

REPUBLIC OF SOUTH AFRICA

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# TAX ADMINISTRATION LAWS AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of  
Bill and prior notice of its introduction published in Government Gazette No. 53637 of  
7 November 2025)  
(The English text is the official text of the Bill)*

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(MINISTER OF FINANCE)

## 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.

# BILL

To—

- amend the Income Tax Act, 1962, so as to amend a definition; to provide for an allowance made by the Commissioner to be subject to objection and appeal; to clarify the meaning of a certificate required for purposes of deductions of donations made to certain organisations, and to insert a cross-reference;
- amend the Customs and Excise Act, 1964, so as to amend a definition; to provide for the Commissioner to delegate a function to be performed by an officer or other person under his control or direction, to a person in the service of another organ of state or institution with whom an agreement has been concluded in terms of the Act, or to designate such person as a customs officer for a specific purpose; to enable a simplified regime for the entry of goods imported or exported for purposes of express delivery on a door-to-door basis in accordance with simplified customs procedures as determined by the Commissioner by rule, as well as for the determination of the upper limit on the value of such goods that may be entered in accordance with simplified procedures; to enable the Commissioner to prescribe the timeframe for adjustment of a bill of entry in a manner other than by the submission of a voucher of correction; to enable the transfer, under rebate of customs duties, of waste or scrap remaining after the manufacturing from any goods entered under any item specified in Schedule No. 3 to the Act to another person registered under another item of Schedule No. 3 for use subject to compliance with such item; to insert a Chapter providing for voluntary disclosure relief for customs and excise; and to make technical corrections;
- amend the Value-Added Tax Act, 1991, to insert definitions relating to the implementation of a voluntary e-reporting system; to make technical corrections and expand the requirements for a refund; to extend the regulatory powers of the Minister to make regulations prescribing the requirements for participation by a vendor in a voluntary e-reporting system;
- amend the Tax Administration Act, 2011, so as to enable the Commissioner to prescribe the format of a notice; to extend a provision to enable SARS to confirm whether the physical address of an applicant exists and whether the premises are suitable for conducting the activities reflected in the application; to make a consequential amendment; to clarify that a taxpayer can apply for the suspension of a tax debt pending the outcome of a request for a reduced assessment, in certain circumstances; to correct a cross-reference; to clarify the scope of *bona fide* inadvertent error by explicitly linking it with a substantial understatement; to make a consequential amendment; to exclude matters that fall within the new Chapter for voluntary disclosure relief in the Customs and Excise Act, from the voluntary disclosure programme under the Act; to make technical corrections;

- amend the Global Minimum Tax Administration Act, 2024, so as to insert a registration requirement; to make a technical correction, and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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, 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, section 34 of Act 34 of 2019, section 2 of Act 23 of 2020, section 4 of Act 20 of 2021, section 1 of Act 20 of 2022, section 1 of Act 17 of 2023, section 1 of Act 12 of 2024, section 1 of Act 42 of 2024, section 1 of Act 44 of 2024 and section 1 of Act 6 of 2025

1. Section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), is hereby amended by the substitution in subsection (1) for paragraph (f) of the definition of “representative taxpayer” of the following paragraph:

“(f) in respect of the income received by or accrued to any insolvent person prior to the date of sequestration of the insolvent person’s estate and the income received by or accrued to an insolvent estate, the trustee or administrator of such insolvent estate:”.

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 23 of 2018, section 1 of Act 33 of 2019, section 3 of Act 24 of 2020, and section 1 of Act 18 of 2023

2. 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 6quat(5), 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 11D(20)(b), section 12B(6), section 12C, section 12E, section 12J(6), (6A)

and (7), section 13, section 15, section 18A(1)(a) (cc), (b), (bA)(dd) and (c), section 22(1) and (3), section 23H(2), section 23K, section 24(2), section 24(2A), 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 inserted by section 15 of Act 52 of 1970, and amended by section 16 of Act 88 of 1971, section 13 of Act 90 of 1972, section 14 of Act 65 of 1973, section 16 of Act 69 of 1975, section 13 of Act 104 of 1980, substituted by section 16 of Act 96 of 1981, amended by section 14 of Act 91 of 1982, section 16 of Act 94 of 1983, section 16 of Act 121 of 1984, section 15 of Act 90 of 1988, section 17 of Act 101 of 1990, section 20 of Act 129 of 1991, section 11 of Act 36 of 1996, substituted by section 20 and 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 25 of 2015, section 31 of Act 17 of 2017, section 35 of Act 23 of 2018, section 2 of Act 33 of 2019, section 22 of Act 34 of 2019, section 22 of Act 23 of 2020, section 4 of Act 24 of 2020 and section 2 of Act 21 of 2021**

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

- (a) by the substitution for subsections (2B) and (2C) of the following subsections:
- “(2B) A public benefit organisation, institution, board or body contemplated in subsection (2A), must obtain and retain [an audit] a certificate containing such information as the Commissioner may prescribe by public notice and confirming the reasonable satisfaction of a registered tax practitioner that all donations received or accrued in that year of assessment in respect of which receipts were issued in terms of subsection (2), were utilised in the manner contemplated in subsection (2A).
- (2C) The accounting officer or accounting authority contemplated in the Public Finance Management Act or an accounting officer contemplated in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as the case may be, for the department which issued any receipts in terms of subsection (2), must on an annual basis submit [an audit] a certificate to the Commissioner containing such information as the Commissioner may prescribe by public notice and confirming the reasonable satisfaction of the officer or authority that all donations received or accrued in the financial year in respect of which receipts were so issued, were utilised in the manner contemplated in subsection (2A).”;
- (b) by the insertion in subsection (5) of “or” after paragraph (c);
- (c) by the substitution in subsection (5) for paragraph (d) of the following paragraph:
- “(d) failed to obtain and retain [an audit] a certificate as contemplated in subsection (2B)[; or]”;
- (d) by the deletion in subsection (5) for paragraph (e); and
- (e) by the substitution in subsection (5B) for the words that precede paragraph (a) of the following words:
- “If the Commissioner has reasonable grounds for believing that any accounting officer or accounting authority contemplated in the Public Finance Management Act or an accounting officer contemplated in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as the case may be, for any institution, board, body or department in respect of which [that Act applies] those Acts apply, has issued or allowed a receipt to be issued in contravention of subsection (2A) or utilised a donation in respect of which a receipt was issued for

any purpose other than the purpose contemplated in that subsection, and in the case of a department has not submitted a certificate contemplated in subsection (2C), the Commissioner—”.

**Amendment of paragraph 1 of First Schedule to Act 58 of 1962, as amended by section 15 of Act 72 of 1963 and section 78 of Act 45 of 2003**

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4. Paragraph 1 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (a) of the following subparagraph:

“(a) a reference to a year of assessment shall in the case of any taxpayer who has under the provisions of section 66(13A) or (13C) of this Act been permitted to furnish accounts in respect of the income derived by him from pastoral, agricultural or other farming operations made up to a date other than the last day of the relevant year of assessment, be construed as a reference to the period covered by such accounts; and”.

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**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, section 11 of Act 33 of 2019, section 9 of Act 24 of 2020, section 11 of Act 21 of 2021 and section 7 of Act 16 of 2022**

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5. Section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended by the substitution for the definition of “illicit goods” of the following definition:

“**‘illicit goods’**, in relation to imported or excisable goods, surcharge goods [or], fuel levy goods, environmental levy goods, Road Accident Fund levy goods or health promotion levy goods, means any such goods in respect of which any contravention under this Act has been committed, and includes any preparation or other product made wholly or in part from spirits or other materials which were illicit goods;”.

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**Amendment of section 3 of Act 91 of 1964, as amended by section 114 of Act 60 of 2001, section 42 of Act 30 of 2002, section 132 of Act 45 of 2003, section 25 of Act 18 of 2009, section 27 of Act 21 of 2012 and section 3 of Act 32 of 2014**

6. Section 3 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1)(a) Any duty imposed or power conferred on the Commissioner in terms of this Act may be performed or exercised by the Commissioner personally or by an officer or any other person under a delegation from or under the control or direction of the Commissioner.

(b) The Commissioner may—

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(i) with the concurrence of an organ of state or other institution with whom the Commissioner has concluded an agreement in terms of section 2(1A), delegate a function to be performed by an officer or other person under his control or direction, to a person in the service of such organ of state or institution; or

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(ii) designate a person in the service of an organ of state or institution referred to in subparagraph (i) to act as an officer for a specific purpose, and may at any time withdraw or suspend the designation.”.

**Amendment of section 38 of Act 91 of 1964, as amended by section 3 of Act 44 of 1969, section 13 of Act 105 of 1969, section 5 of Act 71 of 1975, section 4 of Act 105 of 1976, section 2 of Act 89 of 1983, section 9 of Act 84 of 1987, section 18 of Act 59**

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**of 1990, section 28 of Act 45 of 1995, section 123 of Act 60 of 2001, sections 32 and 91 of Act 61 of 2008, section 25 of Act 32 of 2014, section 9 of Act 16 of 2022 and section 6 of Act 43 of 2024**

7. (1) Section 38 of the Customs and Excise Act, 1964, is hereby amended—
- (a) by the insertion in subsection (1)(a) of “and” at the end of subparagraph (iii);
  - (b) by the deletion in subsection (1)(a) of “and” at the end of subparagraph (iv);
  - (c) by the deletion in subsection (1)(a) of subparagraph (v); and
  - (d) by the addition of the following subsection:
    - “(7)(a) Notwithstanding any regular procedures for the entry of goods contemplated in this section, goods imported or exported for purposes of express delivery on a door-to-door basis of which the customs value does not exceed an amount determined by the Minister, in consultation with the Minister of Trade, Industry and Competition, by notice in the *Gazette*, may be entered for import or export in accordance with simplified customs procedures as determined by the Commissioner by rule in terms of paragraph (b).
    - (b) The Commissioner may, for purposes of paragraph (a), prescribe rules determining—
      - (i) the activities for which persons participating in the international transportation of goods on an express door-to-door delivery basis must be licensed or registered in terms of this Act in order to enter such goods in accordance with simplified customs procedures;
      - (ii) the requirements and conditions for making use of simplified procedures for entry contemplated in paragraph (a);
      - (iii) the documents to be used for purposes of entry, which may include a bill of entry that differs from a regular bill of entry, a transport document or another type of document as may be prescribed, or a combination of documents; and
      - (iv) in relation to a document referred to in subparagraph (iii), the information to be reflected, the timeframes for submission, the manner of submission and any supporting documentation required.”
- (2) Subsection (1) comes into effect on a date determined by the Minister by notice in the *Gazette*.

**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 30 of Act 45 of 1995, section 35 of Act 61 of 2008, section 29 of Act 32 of 2014, section 12 of Act 24 of 2020, section 11 of Act 16 of 2022 and section 7 of Act 43 of 2024**

8. Section 40 of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (3)(a) 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) by means of a voucher of correction, submitted without delay; or
    - (C) in such other manner and in accordance with such timeframe as the Commissioner may prescribe by rule; or”.

**Amendment of section 75 of Act 91 of 1964, as amended by section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 24 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973, section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 8 of Act 93 of 1978, section 10 of Act 110 of 1979, section 19 of Act 86 of 1982, section 6 of Act 89 of 1984, section 11 of Act 101 of 1985, section 9 of Act 52 of 1986, section 23 of Act 84 of 1987, section 8 of Act 69 of 1988, section 13 of Act 68 of 1989, section 29 of Act 59 of 1990, section 13 of Act 61 of 1992, section 7 of Act 98 of 1993, section 10 of Act 19 of 1994, section 53 of Act 45 of 1995, section 61 of Act 30 of 2000, section 50 of Act 19 of 2001, section 130 of Act 60 of 2001, section 109 of Act 74 of 2002, section 146 of Act 45 of 2003, section 27 of Act 34 of 2004, section 92 of Act 31 of 2005, section 70 of Act 20 of 2006,**

**section 95 of Act 35 of 2007, section 99 of Act 60 of 2008, section 63 of Act 32 of 2014, section 16 of Act 13 of 2017 and section 16 of Act 21 of 2021**

9. (1) Section 75 of the Customs and Excise Act, 1964, is hereby amended by the insertion of the following subsection after subsection (21):

“(21A) Waste or scrap remaining after the manufacturing from goods entered under the provisions of any item specified in Schedule No. 3, may be transferred under rebate of customs duties—  
 (a) to another person registered under the provisions of any other item in Schedule No. 3 in which the relevant waste or scrap is described; and  
 (b) subject to compliance with the provisions of such item.”.

(2) Subsection (1) comes into effect on a date determined by the Minister by notice in the *Gazette*.

**Insertion of Chapter XB in Act 91 of 1964**

10. (1) The following Chapter is hereby inserted after Chapter XA of the Customs and Excise Act, 1964:

**“Chapter XB**

**VOLUNTARY DISCLOSURE RELIEF**

**Definitions**

**77Z.** For purposes of his Chapter—

**‘duty’** means—

- (a) a customs duty;
- (b) an excise duty;
- (c) any other duty or levy in terms of this Act, including—
  - (i) air passenger tax leviable under section 47B;
  - (ii) environmental levy leviable under Chapter VA; and
  - (iii) health promotion levy leviable under Chapter VB; or
- (d) any value-added tax levied—
  - (i) in terms of section 7(1)(b) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), on the importation of goods into the Republic; or
  - (ii) on any goods manufactured in the Republic subject to excise duty, environmental levy or health promotion levy in terms of section 7(1)(a) read with section 7(3)(a) of that Act;

**‘enforcement action’** means the performance of any inspection, examination, enquiry or a search in relation to goods, premises or records contemplated in section 4; and

**‘underpayment’** means a non-payment or underpayment of duty, due to the submission of inaccurate or incomplete information or the non-submission of information to the Commissioner, and includes the claiming of any rebate, drawback, refund or payment or the setting off of any amount in terms of the provisions of section 77(a) to which the claimant was knowingly not entitled under this Act, and ‘underpay’ has a corresponding meaning.

**Circumstances in which persons subject to audit, investigation or enforcement actions qualify to apply for voluntary disclosure relief**

**77ZA.** (1) A person who has underpaid may apply for voluntary disclosure relief.

(2) Voluntary disclosure relief in terms of subsection (1) is not available to a person who has been notified of an audit or investigation, related to such underpayment, under this Act or under Chapter V of the Tax Administration Act in respect of value-added tax referred to in paragraph (d) of the definition of ‘duty’ in section 77Z, or of enforcement action that has commenced, but has not yet been concluded.

(3) An applicant must be regarded to have been notified of the commencement of an audit, investigation or enforcement action contemplated in subsection (2) if any of the following persons was notified of such audit, investigation or enforcement action:

- (a) A representative of the applicant;
- (b) an officer, shareholder or member of the applicant, if the applicant is a company;
- (c) a partner in a partnership with the applicant;
- (d) a trustee or beneficiary of the applicant, if the applicant is a trust;
- (e) a person acting for or on behalf of or as an agent or fiduciary of the applicant, including a clearing agent or registered agent; or
- (f) any licensee or registrant involved in the handling of any imported or locally manufactured goods of the applicant.

(4) The Commissioner may, despite subsections (2) and (3), allow a person to apply for voluntary disclosure relief if the Commissioner is of the view, having regard to the circumstances and ambit of the audit, investigation or enforcement action, that—

- (a) the underpayment on which the proposed application for voluntary disclosure relief is based would not otherwise have been detected in the ordinary course of the audit, investigation or enforcement action; and
- (b) the application would be in the interest of good management of the tax system and the best use of the Commissioner's resources.

(5) An application referred to in this section must be submitted in accordance with any rules prescribed in terms of section 77ZH(a).

#### **Requirements for valid voluntary disclosure**

**77ZB.** Voluntary disclosure is valid and relief may be granted only if the disclosure—

- (a) is voluntary;
- (b) involves an underpayment which has not occurred within five years of a previous disclosure of a similar underpayment by the applicant;
- (c) is full and complete in all material respects;
- (d) will not result in the Commissioner being obliged to pay a refund or drawback or additional refund or drawback; and
- (e) complies with any requirements referred to in section 77ZH.

#### **Procedure following receipt of voluntary disclosure application**

**77ZC.** When a person applies for voluntary disclosure relief, the Commissioner must—

- (a) evaluate the disclosure; and
- (b) either grant relief as set out in section 77ZD(2)(d) or determine that the application is not valid.

#### **Voluntary disclosure agreement following granting of relief**

**77ZD.** (1)(a) Upon granting voluntary disclosure relief, the Commissioner must—

- (i) make a duty assessment or re-assessment in relation to the relevant goods on the basis of the disclosed facts; and
- (ii) determine the amount of—
  - (aa) duty and interest, as may be applicable, outstanding as a result of the underpayment; or
  - (bb) the refund or drawback paid by the Commissioner as a result of the underpayment that was not payable.

(b) An assessment, a re-assessment and a determination of the amount owing in terms of subsection (1)(a) is not subject to an administrative appeal in terms of Chapter XA.

(2) The Commissioner and the applicant must, despite the other provisions of this Act, but subject to section 77ZE, conclude an agreement in writing—



- (a) setting out details of the underpayment on which the voluntary disclosure relief is based;
- (b) stating the amount owing to the Commissioner as determined in terms of subsection (1)(a)(i) and (ii);
- (c) containing an undertaking by the applicant to pay to the Commissioner the amount owing in accordance with any arrangements as may be agreed; and
- (d) containing an undertaking by the Commissioner that the Commissioner will—
  - (i) not pursue criminal proceedings against the applicant for any offence in terms of this Act or the common law arising from the underpayment;
  - (ii) not impose any administrative penalty in terms of this Act on the applicant for any breach of this Act arising from the underpayment, excluding a penalty imposed for late payment;
  - (iii) grant relief as contemplated in section 229(b) and (c) of the Tax Administration Act in relation to any duty referred to in paragraph (d) of the definition of ‘duty’ in section 77Z; and
  - (iv) not impose any forfeiture amount contemplated in section 88(2)(a).

#### **Withdrawal of voluntary disclosure relief**

- 77ZE.** (1) If an applicant failed to disclose a matter that was material for purposes of making a valid voluntary disclosure as set out in section 77ZB, the Commissioner may—
- (a) withdraw any relief provided for in the agreement;
  - (b) recover the amount owing as determined in terms of section 77ZD(1)(a)(i) and (ii) in accordance with the Act; and
  - (c) retain any amount paid to the Commissioner in terms of the agreement as a part payment on the full amount owed to the Commissioner.
- (2) A withdrawal contemplated in subsection (1) is subject to internal appeal in terms of Chapter XA.

#### **Reporting**

- 77ZF.** (1) The Commissioner must annually, at a time as may be agreed between the Commissioner, the Auditor-General and the Minister, report to the Auditor-General and the Minister particulars of all voluntary disclosure agreements concluded in terms of this Chapter in respect of applications received during the period reported on.
- (2) A report in terms of subsection (1) may not disclose the identity of the persons concerned and must contain particulars in summarised form of the number of voluntary disclosure agreements and the amount owing to the Commissioner as determined in terms of section 77ZD(1)(a)(i) and (ii) in respect of each voluntary disclosure.

#### **Non-binding private opinions on eligibility for voluntary disclosure of persons who wish to remain anonymous**

- 77ZG.** (1) The Commissioner may, on request by a person who wishes to remain anonymous, issue a non-binding private opinion as to that person’s eligibility for voluntary disclosure relief in terms of this Chapter.
- (2) A request in terms of subsection (1) must provide sufficient information to enable the Commissioner to comply with the request but need not identify any person responsible for causing the underpayment.

### Rules to facilitate implementation of Chapter

**77ZH.** (1) The Commissioner may make rules to facilitate the implementation of this Chapter, including rules prescribing—

- (a) the form and format and contents of applications for voluntary disclosure relief;
- (b) any documents that must accompany such applications;
- (c) the manner and time within which such applications must be lodged;
- (d) the form and format of voluntary disclosure agreements; and
- (e) any other matter reasonably necessary and useful for the efficient and effective administration of this Chapter.”

(2) Subsection (1) comes into effect on a date to be determined by the Minister by notice in the *Gazette*.

**Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005, section 101 of Act 31 of 2005, section 40 of Act 9 of 2006, section 77 of Act 20 of 2006, sections 81 and 108 of Act 8 of 2007, section 104 of Act 35 of 2007, section 68 of Act 3 of 2008, section 104 of Act 60 of 2008, section 33 of Act 18 of 2009, section 119 of Act 7 of 2010, section 26 of Act 8 of 2010, section 129 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 108 of Schedule 1 to that Act, section 145 of Act 22 of 2012, section 165 of Act 31 of 2013, section 95 of Act 43 of 2014, section 128 of Act 25 of 2015, section 83 of Act 15 of 2016, section 77 of Act 17 of 2017, section 89 of Act 28 of 2018, section 66 of Act 34 of 2019, section 61 of Act 23 of 2020, section 27 of Act 20 of 2022, section 46 of Act 17 of 2023 and section 45 of Act 42 of 2024**

**11.** Section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), is hereby amended—

- (a) by the insertion after the definition of “dwelling” of the following definitions:
  - “**e-credit note**” means a credit note as contemplated in section 21, that—
    - (a) is issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing; and
    - (b) complies with such further requirements as the Minister may prescribe by Regulation;
  - “**e-debit note**”, means a debit note as contemplated in section 21, that—
    - (a) is issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing; and
    - (b) complies with such further requirements as the Minister may prescribe by Regulation;
  - “**e-invoice**” means a tax invoice that—
    - (a) is issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing; and
    - (b) complies with such further requirements as the Minister may prescribe by Regulation;”;
- (b) by the insertion after the definition of “entertainment” of the following definition:
  - “**e-reporting**” means the process of electronically submitting tax data, for purposes of this Act, extracted from an e-invoice, e-debit note, or e-credit note, to—
    - (a) SARS;
    - (b) a supplier or service provider of the supplier; and
    - (c) a recipient or service provider of the recipient, where applicable, within the interoperability framework in the form and manner as the Minister may prescribe by Regulation;”;

- (c) by the insertion after the definition of “international journey” of the following definition:

“**interoperability framework**’ means the use of a network of service providers, where decentralised exchange of e-invoices, e-debit notes and e-credit notes occur, and that can facilitate clearance and interoperability between supplier and recipient, and complies with such further requirements as the Minister may prescribe by Regulation;”.

**Amendment of section 44 of Act 89 of 1991, as amended by section 37 of Act 97 of 1993, section 27 of Act 37 of 1996, section 42 of Act 27 of 1997, section 100 of Act 30 of 1998, section 98 of Act 53 of 1999, section 168 of Act 60 of 2001, section 88 of Act 20 of 2006, section 36 of Act 36 of 2007, section 43 of Act 61 of 2008, section 271 of Act 28 of 2011, read with paragraphs 133 and 180 of Schedule 1 to that Act, section 180 of Act 31 of 2013, section 31 of Act 44 of 2014, section 28 of Act 16 of 2016, section 12 of Act 22 of 2018 and section 12 of Act 43 of 2024**

12. Section 44 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the deletion in subsection (3) of the full stop after paragraph (d) and the insertion of a semi-colon;
- (b) by the addition in subsection (3) after paragraph (d) of the following paragraph:

“(e) in the case of the cancellation of the registration of a vendor under section 24 of the Act, and that vendor—

(i) is not a resident of the Republic; and

(ii) did not or was not, on or after 24 December 2024, required to, open a banking account with any bank, mutual bank or other similar institution, registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), for the purposes of his or her enterprise under section 23(2) or 23(2B), the vendor has furnished the Commissioner, in writing, with particulars of that enterprise’s banking account to enable the Commissioner to transfer a refund or other amount due to the vendor to such account;”.

**Amendment of section 45 of Act 89 of 1991, as amended by section 33 of Act 136 of 1992, section 4 of Act 61 of 1993, section 19 of Act 140 of 1993, section 24 of Act 20 of 1994, section 33 of Act 37 of 1996, section 43 of Act 27 of 1997, section 101 of Act 30 of 1998, section 169 of Act 60 of 2001, section 44 of Act 61 of 2008, section 271 of Act 28 of 2011, read with paragraph 134 of Schedule 1 to that Act, section 32 of Act 44 of 2014, section 136 of Act 23 of 2015 and section 23 of Act 18 of 2023**

13. Section 45 of the Value-Added Tax Act, 1991, is hereby amended

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

“(iii) where the vendor is not a resident of the Republic and—

(aa) has not appointed a representative vendor as contemplated in section [48(1) in the Republic] 46 or has not furnished the Commissioner with the particulars of such representative vendor; **[or]**

(bb) has not opened a banking account in the Republic as required by **[paragraph (ii)(bb) of the proviso to]** section 23(2) and (2B) or has not furnished the Commissioner with the particulars of such banking account;

(cc) is a company, the vendor has not complied with the requirements as laid down in terms of the proviso to section 44(3)(d); or

(dd) has not furnished the Commissioner, in writing, with particulars of the enterprise’s banking account as required in terms of section 44(3)(e),

the said period of 21 business days shall be reckoned from the date the vendor furnishes the Commissioner with the particulars of such representative vendor **[or],** banking account or notification and indemnity, as the case may be.”; and

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

“(2) Where the amount of any interest paid to a person in terms of subsection (1) is in excess of the current amount, the Commissioner may recover the amount of the excess [**under section 40(2)(a)**] as if it were tax payable by such person.”.

**Amendment of section 74 of Act 89 of 1991, as amended by section 188 of Act 45 of 2003, section 105 of Act 43 of 2014 and section 20 of Act 14 of 2017** 5

14. Section 74 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after subsection (1A) of the following subsection:

“(1B) The Minister may make regulations prescribing the requirements for participation by a vendor in a voluntary e-reporting system, including any matters connected therewith that is necessary to prescribe for the proper implementation or administration of this system.” 10

**Amendment of section 11 of Act 28 of 2011, as amended by section 40 of Act 21 of 2012, section 33 of Act 39 of 2013, section 36 of Act 23 of 2015, section 48 of Act 16 of 2016 and section 27 of Act 33 of 2019** 15

15. Section 11 of the Tax Administration Act, 2011 (Act No. 28 of 2011), is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Unless the court otherwise directs, no legal proceedings may be instituted in the High Court against the Commissioner, unless the applicant has given the Commissioner at least 10 business days written notice, in the prescribed form, [of a least 10 business days] of the applicant’s intention to institute the legal proceedings.” 20

**Amendment of section 45 of Act 28 of 2011**

16. Section 45 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection: 25

“(1) A SARS official may, for the purposes of the administration of a tax Act and without prior notice, arrive at a premises where the SARS official has a reasonable belief that a trade or enterprise is being carried on and conduct an inspection to determine only—

(a) the identity of the person occupying the premises; 30

(b) whether the person occupying the premises is registered for tax; [or]

(bA) whether the physical address of an applicant, as reflected on the application for registration or approval, exists and the premises at the address are suitable for conducting the activities reflected in the application; or 35

(c) whether the person is complying with sections 29 and 30.”.

**Amendment of section 68 of Act 28 of 2011, as amended by section 46 of Act 23 of 2015**

17. Section 68 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (1) for paragraph (g) of the following paragraph: 40

“(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**] customs and excise legislation;” 45

**Amendment of section 164 of Act 28 of 2011, as amended by section 64 of Act 21 of 2012, section 58 of Act 39 of 2013 and section 50 of Act 44 of 2014** 50

18. Section 164 of the Tax Administration Act, 2011, is hereby amended—

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

“(2) A taxpayer may request a senior SARS official to suspend the payment of tax or a portion thereof due under an assessment if the taxpayer—

(a) intends to dispute or disputes the liability to pay that tax under Chapter 9; or

(b) intends to request or requests SARS to make a reduced assessment in terms of section 95(6).”; and

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

“(3) A senior SARS official may suspend payment of the **[disputed]** tax under subsection (2) or a portion thereof having regard to relevant factors, including—

(a) whether the recovery of the **[disputed]** tax will be in jeopardy or there will be a risk of dissipation of assets;

(b) the compliance history of the taxpayer with SARS;

(c) whether fraud is *prima facie* involved in the origin of the dispute or the return referred to in section 95(6);

(d) whether payment will result in irreparable hardship to the taxpayer not justified by the prejudice to SARS or the fiscus if the **[disputed]** tax is not paid or recovered; or

(e) whether the taxpayer has tendered adequate security for the payment of the **[disputed]** tax and accepting it is in the interest of SARS or the *fiscus*.”.

**Amendment of section 187 of Act 28 of 2011, as amended by section 66 of Act 21 of 2012, pending amendment by section 52 of Act 44 of 2014, as amended by section 59 and 137 of Act 23 of 2015 and section 31 of Act 24 of 2020**

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

“(e) a percentage based penalty referred to in section **[214]** 213, is the date by which tax for the tax period should have been paid;”.

**Amendment of section 222 of Act 28 of 2011, as amended by section 75 of Act 39 of 2013, section 23 of Act 22 of 2018 and section 27 of Act 16 of 2022**

20. Section 222 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) In the event of an ‘understatement’ by a taxpayer[,], that involves a behaviour listed in the understatement penalty percentage table in section 223, the taxpayer must pay, in addition to the ‘tax’ payable for the relevant tax period, the understatement penalty determined under subsection (2) **[unless the understatement results from a bona fide inadvertent error]**.”.

**Amendment of section 223 of Act 28 of 2011, as amended by section 73 of Act 21 of 2012, section 76 of Act 39 of 2013, section 62 of Act 16 of 2016 and section 42 of Act 33 of 2019**

21. Section 223 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) SARS must remit a ‘penalty’ imposed for a ‘substantial understatement’ if **[SARS is satisfied that the taxpayer]**—

(a) the ‘understatement’ results from a bona fide inadvertent error; or

(b) SARS is satisfied that the taxpayer—

(i) made full disclosure to SARS of the arrangement, as defined in section 34, that gave rise to the prejudice to SARS or the *fiscus* by no later than the date that the relevant return was due; and

**[(b)](ii)** was in possession of an opinion by an independent registered tax practitioner that—

**[(i)](aa)** was issued by no later than the date that the relevant return was due;

**[(ii)](bb)** was based upon full disclosure of the specific facts and circumstances of the arrangement and, in the case of any opinion regarding the applicability of the substance over

form doctrine or the anti-avoidance provisions of a tax Act, this requirement cannot be met unless the taxpayer is able to demonstrate that all of the steps in or parts of the arrangement were fully disclosed to the tax practitioner, whether or not the taxpayer was a direct party to the steps or parts in question; and

[(iii)](cc) confirmed that the taxpayer’s position is more likely than not to be upheld if the matter proceeds to court.”.

**Amendment of section 227 of Act 28 of 2011, as amended by section 66 of Act 23 of 2015** 10

22. Section 227 of the Tax Administration Act, 2011, is hereby amended—

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

(b) by the addition of “; and” after paragraph (f); and

(c) by the addition of the following paragraph:

“(g) not constitute an underpayment as defined in section 77Z of the Customs and Excise Act, 1964.” 15

**Amendment of section 247 of Act 28 of 2011, as amended by section 32 of Act 43 of 2024**

23. Section 247 of the Tax Administration Act, 2011, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) SARS may serve, deliver or send the company a notice or other document provided for under a tax Act to an address provided by the company as referred to in section 23 or 249.”.

**Amendment of section 249 of Act 28 of 2011**

24. Section 249 of the Tax Administration Act, 2011, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph: 25

“(a) keep the office of public officer constantly filled and must at all times maintain a place for the service or delivery of notices **[in accordance with section 247(1)]** in the Republic; and”.

**Amendment of section 2 of Act 47 of 2024** 30

25. Section 2 of the Global Minimum Tax Administration Act, 2024 (Act No. 47 of 2024, is hereby amended—

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

“(1) A Domestic Constituent Entity of an MNE Group, Domestic Joint Venture or Domestic Joint Venture Subsidiary of a Domestic Joint Venture Group must apply for registration and submit a GloBE Information Return to the Commissioner.”; and 35

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

“(ii) if subsequent to a notice under subparagraph (i) a new Entity is designated as the **[Domestic]** Designated Local Entity, a new notification must be provided to the Commissioner upon or immediately after such new designation.”. 40

**Short title and commencement**

26. (1) This Act is called the Tax Administration Laws Amendment Act, 2025. 45

(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.

## **MEMORANDUM ON THE OBJECTS OF THE TAX ADMINISTRATION LAWS AMENDMENT BILL, 2025**

### **1. PURPOSE OF BILL**

The Tax Administration Laws Amendment Bill, 2025 (“the Bill”), proposes to amend the following Acts:

- The Income Tax Act, 1962 (Act No. 58 of 1962);
- the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- the Value-Added Tax Act, 1991 (Act No. 89 of 1991);
- the Tax Administration Act, 2011 (Act No. 28 of 2011); and
- the Global Minimum Tax Administration Act, 2024 (Act No. 47 of 2024).

### **2. OBJECTS OF BILL**

#### **2.1 Clause 1: Amendment of section 1 of Income Tax Act, 1962**

The provision in section 95(1)(*bis*) of the Income Tax Act, 1962, regarding the responsibility of the trustee or administrator as regards an insolvent person prior to sequestration was considered obsolete and repealed as a consequential amendment by Schedule 1 to the Tax Administration Act, 2011. As it was determined that this provision is still required for purposes of current practice, it is proposed that an amendment be made to the definition of a “representative taxpayer” in section 1 of the Income Tax Act in order to reinstate this provision to clarify that the trustee or administrator of an insolvent estate, in his or her representative capacity, is also responsible for the income that was received by or accrued to the insolvent person prior to sequestration.

#### **2.2 Clause 2: Amendment of section 3 of Income Tax Act, 1962**

Section 24(2A) was inserted by section 13 of the Taxation Laws Amendment Act, 2022, and provides that in the case of a lay-by agreement as contemplated in section 62 of the Consumer Protection Act, 2008, the Commissioner may make an allowance in respect of all amounts which are deemed to have accrued under such agreement, but which have not been received by the end of the taxpayer’s year of assessment. Any allowance made by the Commissioner shall be included in the income of the taxpayer in the immediately following year of assessment. At the time of its insertion, section 24(2A) was not included in section 3(4) of the Act which stipulates which decisions taken by the Commissioner are subject to objection and appeal under Chapter 9 of the Tax Administration Act, 2011. The proposed amendment aims to correct this oversight by making the allowance determined by the Commissioner subject to objection and appeal.

#### **2.3 Clause 3: Amendment of section 18A of Income Tax Act, 1962**

*Ad paragraph (a) to (c):* Sections 18A(2B) and (2C) of the Income Tax Act, 1962, require an audit certificate be obtained and retained by section 18A-approved organisations conducting mixed public benefit activities, that do not qualify for tax-deductible status (Part I activities) and that do (Part II activities).

The purpose of the audit certificate is to confirm that all donations received or accrued in the year for which section 18A receipts were issued in terms of section 18A(2) of the Act were used solely to carry on Part II activities in South Africa. The requirement for a certificate was introduced as a control measure to ensure that section 18A receipts were issued only for these donations. Control over such donations is required since the tax deduction the donor may claim is a real cost to the *fiscus* given that the donee is normally not subject to tax on the donation received.

Some uncertainty exists about how the term “audit certificate” must be interpreted and whether it should bear reference to terminology contained in the Audit Profession Act, 2005. It is proposed that the expression “audit

certificate” be deleted and replaced with “certificate” to address this uncertainty.

Currently no detailed requirements are prescribed with regards to the information that must be contained in the certificate and therefore uncertainty exists on how to comply with this requirement. It is proposed that the Commissioner be empowered to prescribe the minimum information that must appear on a certificate by public notice, similar to the information prescribed by the Commissioner for purposes of a valid section 18A receipt in terms of section 18A(2)(a) of the Act. It is also clarified that the person issuing the certificate should be a registered tax practitioner.

The current wording requires that absolute assurance be provided that donations received or accrued in the year for which section 18A receipts were issued, were used solely to carry on Part II activities. This zero-percentage risk of misstatement may be a difficult standard to meet. It is proposed that the section be amended to only require a “reasonable satisfaction” of this fact. The Commissioner will provide guidance on the minimum procedures that should be followed to satisfy the requirement of “reasonable satisfaction” in an interpretation note.

The words “that year” referred to in section 18A(2B) of the Act is directly linked to the section 18A receipts issued under section 18A(2) of the Act by any PBO, conduit PBO, institution, board or body. The proposed amendment therefore clarifies that the words “that year” refer to the “year of assessment” in which section 18A receipts were issued under section 18A(2) of the Act by such entities and confirms that such donations for which section 18A receipts were issued will be used in the manner contemplated in section 18A(2A) of the Act.

It is further proposed to clarify the meaning of “year” in section 18A(2C) of the Act as referring to the department’s financial year as defined in the Public Finance Management Act, 1999, or Local Government: Municipal Finance Management Act, 2003. The financial year of a department falling within the national or provincial sphere will usually end on 31 March, while in the local sphere it ends on 30 June.

*Ad paragraph (d):* Section 18A(5) of the Act is applicable only to PBOs and institutions, boards or bodies. Section 18A(2C) of the Act deals with the confirmation of the usage of section 18A receipts by a department. Section 18A(5)(e) of the Act is therefore misplaced and should be deleted.

*Ad paragraph (e):* The proposed amendment contains a textual correction to align the wording with that used in section 18A(2A) of the Act. Furthermore, section 18A(2C) of the Act requires that the accounting officer or authority contemplated in the Public Finance Management Act, 1999, or an accounting officer contemplated in the Local Government: Municipal Finance Management Act, 2003, as the case may be, for a department that issued a section 18A receipt in terms of section 18A(2) of the Act, must submit a certificate of examination annually to the Commissioner confirming that all donations received or accrued in the year in respect of which receipts were issued, were utilised in the manner contemplated in section 18A(2A) of the Act. The proposed amendment aims to include a department in section 18A(5B) of the Act, to enable the Commissioner to take the necessary recourse against a non-compliant department.

#### **2.4 Clause 4: Amendment of paragraph 1 of First Schedule to Income Tax Act, 1962**

In terms of section 66(13C) of the Income Tax Act, 1962, the Commissioner may accept accounts for a company different to its financial year. The reference to section 66(13C) was omitted from paragraph 1(a) of the First Schedule to the Act. The proposed amendment aims to correct this oversight.



## **2.5 Clause 5: Amendment of section 1 of Customs and Excise Act, 1964**

The proposed amendment is a correction aimed at adding references to the definition of “illicit goods” to additional goods on which levies were imposed over time. The consequential amendments to the definition were inadvertently not effected at the time when the new levies were imposed.

## **2.6 Clause 6: Amendment of section 3 of Customs and Excise Act, 1964**

The proposed amendment aims to enable the Commissioner to delegate functions of officers or other persons in terms of the Customs and Excise Act to persons in the service of other organs of state or institutions, or to designate persons in the service of such organs of state or institutions to act as customs officers for specific purposes. The Commissioner must however obtain the concurrence of such other organ of state or institution by means of an agreement contemplated in section 2(1A). This proposed amendment is *inter alia* related to the implementation of the new SARS electronic traveller management system (SATMS).

## **2.7 Clause 7: Amendment of section 38 of Customs and Excise Act, 1964**

Pursuant to the announcement in the 2024 Budget Review that SARS will review the approach to packages imported through eCommerce, the proposed amendment aims to provide for a simplified regime for the entry of goods imported or exported for purposes of express delivery on a door-to-door basis.

The deletion of section (1)(a)(v) is proposed, which will have the effect that goods described in this category must in future be formally entered even though the value for duty purposes is below R500 and no duty is payable in terms of Schedule No. 1. This entry will in the case of qualifying express delivery parcels be done on a simplified bill of entry to be provided for by rule.

The proposed provision further enables the Commissioner to determine the simplified procedures that will be applicable by rule, including the activities for which persons participating in the international transportation of goods on an express door-to-door delivery basis, must be licenced or registered in terms of this Act in order to enter such goods in accordance with simplified procedures, the requirements and conditions for making use of such procedures, the documents to be used for purposes of entry, the information to be provided, the manner of submission, the timeframes for submission and supporting documents to be provided.

Only express goods below an upper limit determined by the Minister, in consultation with the Minister of Trade, Industry and Competition, by notice in the *Gazette*, may be entered in accordance with such simplified procedures.

## **2.8 Clause 8: Amendment of section 40 of Customs and Excise Act, 1964**

This amendment aims to amend section 40 in relation to the timing of the adjustment of a bill of entry by creating flexibility in respect of adjustments made in a manner prescribed by the Commissioner. Whilst it is possible to submit adjustments in the form of a voucher of correction without delay, the same cannot be said for instances where the Commissioner determines another manner of adjustment of a bill of entry, for example in the case of transfer pricing adjustments or where invoices in relation to bulk export shipments are amended. The proposed amendment enables the Commissioner to not only prescribe the manner in which the adjustment of the bill of entry must be done, but also the timeframe in accordance with which it must be done.

## 2.9 Clause 9: Amendment of section 75 of Customs and Excise Act, 1964

The proposed amendment aims to authorise the transfer of waste or scrap remaining after the manufacturing from any goods entered for processing under the provisions of any rebate item specified in Schedule No. 3. Currently such waste and scrap may not be transferred under rebate of customs duty for subsequent manufacture of goods in terms of any rebate item in Schedule No. 3. This amendment facilitates the creation of a rebate item in Schedule No. 3 to enable the use of such waste or scrap under rebate of customs duty subject to compliance with such item.

## 2.10 Clause 10: Insertion of Chapter XB of Customs and Excise Act, 1964

Proposed Chapter XB provides for voluntary disclosure relief for purposes of the Customs and Excise Act, 1964, to enable persons benefiting from an “underpayment” of duty, to voluntarily disclose such underpayment in exchange for an undertaking by the Commissioner not to institute criminal proceedings and to grant further relief as set out in the Chapter.

For purposes of this Chapter an “underpayment” is a non-payment or underpayment of duty due to the submission of inaccurate or incomplete information, or the non-submission of information to the Commissioner, and it also includes the claiming of any rebate, drawback, refund or payment or the setting off of any amount to which the claimant was knowingly not entitled.

Customs and excise voluntary disclosure relief also includes “underpayments” of value-added tax levied on the importation of goods into the Republic as well as such tax on goods manufactured in the Republic subject to excise duty, environmental levy or health promotion levy.

The provisions of Chapter XB deal with the circumstances in which persons subject to audit, investigation or enforcement actions qualify to apply for voluntary disclosure relief, the requirements for valid voluntary disclosure, voluntary disclosure agreements concluded between a successful applicant and the Commissioner, the withdrawal of voluntary disclosure relief granted and the consequences thereof, reporting to the Auditor-General and the Minister on voluntary disclosure agreements concluded, requests for non-binding private opinions on the eligibility for voluntary disclosure of persons who wish to remain anonymous, and a rule making enabler.

## 2.11 Clause 11: Amendment of section 1 of Value-Added Tax Act, 1991

In Chapter 4 of the 2023 Budget Review the Minister made the following announcement on page 54: *“Over the period ahead, SARS intends to review the VAT administrative framework to simplify and modernise the current system, in consultation with all affected parties.”*

The Value-Added Tax (VAT) Modernisation Project aims to enhance South Africa’s VAT administrative framework by introducing and implementing the building blocks of an e-invoicing, Interoperability Framework (IF) and an e-reporting system. This project forms part of a broader effort to transform tax processes, improve customer service and engagement, reduce the VAT gap and streamline tax administration for VAT traders, businesses, and SARS. SARS design principles are centred on the key concepts of *“The best service is no service”*, and *“The Voluntary compliance intent”*. The strategic objective is to work with and through stakeholders to improve the tax ecosystem with the aim of addressing the current challenges faced by traders, businesses, and SARS. In the VAT context, these challenges comprise reliance on manual, paper-based invoicing systems; inefficiencies in compliance; the risk of errors; and tax evasion. The benefits of the proposed system will include improved and less effort in compliance; enhanced visibility/transparency; reduced error and fraud; and increased efficiency in tax administration, which may extend beyond VAT in time. The building blocks

introduced as proposed definitions will entail the implementation of a decentralised clearance model with continuous transaction controls and exchange.

As a first phase, the proposed amendments insert the relevant definitions that will form the pillars of the VAT Modernisation Project, and, in addition, allow for the expansion of the Minister's regulatory powers to make regulations prescribing the model and requirements for participation by a vendor in a voluntary e-reporting system. Further, the purpose of the amendments is to enable and engage collaboratively with stakeholders to implement a world-class VAT administration system.

#### **2.12 Clause 12: Amendment of section 44 of Value-Added Tax Act, 1991**

As a result of the changes made to the Electronic Services Regulations, many foreign suppliers will need to deregister, and some of these may have refunds due to them. Even if they qualify not to have an SA bank account, under section 23 of the Act, the Act does not make provision for a payment to be made into a foreign bank account. The proposed amendment enables SARS to make a refund into the banking account of the foreign supplier on cancellation of the foreign supplier's registration as a vendor.

#### **2.13 Clause 13: Amendment of section 45 of Value-Added Tax Act, 1991**

*Ad paragraph (a):* The proposed amendment aims to correct cross-references and effect a consequential amendment flowing from amendments made to sections 23 and 46 of the Value-Added Tax Act, 1991, by the Tax Administration Laws Amendment Act, 2024.

Furthermore, section 45 provides that the Commissioner will be liable to pay interest on a delayed refund, unless one of the specific conditions listed in the proviso to section 45 applies. The proposed amendment expands these conditions and provides that no interest will be paid on a delayed refund, where a vendor has not complied with the provisions of section 44(3)(d) or (e) of the Act.

*Ad paragraph (b):* The proposed amendment aims to correct a cross-reference.

#### **2.14 Clause 14: Amendment of section 74 of Value-Added Tax Act, 1991**

See the note on the amendments to section 1(1) of the Value-Added Tax Act, 1991.

#### **2.15 Clause 15: Amendment of section 11 of Tax Administration Act, 2011**

Section 11(4) of the Tax Administration Act, 2011, provides that unless the court otherwise directs, no legal proceedings may be instituted in the High Court against the Commissioner, unless the applicant has given the Commissioner written notice of at least 10 business days of the applicant's intention to institute the legal proceedings. This notice precedes the normal court proceedings and is intended to allow the Commissioner to address issues before the parties engage in costly litigation. The purpose of the proposed amendment is to prescribe a specific format for this notice, i.e. the relevant information to be contained in the notice to streamline SARS operational processes. It is important to note that the courts retain the discretion to set a matter down for hearing even if no notice has been provided or SARS considers the notice inadequate, hence the courts remain the final decision makers with respect to access to court. The proposed amendment further aligns the wording with that used elsewhere in the Tax Administration Act, where a taxpayer is required to submit a return, document or information in a prescribed form.

This notice needs to be distinguished from legal proceedings instituted through a Court of law. The form and manner for these processes are not prescribed in terms of the Tax Administration Act as they are regulated by the High Court Rules.

#### **2.16 Clause 16: Amendment of section 45 of Tax Administration Act, 2011**

To curb value-added tax (VAT) fraud and abuse, SARS implements risk-mitigating measures throughout the VAT product life cycle, including VAT registration. When voluntary VAT registration applications are submitted, SARS may require a site inspection to verify that the enterprise business address given on the application exists and the premises are suitable for conducting the activities reflected on the application. Similar risks may exist with respect to registration for the employment tax incentive and applications for approval for tax privileged status, such as the ability to issue section 18A receipts in respect of tax-deductible donations.

Section 45 of the Tax Administration Act, 2011, provides that SARS may conduct an inspection at business premises under certain circumstances. It is proposed that the provisions of this section be expanded to include inspections for these purposes. Where a taxpayer conducts business from home, only the part of the premises used for the purposes of trade may be inspected.

#### **2.17 Clause 17: Amendment of section 68 of Tax Administration Act, 2011**

The proposed amendment is a consequential amendment.

#### **2.18 Clause 18: Amendment of section 164 of Tax Administration Act, 2011**

Section 95(1)(a) and (c) of the Tax Administration Act, 2011, allows SARS to make an original, additional, reduced or jeopardy assessment based in whole or in part on an estimate if the taxpayer does not submit a return or does not submit a response to a request for relevant material under section 46 of the Act, under certain circumstances.

Section 95(6) provides that the taxpayer in relation to whom the assessment under subsection (1)(a) or (c) has been issued may, within 40 business days from the date of the assessment, or a longer period as the Commissioner may prescribe by public notice, request SARS to make a reduced or additional assessment by submitting a true and full return or the relevant material. In terms of section 95(5), an assessment raised in this instance is only subject to objection and appeal if SARS decides not to make a reduced or additional assessment after the taxpayer submits the return or relevant material under subsection (6).

Section 164(2) of the Tax Administration Act provides that a taxpayer may request a senior SARS official to suspend the payment of tax or a portion thereof due under an assessment if the taxpayer intends to dispute or disputes the liability to pay that tax under Chapter 9 of the Act. In practice, SARS has allowed a taxpayer who has requested a reduced assessment under section 95(6) to apply for a suspension of payment in terms of section 164(2).

The proposed amendment aims to make it clear that a taxpayer who intends to request or has made a request for a reduced assessment will be able to apply for a suspension of payment of the tax charged in terms of the assessment based on an estimate until SARS has made a decision as to whether SARS will issue a reduced assessment based on the return submitted by the taxpayer. Should SARS decide not to issue a reduced assessment, the taxpayer may in terms of section 95(5) lodge an objection against the assessment based on an estimate in which case the provisions of section 164(2)(a) will apply to the already suspended debt, unless any of the other provisions of section 164, in terms whereof SARS can deny or revoke the suspension, find application.

**2.19 Clause 19: Amendment of section 187 of Tax Administration Act, 2011**

The proposed amendment corrects a cross-reference.

**2.20 Clause 20: Amendment of section 222 of Tax Administration Act, 2011**

The concept and scope of a *bona fide* inadvertent error has proven to be contentious and adverse to the framework for a clear and effective understatement penalty regime. It was introduced after the initial promulgation of the Act to address practical issues that had arisen from the application of the framework and the ‘substantial understatement’ test. The concept is not explicitly used in similar understatement penalty frameworks as they do not apply purely factual tests such as ‘substantial understatement’ alongside with taxpayer behaviours in a single provision. The proposed amendment aims to clarify the scope and application of a *bona fide* inadvertent error by explicitly linking it with ‘substantial understatement’, which does not include a behavioural requirement (linked to taxpayer behaviour) but rather entails an objective calculation.

The proposed amendment furthermore clarifies that an understatement penalty must only be imposed in the event of an ‘understatement’ by a taxpayer that involves a behaviour listed in the understatement penalty percentage table in section 223. If no such behaviour is present, no understatement penalty must be imposed.

**2.21 Clause 21: Amendment of section 223 of Tax Administration Act, 2011**

See the note in 2.20 above on the amendment of section 222 of the Tax Administration Act, 2011.

**2.22 Clause 22: Amendment of section 227 of Tax Administration Act, 2011**

The Tax Administration Act, 2011, provides for a voluntary disclosure programme but excludes customs and excise. As part of the 2025 Budget Review a proposal was made to amend the Customs and Excise Act, 1964, to insert specific voluntary disclosure relief for purposes of customs and excise. The proposed amendment is a consequential amendment excluding matters that constitute an ‘underpayment’ as defined in section 77Z of the Customs and Excise Act, which forms part of the voluntary disclosure relief under that Act, from the voluntary disclosure programme under Part B of Chapter 16 of the Tax Administration Act.

**2.23 Clause 23: Amendment of section 247 of Tax Administration Act, 2011**

The proposed amendment is a technical correction flowing from the amendments affected to section 246 and 247 of the Tax Administration Act, 2011, by the Tax Administration Laws Amendment Act, 2024.

**2.24 Clause 24: Amendment of section 249 of Tax Administration Act, 2011**

The proposed amendment is a technical correction flowing from the amendments affected to section 246 and 247 of the Tax Administration Act, 2011, by the Tax Administration Laws Amendment Act, 2024.

**2.25 Clause 25: Amendment of section 2 of Global Minimum Tax Administration Act, 2024**

Paragraph (a): The proposed amendment inserts a registration requirement in line with other tax Acts.

Paragraph (b): The proposed amendment is a technical correction to provide for the consistent use of terminology.

**2.26 Clause 26: Short title and commencement**

The clause makes provision for the short title of the proposed Act and provides that different provisions of the Act may come into effect on different dates.

**3. CONSULTATION**

The amendments proposed by this Bill were published on SARS' and National Treasury's websites for public comment. Comments by interested parties were considered. Accordingly, the public and institutions at large have been consulted in preparing the Bill.

**4. FINANCIAL IMPLICATIONS FOR STATE**

An account of the financial implications for the State was given in the 2025 Budget Review, tabled in Parliament on 12 March 2025, and 2025 Budget Overview, tabled in Parliament on 21 May 2025.

**5. PARLIAMENTARY PROCEDURE**

- 5.1 The State Law Advisers, the National Treasury and SARS are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution of the Republic of South Africa, 1996, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), since it does not contain provisions pertaining to traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities, nor any matter referred to in section 154(2) of the Constitution.



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