

REPUBLIC OF SOUTH AFRICA

DRAFT TAX ADMINISTRATION LAWS AMENDMENT BILL, 2020

(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. of) (The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B - 2020]

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.
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BILL

To—

- amend the Estate Duty Act, 1955, so as to update an incorrect cross-reference;
- amend the Income Tax Act, 1962, so as to delete obsolete wording; so as to make a decision subject to objection and appeal; so as to enable a public benefit organisation to provide funds and assets to any department of government of the Republic and effect consequential amendments relating thereto; to align provisions to provide that only approved public benefit organisations can provide certain certificates; to provide that audit certificates must be obtained and retained by certain organisations; to align situations where withholding tax on royalties was due and payable but subsequently becomes irrecoverable with that of withholding tax on interest; to provide that certain entities be excluded from the definition of provisional taxpayer; to align the wording with certain current processes and remove a reference to a deleted provision; to remove the requirement of intent from certain criminal offences; to effect a consequential amendment; and to replace a reverse onus provision with an evidentiary burden;

- **amend the Customs and Excise Act, 1964, so as to make technical corrections; to extend a provision concerning information sharing and to exclude certain information from the application of the prohibition on disclosure of information; to clarify the movement in bond of containerised goods on the strength of a manifest and without furnishing security to licensed container depots or container terminals appointed or prescribed; to clarify how bills of entry may be adjusted; to provide for the commencement of liability for export duty; to provide for the liability of the master of a ship or pilot of an aircraft or other carrier for duty on goods deemed imported to cease upon delivery of the goods to a licensed remover in bond, for the assumption of such liability by a licensed remover in bond, as well as for the circumstances in which liability of the licensed remover in bond will cease; to clarify the meaning of “free on board” in relation to goods exported; to provide for the limitation of the period for applications for refunds of export duty; and to widen a provision relating to the production of permits or certificates required in respect of imported goods to apply to exported goods as well;**
- **amend the Value-Added Tax Act, 1991, so as to substitute the requirement to submit a return with the obligation to obtain, complete and retain the form prescribed by the Commissioner; to substitute obsolete wording; and to remove the requirement of intent from certain criminal offences;**
- **amend the Skills Development Levies Act, 1999, so as to provide that the Commissioner may refuse to authorise a refund if a return is outstanding;**

- amend the Unemployment Insurance Contributions Act, 2002, so as to provide that the Commissioner may refuse to authorise a refund if a return is outstanding;
 - amend the Tax Administration Act, 2011, so as to provide for a textual correction, to clarify certain terminology; to effect a consequential amendment; to move certain provisions to another section; to provide for consequential amendments; to provide for the issue of assessments based on an estimate where a taxpayer fails to provide relevant information; to amend the period within which a reduced assessment can be requested; to align the period within which an extension may be granted with the period for prescription; to provide for a specific effective date with regards to interest calculated on an erroneous overpayment of tax; to provide for interest on royalties payable in terms of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008 and to provide for the interest rate with regards to refunds due under that Act; to provide that a refund does not need to be authorised where a matter is under criminal investigation and to remove the requirement of intent from certain criminal offences,
- and to provide for matters connected therewith.

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

Amendment of section 10 of Act 45 of 1955, as amended by section 271 read with paragraph 18 of Schedule 1 to Act 28 of 2011, section 3 of Act 21 of 2012 and section 2 of Act 13 of 2017

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

“(1) If any duty remains unpaid at the expiration of a period of thirty days from the date of payment notified in accordance with **[subsection (2) of section nine]**section 9C, there shall be payable, in addition to the unpaid duty, interest at the rate of six per cent, per annum on the amount of unpaid duty calculated from the date of the expiration of the said period to the date of payment: Provided that, where the assessment of duty is delayed beyond a period of twelve months from the date of death, interest at the rate of six per cent[.] per annum shall be payable as from a date twelve months after the date of death on the difference (if any) between the duty assessed and any deposit (if any) made on account of the duty payable within the said period of twelve months.”.

Amendment of section 1 of Act 58 of 1962 as amended by Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of

Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 23 of Schedule 1 to that Act, section 2 of Act 22 of 2012, section 4 of Act 31 of 2013, section 1 of Act 43 of 2014, section 3 of Act 25 of 2015, section 5 of Act 15 of 2016, section 2 of Act 17 of 2017, section 1 of Act 23 of 2018 and section 1 of Act 34 of 2019

2. Section 1 of the Income Tax Act, 1962, is hereby amended by the substitution in the definition of “**representative taxpayer**” for paragraph (c) of the following paragraph:

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

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 5 of Act 60 of 2008, section 2 of Act 61 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, section 2 of Act 43 of 2014, section 2 of Act 44 of 2014, section 1 of Act 23 of 2015, section 1 of Act 16 of 2016, section 2 of Act 22 of 2018 and section 1 of Act 33 of 2019

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

“(b) section 8(5)(b) and (bA), section 10(1)(cA), (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(1)(a)(cc), (b) and (c), section 18A(1)(bA)(dd), 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);”.

Amendment of section 18A of Act 58 of 1962, as substituted by section 24 of Act 30 of 2000 and amended by section 72 of Act 59 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 31 of Act 35 of 2007, section 1 of Act 3 of 2008, section 6 of Act 4 of 2008, section 34 of Act 60 of 2008, section 37 of Act 7 of 2010, section 44 of Act 24 of 2011, section 7 of Act 21 of 2012, section 52 of Act 31 of 2013, section 29 of Act 43 of 2014, section 3 of Act 44 of 2014, section 34 of Act 15 of 2015, section 31 of Act 17 of 2017 and section 35 of Act 23 of 2018

4. Section 18A of the Income Tax Act, 1962, is hereby amended—

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

“(b) any public benefit organisation contemplated in paragraph (a)(i) of the definition of “public benefit organisation” in section 30(1) approved by the Commissioner under section 30, which provides funds or assets to any public benefit organisation, or institution, board or body contemplated in paragraph (a), or any department contemplated in paragraph (c) and which has been approved by the Commissioner for the purposes of this section; or”;

(b) by the deletion in subsection (1)(bA) of the word “and” at the end of item (bb);

(c) by the substitution in subsection (1)(bA) for the word “or” of the word “and” at the end of item (cc);

(d) by the addition in subsection(1)(bA) after item (cc) of the following item:

“(dd) has been approved by the Commissioner for the purposes of this section; or”;

(e) by the substitution for subsection (1)(c) of the following subsection:

“(c) any department of government of the Republic in the national, provincial or local sphere as contemplated in section 10(1)(a), which has been approved by the Commissioner for the purposes of this section, to be used for purpose of any activity contemplated in Part II of the Ninth Schedule,

as does not exceed—

(A) where the taxpayer is a portfolio of a collective investment scheme, an amount determined in accordance with the following formula:

$$A = B \times 0,005$$

in which formula:

(AA) “A” represents the amount to be determind;

(BB) “B” represents the average value of the aggregate of all of the participatory interests held by investors in the portfolio for the year of assessment, determined by using the aggregate value of all of the participatory interests in the portfolio at the end of each day during that year; or

- (B) in any other case, ten per cent of the taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit) of the taxpayer as calculated before allowing any deduction under this section or section 6quat(1C)

:Provided that any amount of a donation made as contemplated in his subsection and which has been disallowed solely by reason of the fact that it exceeds the amount of the deduction allowable in respect of the year of assessment shall be carried forward and shall, for the purposes of this section, be deemed to be a donation actually paid or transferred in the next succeeding year of assessment.”;

(f) by the substitution in subsection (2A) for item (ii) in paragraph (b) of the following item:

“(ii) **[if that public benefit organisation]**which provides funds and assets to public benefit organisations, institutions, boards or bodies or any department that carry on public benefit activities contemplated in **[Part]Parts I and II** of the Ninth Schedule **[and to other entities]**, that donation will be utilised solely to provide funds or assets to a public benefit organisation, institution, board or body contemplated in subsection (1)(a), which will utilise those funds or assets solely in

carrying on activities contemplated in Part II of the Ninth Schedule or to any department contemplated in subsection (1)(c) which will utilise those funds or assets solely for the purpose of any activity contemplated in Part II of the Ninth Schedule; or”;

(g) the substitution for subsection (2D) of the following subsection:

“(2D) Any public benefit organisation contemplated in subsection (1)(b), in respect of any amount that is not distributed **[referred to] as required** in subsection (2A)(b)(i), shall distribute or incur the obligation to distribute all amounts received in respect of investment assets held by it, other than amounts received in respect of disposals of those investment assets to any public benefit organisation, institution, board or body contemplated in subsection (1)(a) or to any department contemplated in subsection (1)(c), no later than six months after—”;

(h) the substitution in subsection (5) for the comma at the end of paragraph (c) with a semi-colon; and

(i) the addition in subsection (5) of the following paragraphs:

“(d) failed to obtain and retain an audit certificate as contemplated in subsection (2B); or

(e) failed to submit an audit certificate as contemplated in subsection (2C).”

Amendment of section 49G of Act 58 of 1962 as inserted by section 12 of Act 21 of 2012

5. Section 49G of the Income Tax Act, 1962, is hereby amended—
- (a) by the renumbering of the current section to subsection (1); and
- (b) by the addition after subsection (1) of the following subsection:
- “(2) Notwithstanding Chapter 13 of the Tax Administration Act, if—
- (a) an amount of withholding tax on royalties is paid as contemplated in section 49E(1) in respect of an amount of royalties that became due and payable; and
- (b) the amount of royalties subsequently becomes irrecoverable, so much of that amount as would not have been paid had the royalties not become due and payable is refundable by the Commissioner to the person who paid the tax.”.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as amended by 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 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, section 7 of Act 44 of 2014, section 6 of Act 23 of 2015, section 5 of Act 16 of 2016, section 8 of Act 13 of 2017 and section 4 of Act 22 of 2018

6. Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the addition in the definition of “provisional taxpayer” of the following paragraph after paragraph (*ff*):

“(gg) any entity as defined in section 30B that has been approved by the Commissioner in terms of section 30B(2);”.

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, substituted by section 49 of Act 101 of 1990, section 23 of Act 19 of 2001, as amended by section 21 of Act 4 of 2008, substituted by section 11 of Act 39 of 2013, deleted by section 31 of Act 23 of 2015 and section 12 of Act 23 of 2015 and section 49 of Act 101 of 1990

7. 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, 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 the employer as provided in subparagraph (10)]**.”;

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

“(4) Notwithstanding the provisions of sub-paragraphs (1) and (2) any employer who has deducted or withheld employees’ tax from the remuneration of any employee shall as and when required by the Commissioner deliver to such employee 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 any period specified by the

Commissioner but 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 as provided in subparagraph (10)].**”;

- (c) by the deletion of subparagraphs (8), (9), (10), (11), (13) and (14); and
- (d) by the substitution for subparagraph (15) of the following subparagraph:

“(15) For the purposes of this Schedule any employees' tax certificate on which appears the name or any trade name of any employer shall until the contrary is proved be deemed to have been issued by such employer if such certificate is in a form prescribed by the Commissioner **[for general use and was supplied by the Commissioner to such employer for use by him or is in a form approved by the Commissioner under subparagraph (12) for use by such employer].**”.

Amendment of paragraph 30 of Fourth Schedule to Act 58 of 1962, as amended by section 45 of Act 21 of 1995, section 19 of Act 23 of 2015, section 44 of Act 53 of 1999 and section 271 read with paragraph 97 of Schedule 1 to Act 28 of 2011

8. Paragraph 30 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the words in subsection (1) that precede paragraph (a) of the following words:

“Any person who **[wilfully and]** without just cause—”.

- (b) by the deletion in subparagraph (1) of item (a);
- (c) by the deletion in subparagraph (1) of item (g); and
- (d) by the substitution for subparagraph (2) of the following subparagraph:

“(2) For the purposes of item (b) of sub-paragraph (1) **[an amount which has been deducted or withheld by any]**the person may, [from remuneration shall until the contrary is proved be deemed to have been used or applied by such person for purposes other than the payment of such amount to the Commissioner if such amount is not paid to the Commissioner within the period allowed for payment under paragraph 2] unless he or she proves a reasonable possibility that the amount was not so used or applied, be regarded as having used or applied the amount for purposes other than paying the amount to the Commissioner.”.

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, section 1 of Act 32 of 2014, section 20 of Act 23 of 2015 and section 11 of Act 33 of 2019

9. Section 1 of the Customs and Excise Act, 1964, is hereby amended by the insertion in the definition of “importer” in subsection (1) of the expression “; or” after paragraph (e).

Amendment of section 3 of Act 91 of 1964, as amended by section 132 of Act 45 of 2003, section 27 of Act 21 of 2012 and section 2 of Act 32 of 2014

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

“(i) the officer **[of]**or person concerned;” and

(b) by the substitution in subsection (2) for subparagraph (ii) of paragraph (a) of the following subparagraph:

“(ii) the branch manager to whom the officer **[of]**or person in (i) reports;”.

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 16 of Act 39 of 2013, repealed by section 4 of Act 32 of 2014, and amended by section 22 of Act 23 of 2015, section 11 of Act 13 of 2017 and section 12 of Act 33 of 2019

11. Section 4 of the Customs and Excise Act, 1964, pending its repeal by the Customs and Excise Amendment Act, 2014 (Act No. 32 of 2014), is hereby amended—

(a) by the substitution in subsection (3) for paragraph (ivC) of the proviso of the following paragraph:

“(ivC) disclosing to a public officer, as contemplated in section 246 of the Tax Administration Act, of an authorised dealer in foreign exchange appointed by the Minister of Finance for purposes of the **[Exchange Control] Regulations [published under Government Notice No. R1111 of 1 December 1961, as amended,]** issued under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), such information as may be required by the authorised dealer for purposes of verification of applications for advance foreign exchange payments in respect of goods that are to be imported;”;

(b) by the insertion in subsection (3) after paragraph (ivC) of the proviso of the following paragraph:

“(ivD) disclosing to the Director-General of the Department of International Relations and Co-operation such information in relation to purchases of goods free of duty or value-added tax, at premises licensed as special customs and excise warehouses in terms of section 21, as may be required to manage abuses in relation to privileges granted

in terms of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001);”;

(c) by the insertion in subsection (3A) after paragraph (h) of the following paragraph:

“(hA) the Director-General of the Department of International Relations and Co-operation;”; and

(d) by the substitution for subsection (3D) of the following subsection:

“(3D) The prohibition on the disclosure of information by the Commissioner or any officer, referred to in subsection (3), shall not apply in respect of information relating to—

(a) **[information about]** a person licensed or registered in terms of this Act in an anonymised form; **[and]**

(b) **[any information relating to]** any person, where that person has consented that such information may be published or made known to any other person~~[.]~~; and

(c) tariff determinations, provided that publication of such information shall take place in accordance with any rules prescribed by the Commissioner which may include the circumstances in which publication may take place, the kind of information that may be published and the manner in which the information must be published.”.

Amendment of section 18 of Act 91 of 1964, as amended by section 2 of Act 95 of 1965, section 6 of Act 105 of 1969, section 4 of Act 71 of 1975, section 3 of Act 105 of 1976, section 3 of Act 112 of 1977, section 4 of Act 84 of 1987, section 13 of Act 59 of 1990, section 11 of Act 45 of 1995, section 48 of Act 53

of 1999, section 37 of Act 19 of 2001, section 119 of Act 60 of 2001, section 102 of Act 74 of 2002, section 21 of Act 34 of 2004, section 16 of Act 21 of 2006, section 26 of Act 18 of 2009 and section 5 of Act 32 of 2014

12. Section 18 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (1) for paragraph (d) of the following paragraph:

“(d) a container operator may remove any container in bond to the container depot licensed in terms of section 64A, or to the container terminal contemplated in section 6(1)(hA), to which it was consigned, without furnishing the security provided for in subsection (6) of this section, and the manifest of the goods packed in such container shall be deemed to be due entry for removal in bond of that container;”.

Amendment of section 40 of Act 91 of 1964 as amended by section 9 of Act 95 of 1965, section 6 of Act 71 of 1975, section 5 of Act 105 of 1976, section 2 of Act 93 of 1978, section 4 of Act 86 of 1982, section 3 of Act 89 of 1983, section 11 of Act 84 of 1987, section 4 of Act 68 of 1989, section 30 of Act 45 of 1995, section 35 of Act 61 of 2008 and section 29 of Act 32 of 2014

13. Section 40 of the Customs and Excise Act, 1964, is hereby amended—
(a) by the substitution in paragraph (a) of subsection (3) for subparagraph (i) of the following subparagraph:

“(i) an importer or exporter or a manufacturer of goods shall on discovering that a bill of entry delivered by him or her—
(aa) does not in every respect comply with section 39; or

(bb) is invalid in terms of subsection (1) of this section,
adjust that bill of entry without delay by means of—

(A) a voucher of correction; or

**[(B) cancellation of such bill of entry and substitution of a fresh
bill of entry; or]**

(C) in such other manner as the Commissioner may prescribe; or”;
and

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

“Provided that where the purpose for which the goods are entered as
specified on a bill of entry is not correct, such bill of entry must be adjusted in
terms of subparagraph (ii),

and [Provided]provided further that acceptance of such voucher or fresh bill
of entry shall not indemnify such importer or exporter or manufacturer
against any fine or penalty provided for in this Act.”.

**Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act
95 of 1965, section 5 of Act 57 of 1966, section 16 of Act 105 of 1969, section 7
of Act 71 of 1975, section 8 of Act 112 of 1977, section 5 of Act 10 of 1979,
section 3 of Act 89 of 1984, section 5 of Act 52 of 1986, section 13 of Act 84 of
1987, section 21 of Act 59 of 1990, section 3 of Act 98 of 1993, section 33 of Act
45 of 1995, section 51 of Act 53 of 1999, section 136 of Act 45 of 2003, section
67 of Act 32 of 2004, section 12 of Act 9 of 2005, section 91 of Act 35 of 2007,
section 93 of Act 60 of 2008 and section 33 of Act 32 of 2014**

14. Section 44 of the Customs and Excise Act, 1964, is hereby amended—

(a) by the renumbering of the existing wording of subsection (1) to subsection (1)(a) and by the addition of the following paragraph:

“(b) Liability for export duty on any goods specified in Part 6 of Schedule No. 1 shall commence—
(i) when the export bill or entry in respect of such goods is submitted before export in terms of section 38(3)(a); or
(ii) in circumstances where no export bill of entry is submitted before export, when the goods are deemed exported in terms of section 38(3)(b).”;

(b) by the addition in subsection (5) of the following paragraph:

“(e) upon delivery of the goods, if containerized, to a licensed remover of goods in bond for transporting the goods for purposes of examination as contemplated in section 4(8A);”;

(c) by the insertion after subsection (5A) of the following subsection:

“(5AA) The liability of a licensed remover of goods in bond for duty in terms of subsection (6)(bA) shall cease—
(a) in respect of goods which are containerized, upon lawful delivery thereof, after due entry thereof has been made, to the importer or his agent; or
(b) in respect of containers delivered to a licensed remover of goods in bond as contemplated in subsection (5)(e) and specified in a list to be compiled by the licensed remover of goods in bond concerned, upon delivery thereof to a depot operator.”;

(d) by the deletion in subsection (6) of the word “and” at the end of paragraph (b);
 and

(e) by the insertion in subsection (6) of the following paragraph after paragraph (b):

“(bA) in the case contemplated in subsection (5)(e), on the licensed remover of goods in bond concerned; and”.

Amendment of section 72 of Act 91 of 1964, as amended by section 11 of Act 105 of 1976, section 11 of Act 98 of 1980, section 26 of Act 34 of 2004, section 162 of Act 31 of 2013 and repealed by section 62 of Act 32 of 2014

15. Section 72 of the Customs and Excise Act, 1964, pending its repeal by the Customs and Excise Amendment Act, 2014, is hereby amended by the addition after paragraph (c) of the following paragraph:

“(d) For the purpose of this section, “free on board” in relation to goods exported to or to be exported from the Republic includes—

(i) all profits, costs, charges and expenses incidental to placing goods on board a vessel, aircraft, train or vehicle in which the goods are to be transported across the border of the Republic; or

(ii) if those goods consist of a vessel, aircraft, train or vehicle moving under its own power or on its own wheels, all profits, costs, charges and expenses up to the place where the goods leave the Republic.”.

Amendment of section 76B of Act 91 of 1964 as inserted by section 67 of Act 30 of 1998, substituted by section 29 of Act 34 of 2004, and amended by section 20 of Act 32 of 2005, section 100 of Act 60 of 2008 and section 66 of Act 32 of 2014

16. Section 76B of the Customs and Excise Act, 1964 is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) Where any person becomes entitled to a refund of export duty, such refund shall be limited to an application received by the Controller within a period of two years from the date of entry for export of the goods to which the application relates.”

Amendment of section 113 of Act 91 of 1964 as amended by section 14 of Act 57 of 1966, section 57 of Act 57 of 1966, section 11 of Act 103 of 1972, section 5 of Act 68 of 1973, section 49 of Act 42 of 1974, section 25 of Act 86 of 1982, section 7 of Act 89 of 1983, section 31 of Act 84 of 1987, section 17 of Act 68 of 1989, section 14 of Act 105 of 1992, section 12 of Act 98 of 1993, section 71 of Act 45 of 1995, section 73 of Act 30 of 1998, section 22 of Act 16 of 2016 and section 82 of Act 32 of 2014

17. Section 113 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Goods which purport to have been imported or exported under a permit, certificate or other authority in terms of any provision of this Act or any other law shall be deemed to have been imported or exported in contravention of such provision unless the permit, certificate or other authority in question is produced to the Controller.”

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 35 of Act 84 of 1987, section 39 of Act 59 of 1990, section 11 of Act 19 of 1994, section 73 of Act 45 of 1995, section 74 of Act 30 of 1998, section 35 of Act 21 of 2006, section 24 of Act 36 of 2007, section 40 of Act 61 of 2008, section 86 of Act 32 of 2014 and section 18 of Act 33 of 2019

18. Section 120 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (mC) of the following words:

“(mC) as to matters relating to the making of certain advance foreign exchange payments in relation to goods that are to be imported, through authorised dealers in foreign exchange appointed by the Minister of Finance for purposes of the **[Exchange Control] Regulations[, published under Government Notice No. R1111 of 1 December 1961, as amended,]** issued under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), including rules prescribing—”.

Amendment of section 14 of Act 89 of 1991, as substituted by section 28 of Act 8 of 2010, amended by section 101 of Act 32 of 2004, section 136 of Act 24 of 2011 and section 271 read together with paragraph 113 of Schedule 1 to Act 28 of 2011

19. Section 14 of the Value-Added Tax Act 1991, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) **[furnish]**obtain, complete and retain the form prescribed by the Commissioner [with a return]; and”.

Amendment of section 20 of Act 89 of 1991, as amended by 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, section 26 of Act 23 of 2015, section 7 of Act 22 of 2018 and section 19 of Act 33 of 2019

20. Section 20 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (8)(a)(i) for item (A) of the proviso of the following proviso:

“(A) shall verify such name and identity number of any such natural person with reference to his **[identity document]**identity card, as contemplated in section 1 of the Identification Act, 1997 (Act No. 68 of 1997), and retain a photocopy of such name and identity number appearing in such **[identity document]**identity card; or”.

Amendment of section 58 of Act 89 of 1991, as substituted by section 41 of Act 136 of 1991, section 39 of Act 97 of 1993, section 25 of Act 46 of 1996, inserted and amended by section 102 of Act 53 of 1999, section 72 of Act 19 of 2001, added by section 173 of Act 60 of 2001, section 119 of Act 74 of 2002, section

43 of Act 34 of 2004, section 42 of Act 32 of 2005, substituted and added by section 41 of Act 18 of 2009, section 142 of Act 24 of 2011 and amended by section 271 read with paragraph 142 of Schedule 1 to Act 28 of 2011

21. Section 58 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“Any person who **[wilfully and]** without just cause—”.

Amendment of section 6 of Act 9 of 1999

22. Section 6 of the Skills Development Levies Act, 1999, is hereby amended by the addition after subsection (5) of the following subsection:

“(6) The Commissioner may refuse to authorise a refund under subsection 190 of the Tax Administration Act, if the employer has failed to furnish a return as required in terms of subsection (2), until the employer has finished such return.”.

Amendment of section 8 of Act 4 of 2002

23. Section 8 of the Unemployment Insurance Contributions Act, 2002, is hereby amended by the addition after subsection (5) of the following subsection:

“(b) The Commissioner may refuse to authorise a refund under subsection 190 of the Tax Administration Act, if the employer has failed to furnish a return as required in terms of subsection (2), until the employer has finished such return.”.

Amendment of section 12 of Act 28 of 2011, as amended by section 28 of Act 33 of 2019

24. Section 12 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Despite any law to the contrary, a senior SARS official may on behalf of SARS or the Commissioner in proceedings referred to in a tax Act, appear *ex parte* in a judge’s chambers, in the tax court or in a High Court.”.

Amendment of section 70 of Act 28 of 2011 as amended by section 13 of Act 26 of 2013, section 42 of Act 39 of 2013 and section 48 of Act 23 of 2015

25. Section 70 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) the Governor of the South African Reserve Bank, or other person to whom the Minister delegates powers, functions and duties under the **[Exchange Control] Regulations[, 1961,]** issued under section 9 of the Currency and Exchange Act, 1933, (Act No. 9 of 1933), the information as may be required to exercise a power or perform a function or duty under the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or those Regulations;”.

Amendment of section 86 of Act 28 of 2011

26. Section 86 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If the ‘advance ruling’ is a ‘binding private ruling’ or ‘binding class ruling’, SARS must first provide the ‘applicant’ with notice of the proposed withdrawal or modification and a reasonable opportunity to **[object]** make representations prior to the proposed decision.”.

Amendment of section 91 of act 28 of 2011, as amended by section 45 of Act 39 of 2013 and section 49 of Act 23 of 2015

27. Section 91 of the Tax Administration Act, 2011, is hereby amended by the deletion of subsections (4), (5) and (6).

Amendment of section 93 of Act 28 of 2011

28. Section 93 of the Tax Administration Act, 2011, is hereby amended—

(a) by the substitution in subsection (1) for the full stop at the end of paragraph (e) with a semi-colon; and

(b) by the addition in subsection (1) after paragraph (e) of the following paragraph:

“(f) the taxpayer in respect of whom an assessment has been issued under section 95(1), requests SARS to issue a reduced assessment under section 95(5)(c).”.

Amendment of section 95 of Act 28 of 2011

29. Section 95 of the Tax Administration Act, 2011, is hereby amended:

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

“(1) SARS may make an original, additional, reduced or jeopardy assessment based in whole or in part on an estimate if the taxpayer—

(a) **[fails to]does not** submit a return **[as required]**;

(b) submits a return or information that is incorrect or inadequate; or

(c) fails to submit relevant material requested by SARS under section 46, after receiving more than one request for such material.”; and

(b) by the addition after subsection (3) of the following subsections:

(4) The making of an assessment under subsection (1) does not detract from the obligation to submit a return or the relevant material.

(5) An assessment under subsection (1) is not subject to objection or appeal unless the taxpayer submits the return or the relevant material and SARS does not issue a reduced or additional assessment.

(6) The taxpayer in respect of whom the assessment under subsection (1) has been issued may, within 40 business days from the date of assessment, request SARS to issue a reduced assessment or additional assessment by submitting a true and full return or the relevant material.

(7) A senior SARS official may extend the period referred to in subsection (6) within which the return or relevant material must be submitted, for a period not exceeding the period referred to in section 99(1).”

Amendment of section 187 of Act 28 of 2011, as amended by section 66 of Act 21 of 2012 and section 59 of Act 23 of 2015

30. Section 187 of the Tax Administration Act, 2011, is hereby amended by the addition in subsection (3) of the following paragraph after paragraph (g):

“(h) an erroneous payment referred to in section 190(1)(b), is the date 60 business days after the date that the payment was made.”

Amendment of section 188 of Act 28 of 2011

31. Section 188 of the Tax Administration Act, 2011, is hereby amended—

(a) by the deletion in subsection (2) of the word “and” at the end of paragraph (a);

(b) by the addition in subsection (2) after paragraph (b) of the following paragraphs:

“(c) first payment under section 5(1) or 5A of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008 (Act No. 29 of 2008) is imposed from the effective date for the first payment until the earlier of the date on which the payment is made or the effective date for the second payment under section 5(2) or 5A of that Act for the relevant year of assessment; and

(d) second payment under section 5(2) or 5A of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008 (Act No. 29 of 2008) is imposed from the effective date for the second payment until the earlier of the date on which the payment is made or the effective date for mineral and petroleum resources royalty under section 6(2) for the

relevant year of assessment.".

Amendment of section 189 of Act 28 of 2011, as amended by section 67 of Act 21 of 2012

32. Section 189 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) In the case of interest payable with respect to refunds on assessment of provisional tax and employees' tax for purposes of final assessment of income tax or of mineral and petroleum resources royalty paid for the relevant year of assessment, the rate payable by SARS is four percentage points below the prescribed rate."

Amendment of section 190 of Act 28 of 2011, as amended by section 71 of Act 39 of 2013, section 53 of Act 44 of 2014, section 60 of Act 23 of 2015, section 28 of Act 13 of 2017 and section 21 of Act 22 of 2018

33. Section 190 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) SARS need not authorise a refund as referred to in subsection (1) until such time that a verification, inspection or audit or criminal investigation of the refund in accordance with Chapter 5 has been finalised."; and

Amendment of section 234 of Act 28 of 2011 as substituted by section 77 of Act 21 of 2012 and section 43 of Act 33 of 2019

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

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

“A person who **[wilfully and]** without just cause—.” and

(b) by the substitution for paragraph (p) of the following paragraph:

“(p) makes or becomes liable to make a payment of any withholding tax and
fails or neglects to withhold **[and]**or pay to SARS **[an]**the amount of tax
as and when required under a tax Act;”.

Short title and commencement

35. (1) This Act is called the Tax Administration Laws Amendment Act, 2020.

(2) 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.