commissioner is dissatisfied with the said estimate, he or she may increase the amount thereof to such amount as he or she considers reasonable, which increased estimate is not subject to objection or appeal.”; and

(c) by the substitution for subparagraph (5) of the following subparagraph:

“(5) Any estimate or increase made by the Commissioner under the provisions of sub-paragraph (2) or (3) shall be deemed to take effect in respect of the relevant period within which the provisional taxpayer is required to make any payment of provisional tax in terms of this Part**[, or within any extension of such period granted in terms of sub-paragraph (2) of paragraph 25].**”.

Amendment of paragraph 20 of Fourth Schedule to Act 58 of 1962, as amended by section 25 of Act 72 of 1963, section 29 of Act 88 of 1965, section 47 of Act 89 of 1969, section 44 of Act 88 of 1971, section 51 of Act 85 of 1974, section 36 of Act 69 of 1975, section 50 of Act 94 of 1983, section 39 of Act 121 of 1984, section 19 of Act

DRAFT

61 of 2008, section 24 of Act 18 of 2009, section 271 of Act 28 of 2011, read with paragraph 91 of Schedule 1 to that Act, section 23 of Act 21 of 2012 and section 10 of Act 44 of 2014

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

(a) by the substitution in subparagraph (1) for item (b) of the following item:

“(b) **[in any other case,]** R1 million or less and the estimate is less than 90 per cent of the amount of such actual taxable income and is also less than the basic amount applicable to the estimate in question, as contemplated in paragraph 19(1)(d), the taxpayer shall, subject to the provisions of subparagraphs (2), (2B) and **[(3)](2C)**, be liable to pay to the Commissioner, in addition to the normal tax payable in respect of his or her taxable income for such year of assessment, a penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act, equal to 20 per cent of the difference between **[the lesser of]**—

(i) the lesser of—

(aa) the amount of normal tax, calculated at the rates applicable in respect of such year of assessment and after taking into account any amount of a rebate deductible in terms of this Act in the determination of normal tax payable, in respect of a taxable income equal to 90 per cent of such actual taxable income; and

[(ii)](bb) the amount of normal tax calculated in respect of a taxable income equal to such basic amount, at the rates applicable in respect of such year of assessment and after taking into account any amount of a rebate deductible in terms of this Act in the determination of normal tax payable~~[,]~~; and

DRAFT

(ii) **[and]** the amount of employees' tax and provisional tax in respect of such year of assessment paid by the end of the year of assessment."; and

(b) by the substitution for subparagraph (2A) of the following subparagraph:

"(2A) If, for the purposes of paragraph 19 and this paragraph, the final or last estimate of his or her taxable income is not submitted in terms of paragraph 19(1)(a) by a provisional taxpayer other than a company, or the estimate of its taxable income in respect of the period contemplated in paragraph 23(b) is not submitted in terms of paragraph 19(1)(b) by a company which is a provisional taxpayer, in respect of any year of assessment, on or before the last day of the period within which provisional tax is or may be payable by that provisional taxpayer as provided in this Part, the [non-submission] provisional taxpayer shall be deemed to [be a nil submission] have submitted an estimate of an amount of nil taxable income.".

Amendment of paragraph 29 of Fourth Schedule to Act 58 of 1962, as substituted by section 57 of Act 85 of 1974, section 55 of Act 94 of 1983, section 43 of Act 90 of 1988 and section 54 of Act 101 of 1990

18. Paragraph 29 of the Fourth Schedule to the Income Tax Act, 1962, is hereby substituted by the following paragraph:

"29. No refund of any amount of **[employees]** employees' tax or provisional tax shall be made to the taxpayer concerned otherwise than as provided in paragraph **[11B or]** 28 or in such circumstances as may be determined by the Commissioner in any deduction tables prescribed by him under paragraph 9."

Amendment of paragraph 30 of Fourth Schedule to Act 58 of 1962, as amended by section 45 of Act 21 of 1995, section 44 of Act 53 of 1999 and section 271 of Act 28 of 2011, read with item 97 of Schedule 1 to that Act

19. Paragraph 30 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (1) of item (h).

DRAFT

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 32 of Act 60 of 1989, section 51 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, section 7 of Act 21 of 2006, section 10 of Act 9 of 2007, section 4 of Act 36 of 2007, section 22 of Act 61 of 2008 and section 1 of Act 32 of 2014

20. (1) Section 1 of the Customs and Excise Act, 1964, is hereby amended by the addition of the following subsections:

“(9)(a) A provision of this Act that contains a reference to a Schedule of this Act that existed before the effective date, or to a provision of such a Schedule, must, unless the context otherwise indicates, be read as referring to—

- (i) the corresponding Schedule of the Excise Tariff or to the corresponding provision of that Schedule of the Excise Tariff; or
- (ii) the corresponding Schedule of the Customs Tariff or to the corresponding provision of that Schedule of the Customs Tariff.

(b) In this subsection ‘effective date’ means the effective date contemplated in section 926 of the Customs Control Act.

(10)(a) When interpreting a provision of this Act that contains a reference to another provision of this Act that has been repealed by the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), the reference in that provision to that repealed provision must be disregarded unless the context otherwise indicates.

(b) Paragraph (a) does not apply to references in this Act to repealed section 10 and those references must be interpreted in accordance with subsection (6)(c).

(11)(a) Any provision of this Act that has been enacted before the date of publication of the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), and for which a commencement date has not been proclaimed as at the effective date, must be regarded as not having been enacted.

DRAFT

(b) In this subsection 'effective date' means the effective date contemplated in section 926 of the Customs Control Act."

(2) Subsection (1) takes effect immediately after the Customs and Excise Amendment Act, 2014, has taken effect in terms of section 88 of that Act.

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979, sections 3 and 15 of Act 98 of 1980, section 2 of Act 84 of 1987, section 4 of Act 59 of 1990, section 1 of Act 105 of 1992, section 1 of Act 98 of 1993, section 2 of Act 45 of 1995, Schedule 3 of Act 34 of 1997, section 58 of Act 30 of 1998, section 47 of Act 53 of 1999, section 115 of Act 60 of 2001, section 43 of Act 30 of 2002, section 39 of Act 12 of 2003, section 133 of Act 45 of 2003, section 10 of Act 10 of 2006, section 9 of Act 21 of 2006, section 5 of Act 36 of 2007, section 25 of Act 61 of 2008, section 24 of Act 8 of 2010, section 3 of Act 25 of 2011 and section 39 of 2013

21. (1) Section 4 of the Customs and Excise Act, 1964, is hereby amended by the insertion after subsection (10) of the following subsection:

"(10A)(a) When conducting an external search of a person an officer may, subject to paragraph (b), make use of—

- (i) any mechanical, electrical, imaging or electronic equipment that can produce an indication that the person may be concealing any specific thing or substance on or in his or her body or in any goods that that person has with him or her;
- (ii) sniffer dogs or other animals trained to use their senses for the detection of any specific thing or substance; or
- (iii) any other search aids as may be prescribed by rule.

(b) A search aid referred to in paragraph (a) may only be used by an officer trained to use such aid in the conduct of a search."

(2) Subsection (1) takes effect on the date of promulgation of this Act.

DRAFT

Repeal of section 4D of Act 91 of 1964, as inserted by section 17 of Act 39 of 2013

22. (1) Section 4D of the Customs and Excise Act, 1964, is hereby repealed.

(2) Subsection (1) takes effect immediately after the Customs and Excise Amendment Act, 2014, has taken effect in terms of section 88 of that Act.

Amendment of section 27 of Act 91 of 1964, as amended by section 10 of Act 105 of 1969, section 7 of Act 84 of 1987, section 15 of Act 59 of 1990, section 18 of Act 45 of 1995 and section 18 of Act 32 of 2014

23. (1) Section 27 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (3) for the words preceding the proviso of the following words:

“Any dutiable goods brought into and intended for use in an excise manufacturing warehouse in the manufacture of goods liable to excise duty or fuel levy shall—

(a) if locally produced dutiable goods, be entered for home consumption; or

(b) if dutiable imported goods, be cleared for home use in terms of the Customs Control Act,

and any duty due thereon (including customs duty) shall be paid prior to such use.”.

(2) Subsection (1) takes effect immediately after the Customs and Excise Amendment Act, 2014, has taken effect in terms of section 88 of that Act.

Amendment of section 99 of Act 91 of 1964, as amended by section 15 of 95 of 1965, section 17 of Act 85 of 1968, section 7 of Act 98 of 1970, section 34 of Act 112 of 1977, section 12 of Act 110 of 1979, section 24 of Act 86 of 1982, section 62 of Act 45 of 1995, section 71 of Act 30 of 1998, section 68 of Act 53 of 1999, section 138 of Act 60 of 2001, section 110 of Act 74 of 2002, section 31 of Act 34 of 2004 and section 74 of Act 32 of 2014

24. (1) Section 99 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (5) of the following subsection:

DRAFT

“(5) Any liability in terms of subsection (1), (2) or (4)(a) shall cease after the expiration of a period of **[two]** three years from the date on which it was incurred in terms of any such subsection.”.

(2) Subsection (1) takes effect immediately after the Customs and Excise Amendment Act, 2014, has taken effect in terms of section 88 of that Act.

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001, section 172 of Act 45 of 2003, section 107 of Act 31 of 2005, section 47 of Act 9 of 2006, section 83 of Act 20 of 2006, section 83 of Act 8 of 2007, section 106 of Act 35 of 2007, section 30 of Act 36 of 2007, section 29 of Act 8 of 2010, section 137 of Act 24 of 2011, section 148 of Act 22 of 2012, section 173 of Act 31 of 2013, section 98 of Act 43 of 2014 and sections 25 and 26 of Act 44 of 2014

25. Section 16 of the Value-Added Tax Act, 1991, is hereby amended by the deletion in subsection (2) of the word “or” at the end of paragraph (e) and by the substitution in that subsection for paragraph (f) of the following paragraphs:

“(f) the vendor, in **[any other case, except as provided for in paragraphs (a) to (e)]** the case where an amount in terms of section 16(3)(c) to (n) is deducted from the sum of the amounts of output tax which are attributable to that period, is in possession of documentary proof, as is acceptable to the Commissioner, substantiating the vendor’s entitlement to the deduction at the time a return in respect of the deduction is furnished; or

(g) the vendor is, under such circumstances as the Commissioner may by public notice specify, unable to obtain the relevant documentation required in paragraphs (a) to (f) and is in possession of alternate documentation containing such information as the Commissioner may by public notice specify, substantiating the vendor’s entitlement to the deduction at the time a return in respect of the deduction is furnished:”.

DRAFT

Amendment of section 20 of Act 89 of 1991, as amended by section 25 of Act 136 of 1992, section 33 of Act 97 of 1993, section 35 of Act 27 of 1997, section 94 of Act 30 of 1998, section 91 of Act 53 of 1999, section 157 of Act 60 of 2001, section 175 of Act 45 of 2003, section 47 of Act 16 of 2004, section 104 of Act 32 of 2004, section 38 of Act 21 of 2006, section 14 of Act 9 of 2007, section 1 of Act 3 of 2008, section 35 of Act 18 of 2009, section 30 of Act 8 of 2010, section 29 of Act 21 of 2012, section 176 of Act 31 of 2013 and section 99 of Act 43 of 2014

26. Section 20 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) The words ‘tax invoice’ **[in a prominent place]**, ‘VAT invoice’ or ‘invoice’;”;
and

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

“(a) The words ‘tax invoice’ **[in a prominent place]**, ‘VAT invoice’ or ‘invoice’.”.

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, section 39 of Act 21 of 2006 and section 16 of Act 9 of 2007

27. Section 41 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (d) for the words following subparagraph (iv) and preceding subparagraph (aa) of the following words:

“and in consequence thereof an amount of tax which should have been paid to the Commissioner or the Managing Director of the South African Post Office Limited in terms of this Act has not been paid, that amount **[shall not be recoverable]** may not be assessed, subject to section 99(2) of the Tax Administration Act, by the Commissioner after the expiration of a period of five years reckoned from the date on which that amount became payable in terms of this Act, if it is shown—”.

DRAFT

Amendment of section 1 of Act 9 of 1999, as amended by section 1 of Act 24 of 2010, section 271 of Act 28 of 2011 read with paragraph 148 of Schedule 1 to that Act

28. Section 1 of the Skills Development Levies Act, 1999, is hereby amended by the substitution in subsection (1) for the definition of “penalty” of the following definition:

“ ‘**penalty**’ means any penalty payable in terms of section 12 and a penalty contemplated in Chapter 16 of the Tax Administration Act;”.

Amendment of section 6 of Act 9 of 1999, as amended by section 76 of Act 19 of 2001, section 43 of Act 18 of 2009, section 271 of Act 28 of 2011 read with paragraph 150 of Schedule 1 to that Act and section 23 of Act 39 of 2013

29. Section 6 of the Skills Development Levies Act, 1999, is hereby amended—

(a) by the deletion of subsection (3); and

(b) by the substitution for subsection (4) of the following subsection:

“(4) If the Director-General has allocated in accordance with section 8 the full amount or any portion of **[the] an amount [referred to in subsection (3)]** refunded in terms of section 190 of the Tax Administration Act, the Director-General must, when necessary, withhold the amount so allocated from future payments due to the SETA or National Skills Fund, as the case may be, in terms of this Act.”.

Amendment of section 21 of Act 4 of 2008

30. (1) Section 21 of the Taxation Laws Second Amendment Act, 2008, is hereby amended by the deletion in subsection (1) of paragraphs (a) and (b).

(2) Subsection (1) is deemed to have come into operation on 3 July 2008.

Repeal of section 14 of Act 29 of 2008

31. Section 14 of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, is hereby repealed.

DRAFT

Amendment of section 1 of Act 28 of 2011, as amended by section 36 of Act 21 of 2012, section 30 of Act 39 of 2013 and section 37 of Act 44 of 2014

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

(a) by the deletion of the definition of “Customs and Excise Act” and the substitution thereof of the following definition:

“ **‘customs and excise legislation’** means the Customs and Excise Act, 1964 (Act No. 91 of 1964), the Customs Duty Act, 2014 (Act No. 30 of 2014), and the Customs Control Act, 2014 (Act No. 31 of 2014);”;

(b) by the insertion after the definition of “international tax agreement” of the following definition:

“ **‘international tax standard’** means an international standard as specified by the Commissioner by public notice for the exchange of tax-related information between countries;” and

(c) by the substitution for the definition of “tax Act” of the following definition:

“ **‘tax Act’** means this Act or an Act, or portion of an Act, referred to in section 4 of the SARS Act, excluding [the Customs and Excise Act, the Customs Control Act, 2014 (Act No. 31 of 2014), and the Customs Duty Act, 2014 (Act No. 30 of 2014)] customs and excise legislation;”.

Amendment of section 3 of Act 28 of 2011, as amended by section 37 of Act 21 of 2012, section 31 of Act 39 of 2013 and section 38 of Act 44 of 2014

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

(a) by in subsection (2) the deletion of the word “and” at the end of paragraph (h), the substitution for the full stop at the end of paragraph (i) of the expression “; and” and the addition of the following paragraph:

“(j) _____ give effect to an international tax standard.”; and

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

DRAFT

“(3) If SARS, in accordance with—

(a) an international tax agreement—

[(a)](i) received a request for, is obliged to exchange or wishes to spontaneously exchange information, SARS may disclose or obtain the information for transmission to the competent authority of the other country as if it were relevant material required for purposes of a tax Act and must treat the information obtained as taxpayer information;

[(b)](ii) received a request for the conservancy or the collection of an amount alleged to be due by a person under the tax laws of the requesting country, SARS may deal with the request under the provisions of section 185; or

[(c)](iii) received a request for the service of a document which emanates from the requesting country, SARS may effect service of the document as if it were a notice, document or other communication required under a tax Act to be issued, given, sent or served by SARS; or

(b) an international tax standard, obtained information of a person, SARS may retain and exchange the information as and when required under an international tax agreement as if it were relevant material required for purposes of a tax Act and must treat the information obtained as taxpayer information.”.

Amendment of section 6 of Act 28 of 2011, as amended by section 38 of Act 21 of 2012

34. Section 6 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The execution of a task ancillary to a power or duty under subsection (2) or (3) may be done by—

(a) a SARS official under the control of the Commissioner, a person delegated by the Commissioner under this Act or a senior SARS official; or

DRAFT

- (b) the incumbent of a specific post under the control of the Commissioner, a person delegated by the Commissioner under this Act or a senior SARS official.”.

Amendment of section 11 of Act 28 of 2011, as amended by section 40 of Act 21 of 2012 and section 33 of Act 39 of 2013

35. Section 11 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) **[No]** Except where otherwise regulated in this Act, no SARS official other than the Commissioner or a SARS official duly authorised by the Commissioner may **[institute or defend]** authorise the institution or defending of civil proceedings on behalf of the Commissioner.”.

Amendment of section 22 of Act 28 of 2011

36. Section 22 of the Tax Administration Act, 2011, is hereby amended—

- (a) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs:

- “(b) apply for registration for one or more taxes or register under section 26(3) in the prescribed form and manner; and
- (c) provide SARS with the further particulars and any documents as SARS may require for the purpose of registering the person for the tax or taxes or under section 26(3).”; and

- (b) by the substitution for subsection (5) of the following subsection:

“(5) Where a taxpayer that is obliged to register with SARS under a tax Act fails to do so, SARS may register the taxpayer for one or more tax types as is appropriate under the circumstances or for purposes of section 26(3).”.

DRAFT

Amendment of section 26 of Act 28 of 2011, as amended by section 41 of Act 21 of 2012, section 35 of Act 39 of 2013 and section 39 of Act 44 of 2014

37. Section 26 of the Tax Administration Act, 2011, is hereby amended by the addition of the following subsection:

“(3) The Commissioner may require a person to register as a person required to submit a return under this section, an international tax agreement or an international standard for exchange of information.”.

Amendment of section 34 of Act 28 of 2011, as amended by section 45 of Act 21 of 2012, section 37 of Act 39 of 2013 and section 40 of Act 44 of 2014

38. Section 34 of the Tax Administration Act, 2011, is hereby amended by the substitution for the definition of “participant” of the following definition:

“ **‘participant’**, in relation to an ‘arrangement’, means—

- (a) a ‘promoter’; **[or]**
- (b) a person who directly or indirectly will derive or assumes that the person will derive a ‘tax benefit’ or ‘financial benefit’ by virtue of an ‘arrangement’;
or
- (c) any other person who is party to an ‘arrangement’ listed in a public notice as referred to in section 35(2);”.

Amendment of section 36 of Act 28 of 2011, as amended by section 46 of Act 21 of 2012 and section 42 of Act 44 of 2014

39. Section 36 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

- “(c) a transaction undertaken through an exchange regulated in terms of the **[Securities Services Act, 2004 (Act No. 36 of 2004)]** Financial Markets Act, 2012 (Act No. 19 of 2012); or”.

DRAFT

Insertion of section 42A in Act 28 of 2011

40. The Tax Administration Act, 2011, is hereby amended by the insertion after section 42 of the following section:

“Procedure where legal professional privilege is asserted”

42A. (1) For purposes of Part B, if a person alleges the existence of legal professional privilege in respect of relevant material required by SARS under section 46, 47, 48 or 49, the person must provide the following information:

- (a) a description of each document in respect of which the privilege is asserted;
- (b) if other than a legal practitioner, the author of the document;
- (c) the name of the legal practitioner;
- (d) the capacity in which the legal practitioner was acting;
- (e) the specific purpose of the legal advice or in connection to what it was given;
- (f) the name of the client to whom the legal advice was given by the legal practitioner;
- (g) confirmation in writing that the client is claiming privilege in respect of the document;
- (h) if the document is not in possession of the client, from whom did the person asserting privilege obtain it; and
- (i) if the person obtained the document from the client or another person, the instructions of the client or other person regarding the document.

(2) A person must submit the information to SARS at the place, in the format and within the time specified by SARS, unless SARS extends the period based on reasonable grounds submitted by the person.

(3) If SARS disputes the assertion of the privilege upon receipt of the information—

- (a) SARS must make arrangements with a practitioner from the panel appointed under section 111 to take receipt of the material;
- (b) the person asserting privilege must seal and hand over the documents in respect of which privilege is asserted to the practitioner;

DRAFT

- (c) the practitioner must within 21 days, or such further period not exceeding 21 days as agreed by the parties, make a determination of whether the privilege applies and may do so in the manner the practitioner deems fit, including considering representations made by the parties;
 - (d) if a determination of whether the privilege applies is not made by the practitioner or a party is not satisfied with the determination, the practitioner must retain the relevant material pending final resolution of the dispute by the parties or an order of court;
 - (e) any application to a High Court must be instituted within 30 days of the determination by the practitioner.
- (4) The appointed practitioner —
- (a) is not regarded as acting on behalf of either party;
 - (b) must personally take responsibility for the safekeeping of the documents;
and
 - (c) must be compensated in the same manner as if acting as chairperson of the tax board.”.

Amendment of section 46 of Act 28 of 2011, as amended by section 50 of Act 21 of 2012, section 38 of Act 39 of 2013 and section 46 of Act 44 of 2014

41. Section 46 of the Tax Administration Act, 2011, is hereby amended—

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

“(2) A senior SARS official may require relevant material in terms of subsection (1)—

- (a) in respect of taxpayers in an objectively identifiable class of taxpayers; or
- (b) held or kept by a connected person, as referred to in paragraph (d)(i) of the definition of ‘connected person’ in the Income Tax Act, in relation to the taxpayer, located outside the Republic.

(3) A request by SARS for relevant material from a person other than the taxpayer is limited to **[relevant information related to the records]** material maintained or kept or that should reasonably be maintained or kept by the person in relation to the taxpayer.

DRAFT

(4) A person or taxpayer receiving from SARS a request for relevant material under this section must submit the relevant material to SARS at the place, in the format (which must be reasonably accessible to the person or taxpayer) and—

- (a) within the time specified in the request; or
- (b) if the material is held by a connected person referred to in subsection (2)(b), within 90 days from the date of the request.

(5) If reasonable grounds for an extension are submitted by the person or taxpayer, SARS may extend the period within which the relevant material must be submitted.”;

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

“(7) A [**senior**] SARS official may direct that relevant material—

- (a) be provided under oath or solemn declaration; or
- (b) if required for purposes of a criminal investigation, be provided under oath or solemn declaration and, if necessary, in accordance with the requirements of section 212 or 236 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).”; and

(c) by the addition of the following subsection:

“(9) If a taxpayer fails to provide material referred to in subsection (2)(b), the material may not be produced or used by the taxpayer in any subsequent proceedings, unless a competent court under exceptional circumstances, which may not include an assertion that the material was held by a connected person referred to in that subsection, directs otherwise.”.

Amendment of section 47 of Act 28 of 2011

42. Section 47 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) A senior SARS official may, by notice, require a person, whether or not chargeable to tax, an employee of the person or a person who holds an office in the person to attend in person at the time and place designated in the notice for the

DRAFT

purpose of being interviewed by a SARS official concerning the tax affairs of the person, if the interview—

- (a) is intended to obtain relevant material to clarify issues of concern to SARS [to render further] regarding a verification or audit [unnecessary]; and
- (b) is not for purposes of a criminal investigation.

(2) The senior SARS official issuing the notice may require the person interviewed to produce relevant material under the control of the person during the interview and to clarify issues of concern related to the relevant material.”.

Amendment of section 49 of Act 28 of 2011, as amended by section 51 of Act 21 of 2012

43. Section 49 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The person on whose premises an audit or criminal investigation is carried out and any other person on the premises, must provide such reasonable assistance as is required by SARS to conduct the audit or investigation, including—

- (a) making available appropriate facilities, to the extent that such facilities are available;
- (b) answering questions relating to the audit or investigation including, if so required by a SARS official, under oath or solemn declaration; and
- (c) submitting relevant material as required.”.

Amendment of section 51 of Act 28 of 2011

44. Section 51 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) A judge may grant the order referred to in section 50(2) if satisfied that there are reasonable grounds to believe that—

- (a) a person has—
 - (i) failed to comply with an obligation imposed under a tax Act; **[or]**
 - (ii) committed a tax offence; **[and] or**

DRAFT

- (iii) disposed of, removed or concealed assets which may fully or partly satisfy an outstanding tax debt; and
 - (b) relevant material is likely to be revealed during the inquiry which may provide proof of the failure to comply, **[or]** of the commission of the offence or of the disposal, removal or concealment of the assets.
- (2) The order referred to in subsection (1) must—
- (a) designate a presiding officer before whom the inquiry is to be held;
 - (b) identify the person referred to in subsection (1)(a);
 - (c) refer to the alleged non-compliance, **[or of]** the commission of the offence or the disposal, removal or concealment of assets to be inquired into;
 - (d) be reasonably specific as to the ambit of the inquiry; and
 - (e) be provided to the presiding officer.”.

Amendment of section 68 of Act 28 of 2011, as amended by section 40 of Act 39 of 2013

45. (1) Section 68 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (g) of the following paragraph:

- “(g) information, the disclosure of which could reasonably be expected to prejudice the economic interests or financial welfare of the Republic or the ability of the government to manage the economy of the Republic effectively in the best interests of the Republic, including a contemplated change or decision to change a tax or a duty, levy, penalty, interest and similar moneys imposed under a tax Act **[or the Customs and Excise Act]**”.

(2) Subsection (1) takes effect immediately after the Customs Control Act, 2014, has taken effect in terms of section 944(1) of that Act.

DRAFT

Amendment of section 69 of Act 28 of 2011, as amended by section 41 of Act 36 of 2013 and section 48 of Act 44 of 2014

46. Section 69 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) does not prohibit the disclosure of taxpayer information by a person who is a current or former SARS official—

- (a) in the course of performance of duties under a tax Act or customs and excise legislation, **[including]** such as—
 - (i) to the South African Police Service or the National Prosecuting Authority, if the information relates to, and constitutes material information for the proving of, a tax offence;
 - (ii) as a witness in civil or criminal proceedings under a tax Act; or
 - (iii) the taxpayer information necessary to enable a person to provide such information as may be required by SARS from that person;
- (b) under any other Act which expressly provides for the disclosure of the information despite the provisions in this Chapter;
- (c) by order of a High Court; or
- (d) if the information is public information.”.

Amendment of section 70 of Act 28 of 2011, as amended by section 13 of Act 26 of 2013

47. Section 70 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The information disclosed under subsection (1), (2) or (3) may only be disclosed by SARS or the persons or entities referred to in subsection (1), (2) or (3) to the extent that it is—

- (a) necessary for the purpose of exercising a power or performing a regulatory function or duty under the legislation referred to in subsection (1), (2) or (3); and
- (b) relevant and proportionate to what the disclosure is intended to achieve as determined under the legislation.”.

DRAFT

Amendment of section 93 of Act 28 of 2011, as amended by section 45 of Act 39 of 2013

48. Section 93 of the Tax Administration Act, 2011, is hereby amended by the addition of the following subsection:

“(3) A correction must be requested by the taxpayer within six months, or such further period not exceeding six months that SARS under exceptional circumstances may allow, from the date of assessment for the preceding year of assessment.”.

Amendment of section 98 of Act 28 of 2011, as amended by section 46 of Act 39 of 2013

49. Section 98 of the Tax Administration Act, 2011, is hereby substituted by the following section:

“Withdrawal of assessments

98. (1) SARS may, despite the fact that no objection has been lodged or appeal noted, withdraw an assessment **[which]**—

- (a) which was issued to the incorrect taxpayer;
- (b) which was issued in respect of the incorrect tax period;
- (c) which was issued as a result of an incorrect payment allocation; or
- (d) in respect of which the Commissioner is satisfied that—
 - (i) it was based on—
 - (aa) **[an undisputed factual error by the taxpayer in a return]** the failure to submit a return, or submission of an incorrect return, by a third party under section 26 or by an employer under a tax Act; [or]
 - (bb) a processing error by SARS; or
 - (cc) a return fraudulently submitted by a person not authorised by the taxpayer;
 - [(ii) it imposes an unintended tax debt in respect of an amount that the taxpayer should not have been taxed on;**

DRAFT

- (iii) the recovery of the tax debt under the assessment would produce an anomalous or inequitable result;
- (iv)(ii) **[there is no other remedy available to the taxpayer] the taxpayer has exhausted all remedies under this Act or the period referred to in section 104(3) has expired; and**
- [(v)](iii)** it is in the interest of the good management of the tax system.

(2) An assessment withdrawn under this section is regarded not to have been issued, unless a senior SARS official **[agrees in writing with the taxpayer as to the amount of tax properly chargeable for the relevant tax period and accordingly issues a revised original,] is satisfied that an additional or reduced assessment, as the case may be, [which assessment is not subject to objection or appeal] may be issued in respect of the relevant tax period.**

(3) If a senior SARS official agrees in writing with the taxpayer as to the amount of tax properly chargeable for the relevant tax period and accordingly issues an additional or reduced assessment, the assessment is not subject to objection or appeal.”.

Amendment of section 99 of Act 28 of 2011, as amended by section 59 of Act 21 of 2012 and section 47 of Act 39 of 2013

50. Section 99 of the Tax Administration Act, 2011, is hereby amended—

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

- “(d) it is necessary to give effect to—
- (i) the resolution of a dispute under Chapter 9;
 - (ii) a judgment pursuant to an appeal under Part E of Chapter 9 and there is no right of further appeal; or
 - (iii) an assessment referred to in section 98(2) or (3).”;

(b) by the addition of the following subsection:

“(3) The Commissioner may extend a period under subsection (1), before the expiry thereof, by an appropriate period in the following circumstances:

DRAFT

- (a) if a taxpayer fails to provide relevant material to SARS within a reasonable period;
- (b) the time taken to resolve an information entitlement dispute, including all legal proceedings; or
- (c) if an audit or investigation under Chapter 5 relates to a complex matter such as the application of the general anti-avoidance provisions under a tax Act, an audit or investigation under section 31 of the Income Tax Act or a matter of analogous complexity, in which event the period may be extended for a period of up to three years.”.

Amendment of section 105 of Act 28 of 2011

51. Section 105 of the Tax Administration Act, 2011, is hereby substituted by the following section:

“105. A taxpayer may **[not] only** dispute an assessment or ‘decision’ as described in section 104 **[in any court or other proceedings, except]** in proceedings under this Chapter **[or by application to the High Court for review]**, unless a High Court otherwise directs.”.

Amendment of section 109 of Act 28 of 2011

52. Section 109 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) the tax in dispute does not exceed the amount the Minister determines by public notice or, if more than one assessment is in dispute under the appeal, each amount of tax in dispute under each assessment does not exceed such amount; and”.

Amendment of section 111 of Act 28 of 2011

53. Section 111 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The persons appointed under subsection (1)—

DRAFT

- (a) hold office for five years from the date the notice of appointment is published in the public notice; **[and]**
- (b) are eligible for re-appointment as the Minister thinks fit; and
- (c) must be persons of good standing who have appropriate experience.”.

Amendment of section 135 of Act 28 of 2011, as amended by section 62 of Act 21 of 2012

54. Section 135 of the Tax Administration Act, 2011, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) Subject to **[the right to petition the Chief Justice for]** leave to appeal to the Supreme Court of Appeal in terms of section **[21] 17** of the **[Supreme Court Act, 1959 (Act No. 59 of 1959)]** Superior Courts Act, 2013 (Act No. 10 of 2013), an order made by the president of the tax court under subsection (1) is final.”.

Amendment of section 146 of Act 28 of 2011

55. Section 146 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) SARS’ cost of litigation in comparison to the possible benefits with reference to~~—~~
- (i)]** the prospects of success in court;
 - [(ii) the prospects of the collection of the amounts due; and**
 - (iii) the costs associated with collection;]”.**

Amendment of section 177 of Act 28 of 2011, as amended by section 65 of Act 39 of 2013

56. Section 177 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

DRAFT

“(1) A senior SARS official may **[institute]** authorise the institution of proceedings for the sequestration, liquidation or winding-up of a person for an outstanding tax debt.”.

Amendment of section 179 of Act 28 of 2011, as amended by section 66 of Act 39 of 2013

57. Section 179 of the Tax Administration Act, 2011, is hereby amended—

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

“(1) A senior SARS official may **[by]** authorise the issue of a notice to a person who holds or owes or will hold or owe any money, including a pension, salary, wage or other remuneration, for or to a taxpayer, **[require]** requiring the person to pay the money to SARS in satisfaction of the taxpayer’s outstanding tax debt.”;

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

“(2) The person required to pay the money to SARS must preserve the money held or owed for up to 72 hours and then pay the full amount of the money over to SARS unless—

(a) SARS withdraws or amends the notice, as is appropriate under the circumstances, upon the person advising SARS of the reasons for being unable to comply within the period specified in the notice; or

(b) after being informed by the person of the notice, the taxpayer requests SARS to amend the notice to allow the payment of the basic living expenses of the taxpayer and his or her dependants and SARS amends the notice to extend the period over which the amount must be paid.”; and

(c) by the deletion of subsection (4).

Amendment of section 185 of Act 28 of 2011

58. (1) Section 185 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

DRAFT

“(a) a request for conservancy of an amount alleged to be due by a person under the tax laws of the other country where there is a risk of dissipation or concealment of assets by the person, a senior SARS official may **[apply]** authorise an application for a preservation order under section 163 as if the amount were a tax payable by the person under a tax Act; or”.

(2) Subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 187 of Act 28 of 2011, as amended by section 52 of Act 44 of 2014

59. (1) Section 187 of the Tax Administration Act, 2011, is hereby amended—

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

“If a tax debt or refund payable by SARS is not paid in full by the effective date, interest accrues, and is payable, on the amount of the outstanding balance of the tax debt or refund—”;

(b) in subsection (3) by the deletion of the word “and” at the end of paragraph (e), by the substitution for the full stop at the end of paragraph (f) of the the expression “; and” and the addition of the following paragraph:

“(g) an outstanding tax debt referred to in section 190(5), is the date of payment of a refund which is not properly payable under a tax Act.”; and

(c) by the addition of the following subsection:

“(8) SARS may not make a direction that interest is not payable under subsection (6) after the expiry of three years, in the case of an assessment by SARS, or five years, in the case of self-assessment, from the commencement date of the accrual of the interest.”.

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

DRAFT

Amendment of section 190 of Act 28 of 2011, as amended by section 71 of Act 39 of 2013 and section 53 of Act 44 of 2014

60. (1) Section 190 of the Tax Administration Act, 2011, is hereby amended—

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

“(1) A person is entitled to a refund, including interest thereon under section 188(3)(a), of—

- (a) an amount properly refundable under a tax Act and if so reflected in an assessment; or
- (b) the amount erroneously paid in respect of an assessment in excess of the amount payable in terms of the assessment.”;

(b) by the substitution for subsection (4) of the following subsection:

“(4) **[A]** An amount under subsection (1)(b) is regarded as a payment to the National Revenue Fund unless a person [is] entitled to a refund under that subsection [(1) only if] claims the refund, [is claimed by the person] in the case of—

- (a) an assessment by SARS, within three years from the date of **[the assessment] payment**; or
- (b) self-assessment, within five years from the date **[the return had to be submitted or, if no return is required, payment had to be made in terms of the relevant tax Act] of payment.**”;

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

“(5) If SARS pays to a person by way of a refund any amount which is not properly payable to the person under a tax Act, the amount, including interest thereon under section 187(1), is regarded as an outstanding tax debt from the date on which it is paid to the person.”;

(d) by the insertion after subsection (5) of the following subsection:

DRAFT

“(5A) If the person where the account into which an amount referred to in subsection (5) is deposited, is held, reasonably suspects that the amount is paid as a result of a tax offence the person must—

(a) preserve the account for a period not exceeding 48 hours unless a competent court directs otherwise; and

(b) immediately report to SARS the suspicion and the grounds on which it rests.”; and

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

“(6) A decision not to authorise a refund under **[this section]** subsection (1)(b) or (3) is subject to objection and appeal.”.

(2) Paragraphs (a) and (c) of subsection (1) are deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 191 of Act 28 of 2011, as amended by section 72 of Act 39 of 2013

61. Section 191 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If a taxpayer has an outstanding tax debt, an amount that is refundable under section 190, including interest thereon under section 188(3)(a), must be treated as a payment by the taxpayer that is recorded in the taxpayer’s account under section 165, to the extent of the amount outstanding, and any remaining amount must be **[setoff]** set off against any outstanding debt under **[the Customs and Excise Act]** customs and excise legislation.”.

Amendment of section 212 of Act 28 of 2011

62. Section 212 of the Tax Administration Act, 2011, is hereby amended—

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

DRAFT

“A person referred to in paragraph (a) or (b) of the definition of ‘participant’ who fails to disclose the information in respect of a reportable arrangement as required by section 37 is liable to a ‘penalty’, for each month that the failure continues (up to 12 months), in the amount of—”; and

(b) by the addition of the following subsection:

“(3) A person referred to in paragraph (c) of the definition of ‘participant’ who fails to disclose the information in respect of a reportable arrangement as required by section 37 is liable to a ‘penalty’ in the amount of R50 000.”.

Amendment of section 213 of Act 28 of 2011

63. (1) Section 213 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If SARS is satisfied that an amount of tax was not paid as and when required under a tax Act, SARS must, in addition to any other ‘penalty’ or interest for which a person may be liable **[under this Chapter]**, impose a ‘penalty’ equal to the percentage of the amount of unpaid tax as prescribed in the tax Act.”.

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 226 of Act 28 of 2011

64. Section 226 of the Tax Administration Act, 2011, is hereby amended by the substitution for the heading and subsections (1) and (2) of the following heading and subsections:

“[Qualifying person for voluntary disclosure] Qualification of person subject to audit or investigation for voluntary disclosure

(1) A person may apply, whether in a personal, representative, withholding or other capacity, for voluntary disclosure relief, unless that person is aware of—

DRAFT

- (a) a pending audit or investigation into the affairs of the person seeking relief which is related to the default the person seeks to disclose; or
- (b) an audit or investigation that has commenced which is related to the default the person seeks to disclose, but has not yet been concluded.

(2) A senior SARS official may direct that a person may apply for voluntary disclosure relief, despite the provisions of subsection (1), where the official is of the view, having regard to the circumstances and ambit of the audit or investigation, that—

- (a) **[the ‘default’ in respect of which the person wishes to apply for voluntary disclosure relief would not otherwise have been detected during the audit or investigation]** the audit or investigation is related to the ‘default’ the person seeks to disclose; [and]
- (b) **[the application would be in the interest of good management of the tax system and the best use of SARS’ resources]** the ‘default’ in respect of which the person wishes to apply for voluntary disclosure relief would not otherwise have been detected during the audit or investigation; and
- (c) the application would be in the interest of good management of the tax system and the best use of SARS’ resources.”.

Amendment of section 227 of Act 28 of 2011

65. Section 227 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraphs (b) and (d) of the following paragraphs:

- “(b) involve a ‘default’ which has not **[previously been disclosed]** occurred within five years of the disclosure of a similar ‘default’ by the applicant or a person referred to in section 226(3);
- (d) involve **[the potential imposition of an]** a behaviour referred to in column 2 of the understatement penalty **[in respect of the ‘default’]** percentage table in section 223;”.

DRAFT

Amendment of section 229 of Act 28 of 2011, as amended by section 75 of Act 21 of 2012

66. Section 229 of the Tax Administration Act, 2011, is hereby substituted by the following section:

“**229.** Despite the provisions of a tax Act, SARS must, pursuant to the making of a valid voluntary disclosure by the applicant and the **[conclusions]** conclusion of the voluntary disclosure agreement under section 230—

- (a) not pursue criminal prosecution for a tax offence arising from the ‘default’;
- (b) grant the relief in respect of any understatement penalty to the extent referred to in column 5 or 6 of the understatement penalty percentage table in section 223; and
- (c) grant 100 per cent relief in respect of an administrative non-compliance penalty that was or may be imposed under Chapter 15 or a penalty imposed under a tax Act, excluding a penalty imposed under that Chapter or in terms of a tax Act for the late submission of a return **[or a late payment of tax]**.”.

Amendment of section 236 of Act 28 of 2011

67. Section 236 of the Tax Administration Act, 2011, is hereby substituted by the following section:

“**236.** A person who contravenes the provisions of section 67(2) **[or]**, (3) or (4), 68(2), 69(1) or (6) or 70(5) is guilty of an offence and, upon conviction, is subject to a fine or to imprisonment for a period not exceeding two years.”.

Amendment of section 251 of Act 28 of 2011

68. (1) Section 251 of the Tax Administration Act, 2011, is hereby amended by the substitution for paragraph (d) of the following paragraph:

- “(d) sent to the person’s last known electronic address, which includes—
 - (i) the person’s last known email address; **[or]**

DRAFT

- (ii) the person's last known telefax number; or
- (iii) the person's electronic filing page on the SARS electronic filing service as defined in rules issued under section 255(1), if the person is a registered user as defined in those rules.".

(2) Subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 252 of Act 28 of 2011, as amended by section 87 of Act 21 of 2012

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

- "(d) sent to the company or its public officer's last known electronic address, which includes the—
- (i) last known email address; **[or]**
 - (ii) last known telefax number; or
 - (iii) the company or public officer's electronic filing page on the SARS electronic filing service as defined in rules issued under section 255(1), if the company or public officer is a registered user as defined in those rules.".

(2) Subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 256 of Act 28 of 2011, as substituted by section 64 of Act 44 of 2014

70. Section 256 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

DRAFT

“Despite the provisions of Chapter 6, SARS may confirm the taxpayer’s tax compliance status as at the date of **[a] the request, or a previous date as prescribed by the Minister in a regulation under section 257(2A), by—**”.

Amendment of section 257 of Act 28 of 2011, as amended by section 90 of Act 21 of 2012

71. Section 257 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2A) of the following subsection:

“(2A) For purposes of **[the issue of a tax clearance certificate]** confirmation of tax compliance status of a taxpayer under section 256, the Minister may make regulations regarding—

- (a) the circumstances when a **[tax clearance certificate]** confirmation or update of or a change in the tax compliance status of a taxpayer may be required from a person or **[be issued by]** SARS;
- (b) the period of validity of a **[tax clearance certificate]** confirmation of tax compliance status of a taxpayer; or
- (c) any procedure to further regulate the issue or withdrawal of a **[tax clearance certificate]** confirmation of tax compliance status of a taxpayer.”.

Amendment of section 270 of Act 28 of 2011, as amended by section 86 of Act 39 of 2013 and section 65 of Act 44 of 2014

72. (1) Section 270 of the Tax Administration Act, 2011, is hereby amended by the insertion after subsection (6D) of the following subsections:

“(6E) Until the date of promulgation of the whole of Chapter 12 and of Schedule 1 to this Act—

- (a) the accrual and payment of interest on an understatement penalty imposed under section 222 must be calculated in the manner that interest upon additional tax is calculated in terms of the interest provisions of the relevant tax Act; and

DRAFT

(b) the effective date referred to in section 187(3)(f) for tax understated before 1 October 2012 will be regarded as the commencement date of this Act.

(6F) From the date of the promulgation of the whole of Chapter 12 and of Schedule 1 to this Act, the accrual and payment of interest on an understatement penalty imposed under section 222 must be calculated in the manner prescribed by Chapter 12 in respect of an understatement penalty imposed after such date.”

(2) Subsection (1) is deemed to have come into operation on the date of the commencement of the Tax Administration Act, 2011, on 1 October 2012.

Amendment of section 1 of Act 30 of 2014, as amended by section 69 of Act 44 of 2014

73. Section 1 of the Customs Duty Act, 2014, is hereby amended—

(a) by the substitution in subsection (1) for the definition of “origin determination” of the following definition:

“ ‘**origin determination**’, in relation to goods, means a determination of the origin of goods by the customs authority in terms of section **[154(1)]** 153(1);” and

(b) by the substitution in subsection (1) for the definition of “origin re-determination” of the following definition:

“ ‘**origin re-determination**’, in relation to goods, means a re-determination of the origin of goods by the customs authority in terms of section **[157]** 154(1)(a) or (b);”.

Amendment of section 24 of Act 30 of 2014

74. Section 24 of the Customs Duty Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) may be granted only on application by—
(i) a specific person, as may be prescribed by rule, liable for the payment of duty on those goods; **[or]**
(ii) the customs broker acting on behalf of that person; or

DRAFT

- (iii) a customs broker who intends to manage a deferment benefit for the payment of duty as contemplated in section 39(2)(a); and".

Amendment of section 25 of Act 30 of 2014

75. Section 25 of the Customs Duty Act is hereby amended by—

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

"(1) The customs authority must—

- (a) withdraw a duty deferment benefit granted to a person if that person—

- ~~[(a)](i)~~ acquired the benefit under false pretences;

- ~~[(b)](ii)~~ is no longer engaged in the import or export of goods or related activities; or

- ~~[(c)](iii)~~ is sequestered or liquidated; or

- (b) if a person to whom a duty deferment benefit has been granted, failed to pay within three working days after payment became due any deferred duty or other tax or amount payable by that person to the Commissioner in terms of this Act, another tax levying Act or the Customs Control Act, suspend such deferment benefit pending payment of the amount payable.";

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

"(1A) The suspension of a duty deferment benefit in terms of subsection (1)(b) is a ground for withdrawal of the benefit.";

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

"(a) that person[—

- (i)** has in a material respect breached a condition applicable to the benefit in terms of section 24(2); or

- [(ii)]** **failed to pay within three working days after payment became due any deferred duty or other tax or amount payable by that person to the Commissioner in terms of this Act, another tax levying Act or the Customs Control Act; or]**";

DRAFT

- (d) the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

“If the customs authority intends to suspend or withdraw a deferment benefit in terms of subsection (1)(a) or (2), it must first—”;

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

“(6)(a) Despite subsection (5), the customs authority may in terms of subsection (2) suspend a deferment benefit with immediate effect if circumstances so demand, and in such a case the person to whom the deferment benefit was granted is entitled to submit to the customs authority representations on the suspension within three working days after the deferment benefit has been suspended, read with section 908 of the Customs Control Act.

“(b) Paragraph (a) also applies if a person’s deferment benefit has been suspended in terms of subsection (1)(b).

“(c) The customs authority must consider any representations in terms of paragraph (a) or (b) and either confirm or revoke the suspension.”; and

- (f) the substitution in subsection (7) for the words preceding paragraph (a) of the following words:

“If the customs authority decides to suspend or withdraw a deferment benefit in terms of subsection (2) or (1)(a), the customs authority must—”.

Amendment of section 39 of Act 30 of 2014

76. Section 39 of the Customs Duty Act, 2014, is hereby amended by—

- (a) the deletion of the word “or” at the end of paragraph (b) of subsection (2);
- (b) the insertion of the word “or” at the end of paragraph (c) of subsection (2); and
- (c) the addition to subsection (2) of the following paragraph:

“(d) the customs broker is not in possession of a clearance instruction of the principal on whose behalf the declaration was submitted.”.

DRAFT

Amendment of section 67 of Act 30 of 2014

77. Section 67 of the Customs Duty Act, 2014, is hereby substituted by the following section:

“Application for refund and drawback

67. The customs authority may, subject to section 72, refund a duty, administrative penalty or interest or grant a drawback of an import duty only on application by =

- (a) the person who paid the duty, penalty or interest; **[or]**
- (b) that person’s duly appointed representative[.]; or
- (c) any other person authorised by the Commissioner.”.

Amendment of section 88 of Act 30 of 2014, as amended by section 70 of Act 44 of 2014

78. Section 88 of the Customs Duty Act, 2014, is hereby amended by the addition of the word “or” at the end of subparagraph (iii) of subsection (1)(a).

Amendment of section 182 of Act 30 of 2014

79. Section 182 of the Customs Duty Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) **[Rules made in terms of subsection (1) may make applicable provisions of]** Chapter 28 of the Customs Control Act, with any modifications necessary for the enforcement or implementation of an international trade agreement as may be made by rules in terms of subsection (1), **[for regulating]** applies to the registration of persons referred to in that subsection.”.

Amendment of section 185 of Act 30 of 2014

80. Section 185 of the Customs Duty Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

DRAFT

“(2) [Rules made in terms of subsection (1) may make applicable provisions of] Chapter 28 of the Customs Control Act, with any modifications necessary for the enforcement or implementation of a non-reciprocal generalised system of preferences as may be made by rules in terms of subsection (1), [for regulating] applies to the registration of persons referred to in that subsection.”.

Amendment of section 201 of Act 30 of 2014, as amended by section 71 of Act 44 of 2014

81. Section 201 of the Customs Duty Act, 2014, is hereby amended by—

(a) the substitution for the Table in subsection (2) of the following Table:

“FIXED AMOUNT PENALTIES

Category of breach	Amount of penalty
Category A	Maximum of R2500
Category B	R5 000
Category C	R7 500
Category D	R10 000

”; and

(b) the addition of the following subsection:

“(4) No fixed amount penalty may be imposed in terms of this section for a breach consisting of a failure to submit to the customs authority full or accurate information, other than information that may result in revenue prejudice, if the breach was committed inadvertently and in good faith.”.

Amendment of section 202 of Act 30 of 2014, as amended by section 72 of Act 44 of 2014

82. Section 202 of the Customs Duty Act, 2014, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The customs authority may for a non-prosecutable breach of this Act listed in terms of section 201(1) consisting of a failure to submit to the customs authority full

DRAFT

or accurate information other than information that may result in revenue prejudice, impose in terms of subsection (1) a fixed amount penalty for the breach only after it has issued a warning for the same or a similar type of breach to the person who committed the breach.”.

Substitution of section 221 of Act 30 of 2014, as amended by section 73 of Act 44 of 2014

83. The following section is hereby substituted for section 221 of the Customs Duty Act, 2014:

“Admissibility of certain statements in documents

221. In any criminal or civil proceedings arising from the **[application]** implementation or enforcement of this Act, any statement in any record, letter or other document submitted, kept or received by or on behalf of any person to the effect that goods of a particular price, value (including any commission, discount, cost, charge, expense, royalty, freight, tax, drawback, refund, rebate or other information which relates to such goods and has a bearing on such price or value), quantity, quality, nature, strength or other characteristic have been produced, imported, exported, ordered, supplied, purchased, sold, dealt with, processed, traded in or held in stock by that person, is admissible as evidence that that person has produced, imported, exported, ordered, supplied, purchased, sold, dealt with, processed, traded in or held in stock goods of that price, value, quantity, quality, nature, strength or other characteristic.”.

Amendment of section 1 of Act 31 of 2014

84. Section 1 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1) in the definition of “customs code” for paragraph (a) of the following paragraph:

“(a) in terms of section **[612(1)(c)]** 612(c) to a registered person;”.

DRAFT

Amendment of section 21 of Act 31 of 2014

85. Section 21 of the Customs Control Act, 2014, is hereby amended—

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

“(1) No SARS official, customs officer or person referred to in section 12(3)(a), and no person who was such an official, officer or person, may disclose any information acquired by him or her in the exercise of powers or duties in terms of this Act, the Customs Duty Act or the Excise Duty Act concerning the confidential matters of SARS or the private or confidential matters of any person, except—”;
and

(b) by the addition of the following subsection:

“(2) For purposes of this section, information concerning the confidential matters of SARS means—

(a) any SARS internal policy document, internal guide or internal standard operating procedure document or memorandum; or

(b) an opinion, advice, report, recommendation or an account of a consultation, discussion or deliberation that has occurred, if—

(i) the information was given, obtained or prepared by or for SARS for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law; and

(ii) the disclosure of the information could reasonably be expected to frustrate the deliberative process in SARS or between SARS and other organs of state by—

(aa) inhibiting the candid communication of an opinion, advice, report or recommendation or conduct of a consultation, discussion or deliberation; or

(bb) frustrating the success of a policy or contemplated policy by the premature disclosure thereof;

DRAFT

- (c) information about research being, or to be, carried out by or on behalf of SARS, the disclosure of which would be likely to prejudice the outcome of the research;
- (d) information, the disclosure of which could reasonably be expected to prejudice the economic interests or financial welfare of the Republic or the ability of the government to manage the economy of the Republic effectively in the best interests of the Republic, including a contemplated change or decision to change a tax or a duty, levy, penalty, interest and similar moneys imposed under a tax levying Act;
- (e) information supplied in confidence by or on behalf of another state or an international organisation to SARS;
- (f) a computer program, as defined in section 1(1) of the Copyright Act, 1978 (Act No. 98 of 1978), owned by SARS;
- (g) information relating to the security of SARS buildings, property, structures or systems; and
- (h) information relating to the verification or audit selection procedure or method used by SARS, the disclosure of which could reasonably be expected to jeopardise the effectiveness thereof.”.

Amendment of section 49 of Act 31 of 2014

86. Section 49 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (c) of subsection (3) of the following paragraph:

“(c) A carrier commits a Category 1 offence if goods in respect of which a warning has been issued in terms of paragraph (a)(i) **[is]** are on board the vessel when it enters the Republic.”.

Amendment of section 65 of Act 31 of 2014

87. Section 65 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (1) of the following subsection:

DRAFT

“(1) The on-board operator of a bus entering the Republic must, upon arrival at the land border-post where the bus enters the Republic, **[submit] report** to the customs authority at that border-post **[an] the** arrival **[report in respect]** of the bus and of all travellers and crew on board the bus in a manner as may be prescribed by rule.”.

Amendment of section 67 of Act 31 of 2014

88. Section 67 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The on-board operator of a bus leaving the Republic must **[upon arrival]** at the land border-post where the bus will leave the Republic **[submit] report** to the customs authority at that land border-post **[a] the** departure **[report in respect]** of the bus and of all travellers and crew on board the bus in a manner as may be prescribed by rule.”.

Amendment of section 69 of Act 31 of 2014

89. Section 69 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The on-board operator of a truck entering the Republic must upon arrival at the land border-post where the truck enters the Republic **[submit] report** to the customs authority at that land border-post in a manner as may be prescribed by rule—

- (a) **[an] the** arrival **[report in respect]** of the truck and crew; and
- (b) **[a manifest of]** all cargo on board the truck.”.

Amendment of section 71 of Act 31 of 2014

90. Section 71 of Act 31 of 2014, is hereby amended by the substitution for subsection (1) of the following subsection:

DRAFT

“(1) The on-board operator of a truck due to leave the Republic with cargo on board must **[upon arrival]** at the land border-post where the truck will leave the Republic **[submit] report** to the customs authority at that land border-post in a manner as may be prescribed by rule—

- (a) **[a] the departure **[report in respect]**** of the truck and crew; and
- (b) **[a manifest of]** all cargo on board the truck.”.

Amendment of section 110 of Act 31 of 2014

91. Section 110 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Imported goods may not remain under consecutive customs procedures for longer than three years from the date of **[import] clearance for the first procedure** or for longer than an extension of that period in terms of section 908.”.

Amendment of section 112 of Act 31 of 2014

92. Section 112 of the Customs Control Act, 2014, is hereby amended by the substitution for the section heading of the following section heading:

“Tax consequences for imported goods under customs procedures in event of non-compliance or other happenings”.

Amendment of section 113 of Act 31 of 2014

93. Section 113 of the Customs Control Act, 2014, is hereby amended by the substitution for the section heading of the following section heading:

“Tax consequences for former free circulation goods under customs procedures in event of non-compliance or other happenings”.

DRAFT

Amendment of section 115 of Act 31 of 2014

94. Section 115 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph *(d)* of the following paragraph:

“(d) seizing the goods in terms of Chapter ~~[35]~~ 34.”.

Amendment of section 171 of Act 31 of 2014

95. Section 171 of the Customs Control Act, 2014, is hereby amended by—

- (a) the insertion of the word “and” at the end of paragraph *(b)* of subsection (1);
- (b) the deletion of the word “and” at the end of paragraph *(c)* of subsection (1); and
- (c) the deletion of paragraph *(d)* of subsection (1).

Amendment of section 205 of Act 31 of 2014

96. Section 205 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph *(a)* of subsection (1) of the following paragraph:

“(a) the licensed premises at the customs seaport or airport where the goods were off-loaded from the foreign-going vessel or aircraft on board of which the goods were imported into the Republic;”.

Amendment of section 211 of Act 31 of 2014

97. Section 211 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph *(b)* of the following paragraph:

“(b) **[endorse]** include in that carrier’s transport document or road manifest **[with]—**”.

Repeal of section 214 of Act 31 of 2014

98. Section 214 of the Customs Control Act, 2014, is hereby repealed.

DRAFT

Amendment of section 233 of Act 31 of 2014

99. Section 233 of the Customs Control Act, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) **[endorse]** include in that carrier’s transport document or road manifest **[with]—**”.

Repeal of section 235 of Act 31 of 2014

100. Section 235 of the Customs Control Act, 2014, is hereby repealed.

Amendment of section 259 of Act 31 of 2014

101. Section 259 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“If transshipment goods **[loaded on board the vessel or aircraft that will transport the goods out of the Republic,]** are not exported from the Republic within a timeframe from commencement of the transshipment operation as may be prescribed by rule read with sections 908 and 909, the person clearing the goods for transshipment must—”.

Amendment of section 299 of Act 31 of 2014

102. Section 299 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (3)(d) for subparagraph (ii) of the following subparagraph:

“(ii) has advised the customs authority electronically in accordance with section 913, or in another manner as may be prescribed by rule of such permission.”.

Amendment of section 313 of Act 31 of 2014

103. Section 313 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (f) of the following paragraph:

DRAFT

“(f) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods **[to a warehouse]** under the warehousing procedure and the requirements and conditions for such transport; and”.

Amendment of section 332 of Act 31 of 2014

104. Section 332 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a tax free shop under the tax free shop procedure and the requirements and conditions for such transport.”.

Amendment of section 350 of Act 31 of 2014

105. Section 350 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1)(b) for subparagraph (iv) of the following subparagraph:

“(iv) another purpose as may be prescribed by rule or approved by the customs authority in a specific case.”.

Amendment of section 359 of Act 31 of 2014

106. Section 359 of the Customs Control Act, 2014, is hereby amended by the substitution for subparagraph (i) of paragraph (e) of the following subparagraph:

“(i) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a vessel, aircraft or train under the stores procedure and the requirements and conditions for such transport; and”.

DRAFT

Amendment of section 368 of Act 31 of 2014

107. Section 368 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1)—

(a) for the words preceding paragraph (a) of the following words:

“To enable the customs authority to carry out any necessary inspections of goods cleared for export in terms of the export procedure, the goods must, timeously or within such timeframes as may be prescribed by rule, be delivered to—”; and

(b) for the words in paragraph (c) preceding subparagraph (i) of the following words:

“the terminal where the goods will be loaded on board a foreign-going vessel, foreign-going aircraft or cross-border railway carriage in which the goods are to be exported, in the case of **[those and]** all other goods, including goods—”.

Amendment of section 372 of Act 31 of 2014

108. Section 372 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a place of exit under the export procedure and the requirements and conditions for such transport; and”.

Amendment of section 373 of Act 31 of 2014

109. Section 373 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) section 368(1) by failing to deliver goods within the timeframe applicable to the goods, if a timeframe has been prescribed; or”.

DRAFT

Repeal of section 396 of Act 31 of 2014

110. Section 396 of the Customs Control Act, 2014, is hereby repealed.

Amendment of section 412 of Act 31 of 2014

111. Section 412 of the Customs Control Act, 2014, is hereby amended—

(a) by the deletion of subparagraph (i) of paragraph (d); and

(b) by the deletion of paragraph (f).

Amendment of section 418 of Act 31 of 2014

112. Section 418 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) if no period is in terms of paragraph (a) determined for the relevant class or kind of imported goods, within two years from the date of **[import]** clearance for inward processing of the first constituent goods from which the compensating products were obtained.”.

Amendment of section 421 of Act 31 of 2014

113. Section 421 of the Customs Control Act, 2014, is hereby amended by the deletion of paragraph (b).

Amendment of section 432 of Act 31 of 2014

114. Section 432 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (f) of the following paragraph:

“(f) prescribing for purposes of section 122(c), any persons, other than carriers, permitted to transport under the inward processing procedure imported goods or compensating products, by-products or waste obtained from the

DRAFT

imported goods and the requirements and conditions for such transport;
and”.

Amendment of section 439 of Act 31 of 2014

115. Section 439 of the Customs Control Act, 2014, is hereby amended by the deletion of subparagraph (i) of paragraph (d).

Amendment of section 444 of Act 31 of 2014

116. Section 444 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) if not determined in the Customs Tariff, within two years from the date of **[import]** clearance for home use processing of the first constituent goods from which the compensating products were obtained.”.

Amendment of section 452 of Act 31 of 2014

117. Section 452 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) prescribing for purposes of section 122(c), any persons, other than carriers, permitted to transport under the home use processing procedure imported goods or products obtained from the imported goods before those products become goods in free circulation and the requirements and conditions for such transport; and”.

Amendment of section 458 of Act 31 of 2014

118. Section 458 of the Customs Control Act, 2014, is hereby amended—

(a) by the deletion of subparagraph (i) of paragraph (c); and

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

DRAFT

Amendment of section 460 of Act 31 of 2014

119. Section 460 of the Customs Control Act, 2014, is hereby amended—

- (a) by the addition of the word “and” at the end of paragraph (c); and
- (b) by the deletion of paragraph (d).

Amendment of section 580 of Act 31 of 2014

120. Section 580 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

“When goods are delivered to licensed premises in compliance with a direction or authorisation issued in terms of subsection (1)(b)—”.

Amendment of section 581 of Act 31 of 2014

121. Section 581 of the Customs Control Act, 2014, is hereby amended—

- (a) by the substitution for the section heading of the following heading:

“**Submission of removal and retention notices**”;

- (b) by the insertion after the section number of the following number:

“(1)”; and

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

“(2) When goods are in terms of a direction or authorisation issued in terms of section 580(1)(a) retained on any licensed premises, the licensee of those premises must submit a notice of retention of the goods containing such information as may be prescribed by rule to the state warehouse determined in terms of section 580(3), together with all supporting documents concerning those goods which are in the possession of that licensee.”.

DRAFT

Amendment of section 590 of Act 31 of 2014

122. Section 590 of the Customs Control Act, 2014, is hereby amended—

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

“(1) A person entitled to goods in or accounted for in a state warehouse to which this Part applies may, within a timeframe as may be prescribed by rule **[from the date of publication of the list reflecting those goods]**, read with sections 908 and 909, reclaim those goods—”;

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

“(1A) If any goods reclaimed in terms of subsection (1) are goods that have been detained, the detention of the goods must be regarded to have been terminated if the customs authority in terms of that subsection releases the goods for home use or a customs procedure or otherwise approves the reclaim.”; and

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

“(2) Subsection (1) does not apply in respect of goods that—
(a) are or have been dealt with in terms of section 593;
(b) have been abandoned to the Commissioner;
(c) have been seized or confiscated and the seizure or confiscation has not been terminated; or
(d) **[that]** are to be destroyed.”.

Amendment of section 600 of Act 31 of 2014

123. Section 600 of the Customs Control Act, 2014, is hereby amended—

(a) by the deletion of the word “and” at the end of paragraph (a);

(b) by the addition of the word “and” at the end of paragraph (b); and

(c) by the addition of the following paragraph:

DRAFT

“(c) measures to regulate the removal of goods from a state warehouse or premises where the goods are kept, including goods other than goods referred to in section 591, 596(4) or 598.”.

Amendment of section 626 of Act 31 of 2014

124. Section 626 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) prescribing simplified registration processes for casual importers or exporters importing or exporting goods below a prescribed value, or other categories of persons;”.

Amendment of section 627 of Act 31 of 2014

125. Section 627 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) contravenes section 604 **[or]**, 622 or 624(1); or”.

Amendment of section 695 of Act 31 of 2014

126. Section 695 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) The following debt payable to the Commissioner in terms of this Act is debt payable to the Commissioner for credit of SARS:

- (i) **[If costs] Costs** or expenses referred to in section 694(b) that were paid from SARS’ own funds[, **the amount of those costs or expenses, including interest on that amount, is a debt payable to the Commissioner for credit of SARS**];
- (ii) any state warehouse rent and additional charges payable to the Commissioner in terms of section 575(2)(b)(i);
- (iii) any fees or charges for services rendered by the customs authority;

DRAFT

- (iv) any other debt not collected for a revenue fund as contemplated in section 12(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
- (v) any interest charged on debt referred to in subparagraphs (i) to (iv).”.

Amendment of section 761 of Act 31 of 2014

127. Section 761 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

- “(b) the need for the further detention of the goods **[have]** has fallen away, including where security is given in the case of goods detained by reason of a risk to collect tax or other debt that may be payable or become payable on the goods;”.

Amendment of section 762 of Act 31 of 2014

128. Section 762 of the Customs Control Act, 2014, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

- “The customs authority may seize any goods to which this Chapter applies, including goods detained in terms of section **[734(1)]** 754(1) or (2)—”.

Amendment of section 780 of Act 31 of 2014

129. Section 780 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) The customs authority may grant an application in terms of subsection (2) only if the **[applicant submits written proof to the customs authority]** application is supported by written proof that the administering authority has no objection to the application.”.

DRAFT

Amendment of section 789 of Act 31 of 2014

130. Section 789 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The customs authority may grant an application in terms of subsection (2) only if the **[applicant submits written proof to the customs authority]** application is supported by written proof that the administering authority has no objection to the application.”.

Amendment of section 823 of Act 31 of 2014

131. Section 823 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) who is the right-holder in respect of goods is guilty of an offence if that person contravenes or fails to comply with section 812(2), 813(2) or **[815(1)(a)]** 815(1) or (2); or”.

Amendment of section 825 of Act 31 of 2014

132. Section 825 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) the **[settling]** resolution of disputes arising from the implementation, enforcement or interpretation of this Act, the Customs Duty Act or the Excise Duty Act.”.

Amendment of section 832 of Act 31 of 2014

133. Section 832 of the Customs Control Act, 2014, is hereby amended by the addition of the following subsection, the existing provision becoming subsection (1):

“(2) A customs officer or a SARS official may not exercise any of the powers referred to in subsection (1)(a) or (b) without the approval of the Commissioner or of the supervisor of that officer or official.”.

DRAFT

Amendment of section 877 of Act 31 of 2014

134. Section 877 of the Customs Control Act, 2014, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The customs authority may for a **[Category A breach referred to in the Table in section 876(2)]** non-prosecutable breach of this Act listed in terms of section 876(1) consisting of a failure to submit to the customs authority full or accurate information other than information that may result in revenue prejudice, impose in terms of subsection (1) a fixed amount penalty for the breach only after it has issued a warning for the same or a similar type of breach to the person who committed the breach.”.

Amendment of section 896 of Act 31 of 2014

135. Section 896 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) the name and **[place of residence]** physical address of the person who is to institute the proceedings; and”.

Amendment of section 913 of Act 31 of 2014

136. Section 913 of the Customs Control Act, 2014, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) the customs authority must, in the event of a communications breakdown—
(i) extend the deadline for submission of the document or communication by the time lost because of the breakdown and allow that person to submit the document or communication within the extended timeframe electronically or through that electronic system as soon as the breakdown has been resolved, if that document or communication falls within a category of documents or communications as may be prescribed by rule; or

DRAFT

- (ii) allow that person to submit the document or communication [may in the event of a communications breakdown be submitted] in paper format within such period and at such place as the customs authority may determine or as may be prescribed by rule, if that document or communication does not fall within a category of documents or communications referred to in subparagraph (i); or”.

Amendment of section 32 of Act 44 of 2014

137. (1) Section 32 of the Tax Administration Laws Amendment Act, 2014, is hereby amended by the renumbering of the present provision as subsection (1) and the addition of the following subsection:

“(2) Subsection (1) comes into operation on the date on which paragraph 134 of Schedule 1 to the Tax Administration Act, 2011 (Act No. 28 of 2011), comes into operation.”.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Amendment of section 52 of Act 44 of 2014

138. Section 52 of the Tax Administration Laws Amendment Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on [a date determined by the Minister of Finance by notice in the Gazette] the date on which section 187(2) of the Tax Administration Act, 2011, comes into operation.”

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Short title and commencement

139. (1) This Act is called the Tax Administration Laws Amendment Act, 2015.

DRAFT

(2) Subject to subsections (3) and (4), and save in so far as is otherwise provided for in this Act or the context otherwise indicates, the amendments effected by this Act come into operation on the date of promulgation of this Act.

(3) The amendments to the Customs Duty Act, 2014, take effect immediately after the Customs Duty Act, 2014, has taken effect in terms of section 229 of that Act.

(4) The amendments to the Customs Control Act, 2014, take effect immediately after the Customs Control Act, 2014, has taken effect in terms of section 944(1) of that Act.