



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 506 Cape Town

8 August 2007

No. 30157

THE PRESIDENCY

No. 707

8 August 2007

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

No. 8 of 2007: Taxation Laws Amendment Act, 2007.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 5 August 2007.)

ACT

To amend the Estate Duty Act, 1955, so as to determine the dutiable amount of an estate; to amend the Income Tax Act, 1962, so as to fix the rates of normal tax; to amend certain amounts; to amend certain definitions; to insert certain definitions; to delete certain obsolete provisions; to extend certain time periods; to amend certain rates; to further regulate the taxation of lump sum benefits; to provide for and regulate the deduction of certain amounts from income; to provide that certain amounts may be determined by the Commissioner; to further regulate the withholding of employees' tax and to effect certain textual and consequential amendments; to amend the Customs and Excise Act, 1964, so as to amend Schedule 1; to provide for the continuation of certain amendments to the Schedules and to effect certain textual amendments; to amend the Stamp Duties Act, 1968, so as to provide for the exemption from duty of certain leases; to further regulate refunds payable; to reduce a limit on stamp duty payable and to effect certain textual and consequential amendments; to amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to further regulate the circumstances in which input tax may be claimed; to further regulate value-added tax exemption on importation of goods and to effect certain textual and consequential amendments; to amend the Tax on Retirement Funds Act, 1996, so as to amend certain definitions; to amend the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, so as to treat certain amounts as exempt; to provide that certain amounts may not be deducted; to provide that certain capital gains and capital losses must be disregarded; to provide that no reduced assessments or objections may be made under certain circumstances and to effect certain textual and consequential amendments; to amend the Revenue Laws Amendment Act, 2006, so as to insert certain effective dates and to effect certain textual and consequential amendments; to amend the Diamonds Act, 1986, so as to amend the imposition of a levy; to amend the Diamonds Amendment Act, 2005, so as to extend a date and to provide for matters connected therewith.

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

Amendment of section 4A of Act 45 of 1955, as inserted by section 6 of Act 92 of 1971 and amended by section 3 of Act 95 of 1978, section 5 of Act 102 of 1979, section 12 of Act 106 of 1980, section 4 of Act 99 of 1981, section 6 of Act 81 of 1985, section 2 of Act 71 of 1986, section 11 of Act 87 of 1988, section 5 of Act 30 of 2002 and section 17 of Act 9 of 2006

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1. (1) The Estate Duty Act, 1955, is hereby amended by the substitution for section 4A of the following of the following section:

“Dutiable amount of an estate

4A. The dutiable amount of any estate shall be determined by deducting from the net value of the estate, as determined in accordance with section 4, an amount of [~~R2,5 million~~] R3,5 million.”

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2007 and shall apply in respect of the estate of any person who dies on or after that date.

Fixing of rates of normal tax and amendment of certain amounts for purposes of Act 58 of 1962

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2. (1) The rates of tax fixed by Parliament in terms of section 5(2) of the Income Tax Act, 1962, are set out in paragraphs 1, 3, 4, 5, 6 and 7 of Appendix I to this Act.

(2) The Income Tax Act, 1962, is hereby amended—

(a) by the substitution for the amounts in section 6(2)(a) and (b) respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act; and

(b) by the substitution for each monetary amount in the provisions specified in the second column of the Tables in Part II of Appendix I to this Act of the monetary amount in the third column opposite the relevant provision.

(3) For the purposes of Appendix I to this Act any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, shall, unless the context indicates otherwise, bear the meaning so assigned.

(4) The rates of tax fixed in terms of subsection (1) shall apply in respect of the taxable income of—

(a) any person (other than a company) for the year of assessment ending on 29 February 2008; and

(b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2008.

(5) Subject to subsection (6), subsection (2)(b) shall be deemed to have come into operation on 1 March 2007 and shall apply in respect of any year of assessment commencing on or after that date.

(6) Subsection (2)(b), to the extent that it amends the amount in section 10(1)(cN)(ii)(dd)(ii), shall be deemed to have come into operation on 1 April 2007 and shall apply in respect of any year of assessment ending on or after that date.

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 95 of 1967, section 5 of Act 76 of 1968, 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 No. R780 of 14 April 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, 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 2000, 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,

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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 and section 3 of Act 20 of 2006

3. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in the definition of “**company**” for subparagraph (ii) of paragraph (e) of the following subparagraph: 5
- “(ii) arrangement or scheme carried on outside the Republic in pursuance of which members of the public (as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)), are invited or permitted to invest in a portfolio of a collective investment scheme, where [two] one or more investors contribute to and hold a participatory interest in a portfolio of the scheme through shares, units or any other form of participatory interest; or”;
- (b) by the substitution in the definition of “**connected person**” for subparagraph (i) of paragraph (d) of the following subparagraph: 15
- “(i) any other company that would be part of the same group of companies as that company [as] if the expression ‘at least 70 per cent’ in paragraphs (a) and (b) of the definition of ‘**group of companies**’ in this section were replaced by the expression ‘more than 50 per cent’;”;
- (c) by the substitution for the definition of “**co-operative**” of the following definition: 20
- “‘**co-operative**’ means [a co-operative as defined] any association of persons registered in terms of section [1] 27 of the Co-operatives Act, 1981 (Act No. 91 of 1981) or section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005);”;
- (d) by the substitution for the definition of “**equity share capital**” of the following definition: 25
- “‘**equity share capital**’ means, in relation to any company, its issued share capital and in relation to a close corporation, its members’ interest, excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution, and the expression ‘equity shares’ shall be construed accordingly;”;
- (e) by the substitution in the definition of “**gross income**” for the words in paragraph (e) preceding subparagraph (i) of the following words: 35
- “any retirement fund lump sum benefit and any other amount determined in accordance with the provisions of the Second Schedule (other than any amount included under paragraph (eA)) in respect of lump sum benefits received by or accrued to [such] a person from or in consequence of his membership or past membership of—”;
- (f) by the substitution in the definition of “**pension fund**” for subparagraph (dd) of paragraph (ii) of the proviso to paragraph (c) of the following subparagraph: 40
- “(dd) that not more than one-third of the total value of the annuity or annuities to which any employee becomes entitled, may be commuted for a single payment, except where [the annual amount of such annuity or annuities] two-thirds of the total value does not exceed [R1 800 or such other amount as the Minister of Finance may from time to time fix by notice in the Gazette] R50 000;”;

- (g) by the substitution in the definition of “**retirement annuity fund**” for subparagraph (ii) of paragraph (b) of the proviso of the following paragraph:
 “(ii) that not more than one-third of the total value of any annuities to which any person becomes entitled, may be commuted for a single payment, except where [the annual amount of such annuities] two thirds of the total value does not exceed [R1 800 or such other amount as the Minister of Finance may from time to time fix by notice in the Gazette] R50 000;”;
- (h) by the substitution in the definition of “**retirement-funding employment**” for subparagraph (i) of paragraph (a) of the following subparagraph:
 “(i) in the case of such employee, derives in respect of his employment any income constituting remuneration as defined in paragraph 1 of the Fourth Schedule (but leaving out of account the provisions of paragraph (c) of that definition and including the amount of any allowance or advance in respect of transport expenses contemplated in section 8(1)(b), but not an allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said section (8)(1)(b)(iii), and excluding any retirement fund lump sum benefit) and is a member of or, as an employee, contributes to a pension fund or provident fund established for the benefit of employees of the employer from whom such income is derived; or”;
- (i) by the substitution in the definition of “**retirement-funding employment**” for the words preceding item (aa) of subparagraph (ii) of paragraph (a) of the following words:
 “in the case of such holder of an office, derives in respect of his office any income (other than any retirement fund lump sum benefit) by way of salary, emoluments, fees or other remuneration and is, as respects such office, a member of or contributes to a pension fund or provident fund established—”;
- (j) by the insertion after the definition of “**retirement-funding employment**” of the following definition:
 “‘retirement fund lump sum benefit’ means the amount determined in terms of paragraph 2(a) of the Second Schedule in respect of a year of assessment, after taking into account the provisions of paragraphs 2A, 2B and 2C of that Schedule;”;
- (k) by the substitution in the definition of “**shareholder**” for paragraph (a) of the following paragraph:
 “(a) in relation to any company referred to in paragraph (a), (b)[, (c)] or (d) of the definition of ‘company’ in this section, means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether by virtue of any provision in the memorandum or articles of association of the company or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits, income or capital attaching to the share so registered, that other person shall, to the extent that such other person is entitled to such benefit, also be deemed to be a shareholder; or”;
- (l) by the substitution in the definition of “**special trust**” for subparagraph (i) of paragraph (a) of the following subparagraph:
 “(i) any ‘mental illness’ as defined in section 1 of the [Mental Health Act, 1973 (Act No. 118 of 1973)] Mental Health Care Act, 2002 (Act No. 17 of 2002); or”;
- (m) by the substitution in the definition of “**water services provider**” for paragraph (b) of the following paragraph:
 “(b) a wholly owned subsidiary or entity of [that] a public entity contemplated in paragraph (a) if [a] the operations of the subsidiary or entity are ancillary or complementary to the operations of that public entity;”.

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

(3) Subsection (1)(e), (h), (i) and (j) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date. 5

Amendment of section 5 of Act 58 of 1962, as amended by section 2 of Act 6 of 1963, section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 3 of Act 90 of 1988, section 3 of Act 129 of 1991, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995, section 7 of Act 5 of 2001, section 5 of Act 19 of 2001 section 10 of Act 30 of 2002, section 15 of Act 45 of 2003 and section 4 of Act 20 of 2006 10 15

4. Section 5 of the Income Tax Act, 1962, is hereby amended—

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

“(2) Subject to the provisions of [subsections (3) to (7) inclusive, and the provisions of] subsection (7) and the Fourth Schedule, the rates of tax chargeable in respect of taxable income shall be fixed annually by Parliament, but the rates fixed by Parliament in respect of any year of assessment or financial year [or, if the rates so fixed have been varied by the Minister of Finance by way of an amendment made under subsection (3), which is still in force, the rates so varied,] shall be deemed to continue in force until the next such determination [or variation] of rates and shall be applied for the purposes of calculating the tax payable in respect of any such taxable income received by or accrued to or in favour of any person during the next succeeding year of assessment or financial year, as the case may be, if in the opinion of the Commissioner the calculation and collection of the tax chargeable in respect of such taxable income cannot without risk of loss or revenue be postponed until after the rates for that year have been determined.”; and 20 25 30

(b) by the deletion of subsections (2B), (3), (4), (5) and (6).

Amendment of section 6 of Act 58 of 1962, as amended by section 4 of Act 90 of 1962, section 3 of Act 6 of 1963, section 5 of Act 72 of 1963, section 8 of Act 55 of 1966, section 7 of Act 95 of 1967, section 7 of Act 76 of 1968, section 8 of Act 89 of 1969, section 7 of Act 88 of 1971, section 5 of Act 104 of 1980, section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5 of Act 21 of 1995, section 4 of Act 36 of 1996, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998, section 5 of Act 32 of 1999, section 15 of Act 30 of 2000, section 6 of Act 19 of 2001, section 11 of Act 30 of 2002, section 35 of Act 12 of 2003, section 6 of Act 16 of 2004, section 3 of Act 9 of 2005, section 7 of Act 31 of 2005 and section 20 of Act 9 of 2006 35 40 45

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

“(1) There shall be deducted from the normal tax payable by any natural person, other than normal tax in respect of any retirement fund lump sum benefit, an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsection (2).” 50

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act, section 55

5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19 of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004, section 4 of Act 9 of 2005, section 21 of Act 9 of 2006 and section 5 of Act 20 of 2006

6. (1) Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)(a) for the words preceding the proviso of the following words:

“There shall be included in the taxpayer’s income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G, section 24I, section 24J and section 27(2)(b) and (d) of this Act, except section 11(k), (p) and (q), section 11D(1), section 11quin, section 12(2) or section 12(2) as applied by section 13(8), or section 13bis(7), or section 15(a), or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any amount that is recovered or recouped on or after that date.

Amendment of section 8E of Act 58 of 1962, as inserted by section 6 of Act 70 of 1989 and amended by section 19 of Act 45 of 2003, section 9 of Act 32 of 2004

7. Section 8E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of “right of disposal” of the following definition:

“‘right of disposal’ means a right which the holder of [an hybrid equity instrument] a share has to require any party—

- (a) to acquire that [hybrid equity instrument] share from that holder; or
- (b) to procure, facilitate or assist with the redemption in whole or in part of that [hybrid equity instrument] share or the repayment in whole or in part of the capital subscribed for that [hybrid equity instrument] share or the conversion of that [hybrid equity instrument] share into any other share which is redeemable in whole or in part within a period of three years from the date of issue thereof.”.

Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991, section 9 of Act 141 of 1992, section 6 of Act 113 of 1993, section 7 of Act 36 of 1996, section 26 of Act 30 of 1998, section 16 of Act 53 of 1999, section 21 of Act 45 of 2003, section 12 of Act 32 of 2004 and section 22 of Act 9 of 2006

8. Section 9B of the Income Tax Act, 1962, is hereby amended by the deletion of paragraph (a) of the proviso to subsection (1).

Amendment of section 9D of Act 58 of 1962, as substituted by section 14 of Act 74 of 2002, and amended by section 22 of Act 45 of 2003, section 13 of Act 32 of 2004, section 14 of Act 31 of 2005 and section 9 of Act 20 of 2006

9. (1) Section 9D of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the definition of “country of residence” of the following definition:

“‘country of residence’, in relation to a [controlled] foreign company, means the country where that company has its place of effective management;”;

- (b) by the substitution in subsection (1) for paragraph (e) of the definition of **“foreign business establishment”** of the following paragraph:
- “(e) a vessel, vehicle, ~~aircraft or~~ rolling stock ~~or aircraft~~ used for purposes of transportation or fishing, or prospecting or exploration for natural resources, or mining or production of natural resources, where that vessel, vehicle, rolling stock or aircraft is used solely outside the Republic for such purposes and is operated directly by that controlled foreign company or by any other company that has the same country of residence as that controlled foreign company and that forms part of the same group of companies as that controlled foreign company;”;
- (c) by the substitution in subsection (1) for the definition of **“foreign company”** of the following definition:
- “‘foreign company’ means any association, corporation, company, arrangement or scheme contemplated in paragraph (a), (b), ~~(c)~~, ~~(e)~~ or ~~(f)~~ of the definition of ‘company’ in section 1, which is not a resident;”;
- (d) by the substitution in subsection (9)(b)(ii)(bb) for subitem (C) of the following subitem:
- “(C) the products are sold by that controlled foreign company to ~~persons~~ a person who ~~are~~ is not a connected ~~persons~~ person in relation to that controlled foreign company, for physical delivery to ~~customers’~~ a customer’s premises situated within the country of residence of that controlled foreign company; or”;
- (e) by the substitution in subsection (9)(b)(iii)(cc) for subitem (A) of the following subitem:
- “(A) formed an integral part of any business conducted by that controlled foreign company; ~~and~~”;
- (f) by the substitution in subsection (10) for subparagraph (ii) of paragraph (a) of the following subparagraph:
- “(ii) disregards the application of subsection ~~[(9)(b)(ii)] (9)(b)(iii)~~ to royalties received by or accrued to a controlled foreign company where that company directly and regularly creates, develops, substantially upgrades or adds value to (or provides substantial support services in respect of) intangibles giving rise to those royalties;”;
- (g) by the substitution in subsection (10) for subparagraph (i) of paragraph (a) of the following subparagraph:
- “(i) deems a place of business of a controlled foreign company as fulfilling the requirements of paragraph (a)(i) and (ii) of ~~[that] the~~ definition of **“foreign business establishment”** in subsection (1) by taking into account the utilization of employees, equipment and facilities of any ~~foreign~~ company that has the same country of residence as that controlled foreign company where that ~~other~~ ~~foreign~~ company forms part of the same group of companies as the controlled foreign company;”;

- (h) by the substitution in subsection (10) for the word “and” after subparagraph (iv) of paragraph (a) of the word “or”; and
- (i) by the substitution in subsection (10) for paragraph (b) of the following paragraph:

“(b) Any ruling issued in terms of paragraph (a) will be subject to the same procedures, terms and conditions as a ‘binding private ruling’ as contemplated in Part IA of Chapter III [without regard to section 76G(1)(a)(ii)] but disregarding—

(i) section 76G(1)(a)(ii); and

(ii) the requirement that the transaction must be a proposed transaction.”

(2) Subject to subsection (3), subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment ending on or after that date.

(3) Subsection (1)(c), to the extent it refers to paragraph (c) of the definition of “company” in section 1 of the Income Tax Act, 1962, shall be deemed to have come into operation on 1 January 2007 and shall apply in respect of any year of assessment ending on or after that date.

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

10. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for subparagraph (ii) of paragraph (bA) of the following subparagraph:

“(ii) any institution or body established by a foreign government to the extent that—

(aa) the institution or body has been appointed by that government to **[administer its responsibilities and] perform its functions** in terms of an official development assistance agreement **[which] that** is binding in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996[.]; and **[that]**

(bb) the agreement provides that **[those] the** receipts and accruals of that institution or body must be exempt; **[or] and**”;

- (b) by the substitution in subsection (1) for the words preceding item (aa) of subparagraph (i) of paragraph (cA) of the following words:

“any institution, board or body (other than a company registered or deemed to be registered under the Companies Act, 1973 (Act No. 61 of 1973), **[or under any law repealed by that Act and] any co-operative,**

- [and any] close corporation, [and any] trust[], [and any] water services provider, [and any] Black tribal authority, community authority, Black regional authority [or] and Black territorial authority contemplated in section 2 of the Black Authorities Act, 1951 (Act No. 68 of 1951) established by or under any law and which, in the furtherance of its sole or principal object—”;
- (c) by the substitution in subsection (1)(cN)(ii)(aa) for subitem (A) of the following subitem:
“(A) is integral and directly related to the sole or principal object of that public benefit organisation as contemplated in paragraph (b) of the definition of ‘public benefit organisation’ in section 30;”;
- (d) by the substitution in subsection (1)(cN)(ii)(cc) for subitem (B) of the following subitem:
“(B) the direct connection and interrelationship of the undertaking or activity with the sole [purpose] or principal object of the public benefit organisation;”;
- (e) by the substitution in subsection (1) for the words preceding item (aa) of subparagraph (iii) of paragraph (e) of the following words:
“any other association of persons (other than a company registered or deemed to be registered under the Companies Act, 1973 (Act No. 61 of 1973), [and] any co-operative [formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981)], [and any] close corporation and [any] trust, but including a company incorporated under section 21 of the Companies Act, 1973), from its members, where the Commissioner is satisfied that, subject to such conditions as he or she may deem necessary, such association of persons—”;
- (f) by the deletion in subsection (1) of subparagraphs (iii) and (v) of paragraph (i);
- (g) by the insertion in subsection (1) of the word “or” after item (cc) of subparagraph (ii) of paragraph (k);
- (h) by the deletion in subsection (1) of paragraph (nG);
- (i) by the substitution in subsection (1) for subparagraph (vii) of paragraph (t) of the following subparagraph:
“(vii) of any traditional council [as contemplated in the Communal Land Rights Act, 2004 (Act No. 11 of 2004)] or traditional community established or recognised or deemed to have been established or recognised in terms of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), or any tribe as defined in section 1 of that Act”; and
- (j) by the deletion in subsection (1) of paragraph (zB).
- (2) Subsection (1)(a), (b), (e) and (i) shall be deemed to have come into operation on 1 January 2007 and shall apply in respect of any year of assessment ending on or after that date.
- (3) Subsection (1)(c) and (d) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.
- (4) Subsection (1)(f), to the extent that it deletes section 10(1)(i)(iii), shall come into operation on 1 March 2008.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1968, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996,

section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005 and section 11 of Act 20 of 2006 5

11. (1) Section 11 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in paragraph (e) of subparagraph (vi);
 - (b) by the substitution in paragraph (e) for subparagraph (viii) of the following subparagraph: 10
 - “(viii) where in respect of any machinery, implement, utensil or article acquired by the taxpayer on or after 21 June 1993, a deduction or allowance was previously granted to a connected person in relation to the taxpayer under this paragraph or section 11B(3), 11D(2), 12B(1), 12C(1) or 12E, or under section 27(2)(d) prior to the deletion thereof by section 28(b) of the Income Tax Act, 1991 (Act No. 129 of 1991), the allowance under this paragraph shall be calculated on an amount not exceeding the lesser of the cost of such machinery, implement, utensil or article to such connected person or the market value thereof as determined on the date upon which it was acquired by the taxpayer;” 15 20
 - (c) by the substitution in paragraph (gA) for subparagraph (iii) of the following subparagraph:
 - “(iii) in acquiring by assignment from any other person any such patent, design, trade mark or copyright or in acquiring any other property of a similar nature or any knowledge [connected with] essential to the use of such patent, design, trade mark, copyright or other property or the right to have such knowledge imparted;” 25
 - (d) by the substitution in paragraph (gA) for the words following subparagraph (iii) that precede the proviso of the following words: 30
 - “if such invention, patent, design, trade mark, copyright, other property or knowledge, as the case may be, is used by the taxpayer in the production of his income [or income is derived by him therefrom]”; 30
 - (e) by the substitution in the proviso to paragraph (gA) for items (AA) and (BB), respectively, of subparagraph (B) of paragraph (aa) of the following items: 35
 - “(AA) five percent of the amount of the expenditure in the case of any invention, patent, trade mark, copyright or other property of a similar nature or any knowledge [connected with] essential to the use of such invention, patent, trade mark, copyright or other property or the right to have such knowledge imparted; or 40
 - (BB) 10 per cent of the amount of the expenditure in the case of any design or other property of a similar nature or any knowledge [connected with] essential to the use of such design or other property or the right to have such knowledge imparted;”;
 - (f) by the substitution in the proviso to paragraph (gA) for paragraph (ee) of the following paragraph: 45
 - “(ee) no allowance shall be made in respect of any expenditure incurred by such taxpayer on or after 29 October 1999, in respect of the acquisition from any other person of any trade mark or other property of a similar nature or any knowledge [connected with] essential to the use of such trade mark or the right to have such knowledge imparted;” 50

- (g) by the substitution for paragraph (gB) for the following paragraph:
 “(gB) expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section) actually incurred by the taxpayer during the year of assessment in obtaining the grant of any payment or the restoration of any patent, or the extension of the terms of any patent under the Patents Act, 1978 (Act No. 57 of 1978), or the registration of any design, or extension of the registration period of any design under the Designs Act, 1993 (Act No. 195 of 1993), or the registration of any trade mark, or the renewal of the registration of any trade mark under the Trade Marks Act, 1993 (Act No. 194 of 1993), or under similar laws of any other country, if such patent, design or trade mark is used by the taxpayer in the production of his or her income [or income is derived by him therefrom];”;
- (h) by the substitution in paragraph (gC) for subparagraph (v) of the following subparagraph:
 “(v) knowledge **[connected with]** essential to the use of such patent, design, copyright or other property or the right to have such knowledge imparted;”;
- (i) by the substitution in paragraph (gC) for the words following subparagraph (v) that precede the proviso of the following words:
 “which shall be allowed during the year of assessment in which that invention, patent, design, copyright, other property or knowledge is brought into use for the first time by the taxpayer for the purposes of the taxpayer’s trade, if that invention, patent, design, copyright, other property or knowledge, as the case may be, is used by the taxpayer in the production of his or her income”;
- (j) by the substitution in the proviso to paragraph (gC) for subparagraphs (A) and (B), respectively, of paragraph (aa) of the following subparagraphs:
 “(A) five per cent of the amount of the expenditure in respect of any invention, patent, copyright or other property of a similar nature or any knowledge **[connected with]** essential to the use of such invention, patent, copyright or other property or the right to have such knowledge imparted; or
 (B) 10 per cent of the amount of the expenditure in respect of any design or other property of a similar nature or any knowledge **[connected with]** essential to the use of such design or other property or the right to have such knowledge imparted;”;
- (k) by the substitution in paragraph (hA) for the proviso of the following proviso:
 “: Provided that so much of the amount so paid in cash by that taxpayer as exceeds the deduction allowable in terms of this paragraph shall, for the purposes of this paragraph, be deemed to be an amount paid by the taxpayer in cash to that company, society, association or trust in the immediately succeeding year of assessment to be used for the purpose contemplated in **[sections]** section 10(1)(cH) or 37A;”;
- (l) by the substitution in paragraph (lA) for the proviso of the following proviso:
 “: Provided that the deduction under this paragraph may not during any year of assessment in aggregate exceed an amount of R3 000 in respect of all qualifying equity shares granted to a single employee and so much as exceeds **[R3 000]** that amount may be carried forward to the immediately succeeding year of assessment and that excess is deemed to be the market value of qualifying equity shares granted to the relevant employee during that immediately succeeding year for purposes of this paragraph;”;

- (m) by the deletion in paragraph (m) of the proviso;
 (n) by the substitution in paragraph (n) for item (A) of subparagraph (aa) of the following item:

“(A) 15 per cent of an amount equal to the amount remaining after deducting from, or setting off against, the income derived by the taxpayer during the year of assessment (excluding income derived from any retirement funding employment (being the income or part thereof referred to in the definition of ‘retirement-funding employment’ in section 1), and any retirement fund lump sum benefit) the deductions or assessed losses admissible against such income under this Act (excluding this paragraph, sections 17A, 18, 18A and 19(3) of this Act and paragraphs 12(1)(c) to (i), inclusive, of the First Schedule); or”;

- (o) by the substitution in paragraph (o) for subparagraph (i) of the following subparagraph:

“(i) which qualified for a capital allowance or deduction in terms of section 11(e), 11B, 11D, 12B, 12C, 12E, 14, or 14bis; and”.

(2) Subsection (1)(b) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any machinery, implement, utensil or article acquired on or after that date.

(3) Subsection (1)(g) shall be deemed to have come into effect on 2 November 2006 and shall apply in respect of any expenditure incurred on or after that date.

(4) Subsection (1)(k) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

(5) Subsection (1)(l) shall be deemed to have come into effect on 1 March 2007 and shall apply in respect of any year of assessment commencing on or after that date.

(6) Subsection (1)(o) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any asset that is alienated, lost or destroyed on or after that date.

Amendment of section 11A of Act 58 of 1962, as inserted by section 28 of Act 45 of 2003

12. (1) Section 11A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) which would have been allowed as a deduction in terms of section 11 (other than section 11(x)), [or section] 11B or 11D, had the expenditure or losses been incurred after that person commenced carrying on that trade; and”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any expenditure or losses incurred on or after that date.

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006

13. (1) Section 11D of the Income Tax Act, 1962, is hereby amended—

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

“(1) [There] For the purposes of determining the taxable income derived by a taxpayer from carrying on any trade there shall be allowed as a deduction [during any year of assessment] from the income of such taxpayer so derived, an amount equal to 150 per cent of so much of any expenditure actually incurred by [a] that taxpayer [in that year of assessment (other than costs contemplated in subsection (2))] directly in respect of activities undertaken in the Republic directly for purposes of—

- (a) the discovery of novel, practical and non obvious information **[of a scientific or technological nature]**; or
- (b) the devising, developing[,] or **[creating]** creation of any—
- (i) invention as defined in section 1 of the Patents Act, 1978 (Act No. 57 of 1978)[,];
 - (ii) **[any]** design as defined in section 1 of the Designs Act, 1993 (Act No. 195 of 1993)[,] **that qualifies for registration under section 15 of that Act;**
 - (iii) **[or any]** computer program as defined in section 1 of the Copyright Act, 1978 (Act No. 98 of 1978)[,] **or other similar property];** or
 - (iv) knowledge essential to the use of such invention, design or computer program,
- if that information, invention, design, computer program or knowledge is of a scientific or technological nature and is intended to be used by the taxpayer in the production of his or her income.”;
- (b) by the substitution for subsections (2) and (3), respectively, of the following subsections:
- “(2) There shall be allowed as a deduction by a taxpayer in respect of any building or part thereof, machinery, plant, implement, utensil **[and]** or article which—
- (a) is owned by that taxpayer, or acquired by that taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-added Tax Act, 1991 (Act No. 89 of 1991);
 - (b) is first brought into use by that taxpayer solely and directly for purposes contemplated in subsection (1);
 - (c) prior to first being brought into use by that taxpayer solely and directly for purposes contemplated in subsection (1), was not used by any person for any purpose; and
 - (d) is brought into use for purposes contemplated in subsection (1) and the information, invention, design, computer program or knowledge is intended to be used by the taxpayer in the production of his or her income,
- an **[allowance]** amount equal to 50 per cent of the cost to **[the]** that taxpayer **[to acquire]** of that building, part, machinery, plant, implement, utensil **[and]** or article in the year of assessment that it is bought into use for the first time by that taxpayer and 30 per cent in the first succeeding year of assessment and 20 per cent in the second succeeding year of assessment: Provided that **[where any building was used partly for those purposes and partly for other purposes in the same year of assessment, the allowance for that year of assessment shall be limited to an amount which bears to the full amount of the allowance for that year the same ratio as the use of that building for those purposes bears to the total use of that building in that year of assessment]** no deduction shall be allowed to a taxpayer under this section in respect of any building, part, machinery, plant, implement, utensil or article if that taxpayer ceased to use that building, part, machinery, plant, implement, utensil or article, solely and directly for purposes contemplated in subsection (1) during any previous year of assessment.
- (3) For the purposes of this section, the cost to the taxpayer of any building, machinery, plant, implement, utensil **[and]** or article shall be deemed to be the lesser of—
- (a) the actual cost to the taxpayer in respect of the acquisition, installation and erection thereof **[or];**
 - (b) the cost which a person would, if he or she had acquired, installed or erected that building, machinery, plant, implement, utensil **[and]** or article under a cash transaction concluded at **[arms]** arm’s length on

- the date on which the transaction for the acquisition, installation or erection thereof was in fact **[included]** concluded, have incurred in respect of the **[direct]** cost of such acquisition, **[including the direct cost of the]** installation or erection **[thereof or];**
- (c) where the building, machinery, plant, implement, utensil or article was acquired by the taxpayer from any other person who is a connected person in relation to the taxpayer, the cost (as contemplated in this subsection) to that connected person in respect of the acquisition, installation or erection of that building, machinery, plant, implement, utensil or article; or
- (d) where the building, machinery, plant, implement, utensil or article has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8(4)(e), whether in the current or any previous year of assessment.”;
- (c) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:
 “Notwithstanding any other provision of this section, no deduction shall be allowed in terms of **[subsections]** subsection (1) or (2) in respect of expenditure or costs relating to—”;
- (d) by the insertion after subsection (5) of the following subsections:
 “(5A) Notwithstanding any other provision of this section, no deduction shall be allowed in terms of subsection (1) in so far as that deduction is claimed in respect of expenditure incurred to acquire, install, erect, improve or add to any building, machinery, plant, implement, utensil, article, or to acquire, or for the right of use of, any invention, design, copyright or knowledge.
 (5B) Notwithstanding the provisions of subsection (1), the deduction to be allowed to a taxpayer in terms of that subsection in respect of expenditure incurred by that taxpayer shall, in so far as that expenditure is incurred to defray expenditure of any other person who is a connected person in relation to that taxpayer, be limited to the amount of that expenditure.”;
- (e) by the substitution for subsection (6) of the following subsection:
 “(6) The **[allowance]** deductions contemplated in this section shall apply in lieu of any other deduction or allowance granted under any other provision of this Act, unless the taxpayer elects in the year of assessment that any deduction contemplated in subsection (2) is first allowable in respect of any building or part thereof, or any machinery, plant, implement, utensil or article, that the deduction or allowance granted under that other provision shall apply in respect of that building, part, machinery, plant, implement, utensil or article, in which case subsection (2) shall not apply in respect of that building, part, machinery, plant, implement, utensil or article, as the case may be.”; and
- (f) by the substitution for subsection (9) of the following subsection:
 “(9) Where a taxpayer during any year of assessment[—
 (a)] recovers or recoups any expenditure in respect of which a deduction was allowed in terms of subsection (1) during that year or any previous year, such deduction shall be included in the income of that taxpayer[;
 (b) ceases to use any building or part thereof for purposes contemplated in subsection (1), there shall be included in the income of the taxpayer all deductions allowed in terms of subsection (2) in respect of that building or part in any year of assessment, limited to 100 per cent of the cost to the taxpayer of that building or part, less 10 per cent for each year that the building or part was regularly used for such purposes].”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any activities undertaken, or any building, machinery, plant, implement, utensil or article first brought into use on or after that date.

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995, section 10 of Act 46 of 1996, section 18 of Act 59 of 2000, section 11 of Act 19 of 2001, section 15 of Act 30 of 2002, section 30 of Act 45 of 2003, section 8 of Act 9 of 2005 and section 20 of Act 31 of 2005

14. (1) Section 12C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph: 10

“(c) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) owned by the taxpayer or acquired by the taxpayer as a purchaser in terms of an agreement contemplated in paragraph (a) of an ‘instalment credit agreement’ as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and which was or is brought into use for the first time by any agricultural co-operative **[incorporated]** registered or deemed to be incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981), or registered under the Co-operatives Act, 2005 (Act No. 14 of 2005) and is used by it directly for storing or packing pastoral, agricultural or other farm products of its members (including any person who is a member of another agricultural co-operative which is itself a member of such agricultural co-operative) or for subjecting such products to a primary process as defined in section 27(9); or”.

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2007 and shall apply in respect of any year of assessment ending on or after that date. 25

Amendment of section 12E of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 37 of Act 12 of 2003, section 31 of Act 45 of 2003, section 9 of Act 9 of 2005, section 21 of Act 31 of 2005, section 24 of Act 9 of 2006 and section 14 of Act 20 of 2006

15. (1) Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph (i) of the following paragraph:

“(i) the gross income for the year of assessment does not exceed an amount equal to R14 million: Provided that where the close corporation or company during the relevant year of assessment carries on any trade, for purposes of which any asset contemplated in this section is used, for a period which is less than 12 months, **[the] that amount [of R14 million]** shall be reduced to an amount which bears to **[R14 million] that amount**, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), during which that company or close corporation carried on that trade bears to 12 months;”.

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

Amendment of section 13quat of Act 58 of 1962, as inserted by section 33 of Act 45 of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of 2004 and section 23 of Act 31 of 2005

16. Section 13quat of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5) for paragraph (a) of the following paragraph: 5

“(a) where that taxpayer ceased to use that building or part solely for purposes of that taxpayer’s trade during any previous year of assessment in or prior to which an allowance contemplated in subsection (2) was claimed;”.

Amendment of section 18 of Act 58 of 1962, as amended by section 15 of Act 95 of 1967, section 12 of Act 76 of 1968, section 17 of Act 89 of 1969, section 14 of Act 52 of 1970, section 15 of Act 88 of 1971 section 12 of Act 104 of 1980, section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990, section 19 of Act 129 of 1991, section 18 of Act 141 of 1992, section 16 of Act 21 of 1995, section 23 of Act 53 of 1999, section 26 of Act 59 of 2000, section 19 of Act 30 of 2002 and section 25 of Act 31 of 2005 10 15

17. (1) Section 18 of the Income Tax Act, 1962, is hereby amended—

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

“any contributions made by that taxpayer **[during]** in respect of the year of assessment in respect of that taxpayer, his or her spouse and any dependant, as defined in section 1 of the Medical Schemes Act, 1998 (Act No. 131 of 1998), of that taxpayer to—”; 20

(b) by the substitution in subsection (2) for item (cc) of subparagraph (i) of paragraph (c) of the following item: 25

“(cc) where those contributions are made with respect to the taxpayer and more than one dependant, **[R1 000] the amount referred to in item (bb) in respect of the taxpayer and one dependant plus [R300] R320** for every additional dependant for each month in that year in respect of which those contributions were made”; 30

(c) by the substitution in subsection (2) for the words in paragraph (c) following item (bb) of subparagraph (ii) of the following words:

“as in the aggregate exceeds 7,5 per cent of the taxpayer’s taxable income (excluding any retirement fund lump sum benefit) as determined before allowing any deduction under this section.”; and 35

(d) by the substitution in subsection (3) for paragraph (e) of the following paragraph:

“(e) a person who suffers from a mental illness as defined in section 1 of the **[Mental Health Act, 1973 (Act No. 18 of 1973)] Mental Health Care Act, 2002 (Act No. 17 of 2002)**.”. 40

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

Amendment of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970, 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 96 of 1981, 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, section 16 of Act 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 and section 16 of Act 20 of 2006 45 50

18. Section 18A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the words following paragraph (c) of the following words:

“as does not exceed **[five] ten** per cent of the taxable income (excluding any retirement fund lump sum benefit) of the taxpayer as calculated before allowing any deduction under this section or section 18.”. 55

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 19 of Act 101 of 1990, section 16 of Act 113 of 1993, section 17 of Act 21 of 1995, section 26 of Act 30 of 2000, section 27 of Act 59 of 2000, section 23 of Act 74 of 2002 and section 35 of Act 45 of 2003 5

19. Section 20 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for subparagraph (i) of paragraph (a) of the following subparagraph:
- “(i) no person whose estate has been voluntarily or compulsorily sequestrated shall be entitled to carry forward any assessed loss incurred prior to the date of sequestration, unless the order of sequestration has been set aside, in which case the amount to be so carried forward shall be reduced by an amount which was allowed to be set off against the income of the insolvent estate of such person from the carrying on of any trade **[in the Republic]; and**”;
- (b) by the deletion in the proviso to subsection (1) of the word “or” at the end of subparagraph (ii) of paragraph (a);
- (c) by the substitution in the proviso to subsection (1) for subparagraph (ii) of paragraph (b) of the following subparagraph:
- “(ii) any balance of assessed loss incurred in any previous year of assessment~~[,]; or~~”;
- (d) by the addition after paragraph (b) of the proviso to subsection (1) of the following paragraph:
- “(c) that is a retirement fund lump sum benefit included in taxable income, any—
- (i) balance of assessed loss;
- (ii) ‘assessed loss’ as defined in subsection (2) incurred in such year before taking into account that retirement fund lump sum benefit;”;
- (e) by the substitution in subsection (2A) for paragraph (a) of the following paragraph:
- “(a) the provisions of subsections (1) and (2) shall *mutatis mutandis* apply for the purpose of determining the taxable income derived by such taxpayer otherwise than from carrying on any trade, the reference in subsection (1) to ‘taxable income derived by any person from carrying on any trade **[in the Republic]**’ and the reference in that subsection to ‘the income so derived’ being respectively construed as including a reference to taxable income derived by the taxpayer otherwise than from carrying on any trade and a reference to income so derived; and”.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994, section 28 of Act 30 of 2000, section 21 of Act 30 of 2002, section 38 of Act 45 of 2003, section 13 of Act 16 of 2004, section 28 of Act 31 of 2005 and section 17 of Act 20 of 2006 45

20. Section 23 of the Income Tax Act, 1962, is hereby amended by the insertion after paragraph (h) of the following paragraph:

- “(i) any expenditure, loss or allowance to the extent to which it is claimed as a deduction from any retirement fund lump sum benefit;” 50

Amendment of section 23D of Act 58 of 1962, as inserted by section 19 of Act 113 of 1993, as amended by section 10 of Act 140 of 1993, section 20 of Act 21 of 1995 and section 29 of Act 31 of 2005

21. (1) Section 23D of the Income Tax Act, 1962, is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (aA) of the following paragraph: 55

- “(aB) any building, machinery, plant, implement, utensil or article contemplated in section 11B or 11D, as the case may be;”;
- (b) by the substitution in subsection (2) for the words after paragraph (d) of the following words:
- “and a deduction was previously granted to such lessee, such connected person or such sublessee under section 11(e), 11(gA), 11(gC), 11B, 11D, 12B, 12C, 13, 14 or 14bis or section 12 prior to the repeal thereof by section 16 of the Income Tax Act, 1991 (Act No. 129 of 1991), or section 27(2)(d) prior to the deletion thereof by section 28(b) of that Act, whether in the current or any previous year of assessment, any deduction or allowance claimed by such lessor in respect of such asset in terms of section 11(e), (gA), (gC) or (o), 11B, 11D, 12C, 13, 14 or 14bis shall be calculated on an amount not exceeding the lesser of the cost or adjustable cost, as the case may be, of such asset to the lessee, such connected person or such sublessee or the market value thereof as determined on the date upon which the asset was acquired by the taxpayer.”

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any asset acquired on or after that date.

Amendment of section 24F of Act 58 of 1962, as amended by section 17 of Act 85 of 1987, section 19 of Act 90 of 1988, section 24 of Act 101 of 1990, section 26 of Act 129 of 1991, section 30 of Act 59 of 2000, section 25 of Act 74 of 2002 and section 32 of Act 31 of 2005

22. Section 24F of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- “Subject to the provisions of [subsection] subsections (4) and (5), the amount of the film allowance which may be granted in terms of subsection (2), in respect of any one film, is the sum of—”;
- (b) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
- “(b) the amounts of any production cost and post-production cost which have been actually incurred but have not been paid by the film owner and for which he or she is under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment.”;
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) An amount actually incurred in respect of production costs or post-production costs of a film shall not be allowed as a deduction in terms of this section unless there is a binding, unconditional obligation to pay that amount within a period of 18 months from the completion date of that film.”; and
- (d) by the substitution in subsection (8) for the words that precede the proviso of the following words:
- “For the purposes of subsection (4), a film owner shall be deemed to be at risk to the extent that the payment of the production cost or post-production cost actually incurred by the film owner, or the repayment of any loan or credit used by the film owner for the payment or financing of any such production cost or post-production cost would (having regard to any transaction, agreement, arrangement, understanding or scheme entered into before or after such production cost or post-production cost is incurred) result in an economic loss to the film owner were no income to be received by or accrue to the film owner in future years from the exploitation by the film owner of the film”.

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 19 of Act 20 of 2006

23. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (10) for the words preceding paragraph (a) of the following words: 5
 “Subject to the provisions of subsection (7A), [No] no amount shall in terms of this section be included in or deducted from the income of—”;
- (b) by the substitution in subsection (11A) for the words preceding paragraph (a) of the following words: 10
 “An amount shall not be included in or deducted from the income of a resident in terms of this section in respect of any exchange difference arising from any forward exchange contract or foreign currency option contract or premium in respect of any foreign currency option contract entered into by that resident to hedge the acquisition of the equity shares of a company by that resident, or by any other resident forming part of the same group of companies as that resident, to the extent—”; 15
- (c) by the substitution in subsection (11A) for subparagraph (ii) of paragraph (c) of the following subparagraph: 20
 “(ii) in the case of an acquisition by another resident forming part of the same group of companies as that resident, that amount is not included in the consolidated income statement [of that resident utilised] forming part of the annual financial statements of a group for purposes of financial reporting [purposes] pursuant to International Financial Reporting Standards or South African Statements of Generally Accepted Accounting Practice [if that income statement forms part of the group financial statements] in terms of which [that resident is] the aforementioned residents are viewed as part of [a] that group for purposes of those Standards or Statements.” 25
- (2) Subsection (1)(a) shall be deemed to have come into effect on 8 November 2005 and shall apply in respect of any year of assessment ending on or after that date. 30
- (3) Subsection (1)(b) and (c) shall be deemed to have come into operation on 31 December 2006 and shall apply in respect of any year of assessment ending on or after that date.

Amendment of section 26B of Act 58 of 1962, as inserted by section 21 of Act 20 of 2006 35

24. (1) Section 26B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection: 40
 “(2) The tax imposed on the net amount of any dividend declared, as determined in terms of section 64B(3), by an oil and gas company, as defined in the Tenth Schedule, as derived [from] out of profits attributable to its oil and gas income (as defined in that Schedule) shall be determined in accordance with [the provisions of] this Act but subject to [the provisions of] the Tenth Schedule.”
- (2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and applies in respect of any dividend declared on or after that date. 45

Amendment of section 30 of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000, section 15 of Act 5 of 2001, section 15 of Act 19 of 2001, section 39 of Act 60 of 2001, section 30 of Act 74 of 2002, section 16 of Act 16 of 2004 and section 24 of Act 20 of 2006

25. (1) Section 30 of the Income Tax Act, 1962, is hereby amended— 50
- (a) by the substitution in subsection (1) for subparagraph (ii) of paragraph (a) of the definition of “public benefit organisation” of the following subparagraph:

- “(ii) any [agency or] branch within the Republic of any company, association or trust incorporated, formed or established in terms of the laws of any country other than the Republic that is exempt from tax on income in that other country;”;
- (b) by the deletion in subsection (3) of the proviso to subparagraph (ii) of paragraph (b);
- (c) by the substitution in subsection (3)(b)(iii) for the words preceding item (aa) of the following words:
 “in the case of a public benefit organisation contemplated in paragraph (a)(i) of the definition of ‘public benefit organisation’ in subsection (1), [is] required on dissolution to transfer its assets to—”;
- (d) by the substitution in subsection (3)(b)(iiiA) for the words preceding item (aa) of the following words:
 “in the case of [an agency or] a branch of a public benefit organisation contemplated in paragraph (a)(ii) of the definition of ‘public benefit organisation’ in subsection (1), is required on termination of its activities in the Republic to transfer the assets of such [agency or] branch to—”
- (e) by the substitution for subsection (7) of the following subsection:
 “(7) If the organisation fails to transfer, or to take reasonable steps to transfer, its assets as contemplated in subsection (6), an amount equal to the market value of those assets which have not been transferred, less an amount equal to the *bona fide* liabilities of the organisation, must for purposes of this Act be deemed to be an amount of taxable income which accrued to such organisation during the year of assessment in which approval was withdrawn.”.
- (2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of section 30A of Act 58 of 1962, as inserted by section 25 of Act 20 of 2006

26. (1) Section 30A of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for subsection (4) of the following subsection:
 “(4) Where a club applies for approval before the later of 31 March 2009 or the last day of its first year of assessment, then the Commissioner may approve that club for purposes of this section, or for the purposes of any provision contained in section 10 prior to its amendment by section [10(1)(l)] 10(1)(k) of the Revenue Laws Amendment Act, 2006, with retrospective effect.”; and
- (b) by the substitution for subsections (7) and (8), respectively, of the following subsections:
 “(7) If the Commissioner has withdrawn the approval of a recreational club, that club must within six months after the date of that withdrawal (or such longer period as the Commissioner may allow) transfer or take reasonable steps to transfer its remaining assets to another recreational club approved in terms of this section or to a public benefit organisation [approved] contemplated in terms of paragraph (a)(i) of the definition of ‘public benefit organisation’ [that is exempt from normal tax in terms of section 10(1)(cN)] which has been approved in terms of section 30(3) and which club or organisation is not a connected person in relation to that club.
 (8) If the recreational club fails to transfer, or to take reasonable steps to transfer, its assets as contemplated in subsection (7), an amount equal to the market value of those assets which have not been transferred less an amount equal to the *bona fide* liabilities of that recreational club must for purposes of this Act be deemed to be an amount of taxable income which accrued to that recreational club during the year of assessment in which approval was withdrawn.”.

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

Repeal of section 32 of Act 58 of 1962, as amended by section 27 of Act 113 of 1993

27. Section 32 of the Income Tax Act, 1962, is hereby repealed.

Amendment of section 37A of Act 58 of 1962, as inserted by section 27 of Act 20 of 2006 5

28. (1) Section 37A of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 10
 “For purposes of determining the taxable income derived by a person from carrying on any trade, any cash paid during any year of assessment commencing on or after 2 November 2006 by that person to a company or trust shall be deducted from that person’s income if—”;
- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph: 15
 “(b) that company or trust holds assets solely for purposes contemplated in **[subsection] paragraph (a)**”;
- (c) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 20
 “(c) that company or trust makes distributions solely for purposes contemplated in **[subsection] paragraph (a)**, or subsection (3) or (4); and”;
- (d) by the substitution in subsection (1) for item (aa) of subparagraph (i) of paragraph (d) of the following item: 25
 “(aa) holds a permit or right in respect of prospecting, exploration, mining or production, an old order right or OP26 right as defined in item 1 of Schedule II or any reservation or permission for **[the]** or right to the use of the surface of land as contemplated in item 9 of Schedule II **[of] to** the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or”;
- (e) by the substitution in subsection (2) for subparagraphs (i) and (ii) of paragraph (b) of the following subparagraphs: 30
 “(i) those financial instruments are issued by a person contemplated in **[paragraph (d)] subsection (1)(d)**; or
 (ii) those financial instruments are issued by a person that is a connected 35
 person in relation to a person contemplated in **[paragraph (d)] subsection (1)(d)**”;
- (f) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 40
 “(a) another company or trust **[established in terms of]** as contemplated in this section as approved by the Commissioner; or”;
- (g) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 45
 “If the Minister of Minerals and Energy is satisfied that a company or trust **[established for the purposes]** as contemplated in **[section] subsection (1)(a)**—”;
- (h) by the renumbering of subsection (5) to subsection (5)(a);
- (i) by the insertion in subsection (5) after paragraph (a) of the following paragraph: 50
 “(b) Where the constitution of a company or the instrument establishing a trust contemplated in this section does not comply with this section, it shall be deemed to comply for a period not exceeding two years, if the person responsible in a fiduciary capacity for the funds and the assets of that company or trust, furnishes the Commissioner with a written undertaking that that company or trust will be administered in compliance with this section.”;
- (j) by the substitution in subsection (6) for paragraph (b) of the following paragraph: 55

- “(b) the deemed amount contemplated in paragraph (a) shall be included in the income of the person contemplated in subsection (1)(d) for the year of assessment [of a person contemplated in subsection (1)(d)] of that person during which that contravention occurred to the extent that other property is (directly or indirectly) derived from cash paid by that person to that company or trust.”; 5
- (k) by the substitution in subsection (7) for paragraph (d) of the following paragraph:
- “(d) transfer to another company, trust, or account established for the purposes contemplated in subsection (1)(a)[— 10
- (i) an amount of taxable income is deemed to accrue equal to the market value of that other property on the first date that company or trust distributes that other property; and
- (ii) the deemed amount contemplated in paragraph (a) shall be included in the income for that year of assessment of a person contemplated in subsection (1)(d) to the extent that other property is (directly or indirectly) derived from cash paid by that person to that company or trust.] 15
- (i) an amount of taxable income is deemed to accrue equal to the market value of that other property on the first date that company or trust distributes that other property; and 20
- (ii) the deemed amount contemplated in subparagraph (i) shall be included in the income of the person contemplated in subsection (1)(d) for the year of assessment of that person during which the contravention occurred to the extent that other property is (directly or indirectly) derived from cash paid by that person to that company or trust.”; and 25
- (l) by the substitution in subsection (8) for paragraph (b) of the following paragraph:
- “(b) include the amount contemplated in paragraph (a) [shall be included] in the income of the person contemplated in subsection (1)(d) for the year of assessment [of a person contemplated in subsection (1)(d)] of that person during which the Commissioner is satisfied the contravention occurred to the extent that property is (directly or indirectly) derived from cash paid by that person to that company or trust”. 30 35

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

Repeal of section 37E of Act 58 of 1962, as inserted by section 3 of Act 136 of 1991, amended by section 26 of Act 141 of 1992 and section 30 of Act 113 of 1993 40

29. (1) Section 37E of the Income Tax Act, 1962, is hereby repealed.
 (2) Subsection (1) shall come into operation on 29 February 2008.

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974, section 27 of Act 94 of 1983, section 24 of Act 121 of 1984, section 32 of Act 53 of 1999, section 36 of Act 30 of 2000, section 43 of Act 60 of 2001 and section 34 of Act 74 of 2002 45

30. (1) Section 38 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (d) of the following paragraph:

“(d) any co-operative [formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981)];” 50

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

Amendment of section 40B of Act 58 of 1962, as inserted by section 17 of Act 96 of 1985, repealed by section 29 of Act 101 of 1990 and inserted by section 31 of Act 113 of 1993

31. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 40B of the following section:

“Conversion of co-operative to company

40B. Where any co-operative [**incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981),**] is incorporated as a company in accordance with the provisions of section 161A or 161C of [**that Act**] the Co-operatives Act, 1981 (Act No. 91 of 1981) or section 62 of the Co-operatives Act, 2005 (Act No. 14 of 2005), such co-operative and such company shall for purposes of this Act be deemed to be and to have been one and the same company.”

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

Amendment of section 41 of Act 58 of 1962 as inserted by section 44 of Act 60 of 2001 and substituted by section 34 of Act 74 of 2002 and amended by section 49 of Act 45 of 2003, section 32 of Act 32 of 2004, section 37 of Act 31 of 2005 and section 28 of Act 20 of 2006

32. Section 41 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the proviso to the definition of “**base cost**” of the following proviso:

“: Provided that where the base cost of an asset as at a specific date is to be determined as contemplated in paragraph 26 or 27 of the Eighth Schedule, the amount thereof must, for purposes of section 42, 43 or 44, be determined as if that asset had been disposed of on that date for [**proceeds**] an amount received or accrued equal to the market value of that asset as at that date;”

(b) by the deletion in subsection (1) of the definition of “**equity share**”;

(c) by the substitution in subsection (1) for paragraph (c) of the definition of “**foreign financial instrument holding company**” of the following paragraph:

“(c) any financial instrument held by any influenced company in relation to that foreign company if that influenced company is [**a**] an influenced company as contemplated in paragraph (b) of the definition of ‘**domestic financial instrument holding company**’ ”;

(d) by the substitution in subsection (1) for the words preceding paragraph (i) of the proviso to the definition of “**foreign financial instrument holding company**” of the following words:

“: Provided that in determining whether [**more than**] the prescribed proportion of the assets of the company and all influenced companies consist of financial instruments,—”;

(e) by the deletion in subsection (1) of the word “**or**” after the proviso to the definition of “**prescribed proportion**”;

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

“(ii) that company has disposed of all assets and has settled all liabilities (other than assets required to satisfy any reasonably anticipated liabilities to any sphere of government of any country and costs of administration relating to the administration or winding-up)[, **unless the Commissioner otherwise allows for a period which the Commissioner deems reasonable to enable that company to take adequate steps to wind down the business of the company**]; and”;

- (g) by the substitution in subsection (4) for paragraph (d) of the following paragraph:

“(d) all the returns or information required to be submitted or furnished to the Commissioner in terms of any Act administered by the Commissioner by the end of the relevant period [of six months] within which the steps contemplated in this subsection must be taken, have been submitted or furnished or arrangements have been made with the Commissioner for the submission of any outstanding returns or furnishing of information.”

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973, section 32 of Act 85 of 1974, section 22 of Act 69 of 1975, section 18 of Act 103 of 1976, section 19 of Act 113 of 1977, section 20 of Act 91 of 1982, section 28 of Act 94 of 1983, section 31 of Act 129 of 1991, section 27 of Act 141 of 1992, section 23 of Act 21 of 1994, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 50 of Act 45 of 2003, section 33 of Act 32 of 2004, section 38 of Act 31 of 2005 and section 29 of Act 20 of 2006

33. Section 42 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3)(a)(ii) for the words preceding item (aa) of the following words:

“that person and that company must be deemed to be one and the same person for purposes of determining the amount of any allowance or deduction—”.

Amendment of section 44 of Act 58 of 1962, as inserted by section 44 of Act 60 of 2001, amended by section 34 of Act 74 of 2002, section 52 of Act 45 of 2003, and section 40 of Act 31 of 2005

34. (1) Section 44 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (3)(a)(ii) for the words preceding item (aa) of the following words:

“that amalgamated company and that resultant company must be deemed to be one and the same person for purposes of determining the amount of any allowance or deduction—”;

- (b) by the substitution in subsection (6)(a)(i) for the words preceding item (aa) of the following words:

“a person disposes of any equity shares in an amalgamated company [in return for] as a result of the liquidation, winding up or deregistration of that amalgamated company and acquires equity shares in the resultant company as part of an amalgamation transaction in respect of which subsection (2) or (3) applied, which equity shares in the resultant company are acquired—”;

- (c) by the insertion after subsection (9) of the following subsection:

“(9A) Where subsection (9) applies—

- (a) the resultant company’s equity share capital (including any share premium) arising from the amalgamation transaction must be deemed to be a profit not of a capital nature available for distribution to its shareholders for the purposes of paragraph (i) of the first proviso to the definition of ‘dividend’ to the extent of any profits distributed by the amalgamated company in terms of subsection (9); and

- (b) those deemed profits must be deemed to have arisen immediately prior to the date on which the resultant company became part of any group of companies.”; and

- (d) by the substitution in subsection (13) for paragraph (a) of the following paragraph:

“(a) has not, within a period of [six] 18 months after the date of the amalgamation transaction, or such further period as the Commissioner may allow, taken the steps contemplated in section 41(4) to liquidate, wind up or deregister; or”.

(2) Subsection (1)(c) shall be deemed to have come into operation on 21 February 2007 and applies to any reduction or redemption of the share capital or share premium of a resultant company, including the acquisition by that company of its shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973) on or after that date.

Amendment of section 45 of Act 58 of 1962, as amended by section 24 of Act 55 of 1966, section 18 of Act 95 of 1967, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 53 of Act 45 of 2003, section 35 of Act 32 of 2004 and section 41 of Act 31 of 2005

35. Section 45 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (3)(a)(ii) for the words preceding item (aa) of the following words: 10
 “that transferor company and that transferee company must be deemed to be one and the same person for purposes of determining the amount of any allowance or deduction—”; and
- (b) by the substitution in subsection (6) for subparagraph (iv) of paragraph (a) of the following subparagraph: 15
 “(iv) that financial instrument constitutes an equity share in [a] an influenced company in relation to that transferor company and that influenced company is not a domestic financial instrument holding company or foreign financial instrument holding company immediately prior to that disposal; or”. 20

Amendment of section 46 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 54 of Act 45 of 2003, section 36 of Act 32 of 2004 and section 42 of Act 31 of 2005

36. (1) Section 46 of the Income Tax Act, 1962, is hereby amended— 25

- (a) by the substitution in subsection (4) for paragraphs (a) and (b) of the following paragraphs: 25
 “(a) in the year of assessment during which that shareholder becomes entitled to dispose of those shares, which portion shall be an amount which bears to such gain the same ratio as that contemplated in subsection [(3)(b)] (3)(a); and 30
 (b) in the year of assessment during which that person becomes entitled to dispose of the [the previously held] unbundling shares, which portion shall be calculated by reducing such gain by the amount which has been determined or is to be determined in terms of paragraph (a).”; 35
- (b) by the substitution in subsection (7) for paragraph (a) of the following paragraph: 40
 “(a) where the unbundling company or the unbundled company is a domestic financial instrument holding company immediately after that [disposal] distribution; or”; and
- (c) by the substitution in subsection (7) for subparagraphs (i) and (ii) of paragraph (b) of the following subparagraphs: 45
 “(i) who is not subject to normal tax [(or ‘tax’ as defined in the Tax on Retirement Funds Act, 1996),] in the Republic or who is subject to such tax in the Republic at a reduced rate as a result of the application of any agreement for the avoidance of double taxation; and
 (ii) who either alone or together with any connected person in relation to that shareholder acquires 20 per cent or more [than five per cent] of those shares.”. 50

(2) Subsection (1)(c) shall be deemed to have come into operation on 1 March 2007 and shall apply in respect of any unbundling transaction entered into on or after that date.

Amendment of section 47 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 34 of Act 74 of 2002, section 55 of Act 45 of 2003, section 37 of Act 32 of 2004, section 43 of Act 31 of 2005 and section 31 of Act 20 of 2006

37. (1) Section 47 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for subparagraph (i) of paragraph (a) of the following subparagraph: 5
- “(i) is subject to normal tax [(or ‘tax’ as defined in the Tax on Retirement Funds Act, 1996)] in the Republic, unless that company is subject to tax in the Republic at a reduced rate as a result of the application of any agreement for the avoidance of double taxation; and”;
- (b) by the substitution in subsection (3)(a)(ii) for the words preceding item (aa) of the following words: 10
- “that liquidating company and that holding company must be deemed to be one and the same person for purposes of determining the amount of any allowance or deduction—”;
- (c) by the substitution in subsection (3A) for paragraph (a) of the following paragraph: 15
- “(a) equity shares held by that holding company in that liquidating company are [~~cancelled~~] disposed of as a result of the liquidation, winding up or deregistration of that liquidating company; and”;
- (d) by the substitution in subsection (6) for subparagraph (i) of paragraph (c) of the following subparagraph: 20
- “(i) has not, within a period of six months after the date of the liquidation distribution, or such further period as the Commissioner may allow, taken the steps contemplated in section 41(4) to liquidate, wind up or deregister; or”.

(2) Subsection (1)(a) shall be deemed to have come into operation on 1 March 2007 and shall apply in respect of any liquidation distribution made on or after that date.

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966 section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993, section 18 of Act 36 of 1996, section 39 of Act 30 of 1998, section 38 of Act 30 of 2000, section 41 of Act 59 of 2000, section 45 of Act 60 of 2001, section 24 of Act 30 of 2002, section 35 of Act 74 of 2002, section 56 of Act 45 of 2003, section 38 of Act 32 of 2004, section 45 of Act 31 of 2005 and section 27 of Act 9 of 2006

38. (1) Section 56 of the Income Tax Act, 1962, is hereby amended— 40
- (a) by the insertion in subsection (1) after paragraph (e) of the following paragraph: 45
- “(f) made by or to or for the benefit of any traditional council, traditional community or any tribe referred to in section (10)(1)(t)(vii);”;
- (b) by the substitution in subsection (1) for paragraph (h) of the following paragraph: 45
- “(h) by or to any person (including any government) referred to in section 10(1)(a), (b), (cA), (cE), (cN), (cO), (d) or (e);”.

(2) Subsection (1)(a) shall be deemed to have come into operation on 7 February 2007 and shall apply in respect of any donation made on or after that date. 50

(3) Subsection (1)(b) shall be deemed to have come into effect on 1 April 2007 and shall apply in respect of any donation made on or after that date.

Amendment of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967, amended by section 35 of Act 89 of 1969, section 20 of Act 52 of 1970, section 19 of Act 90 of 1972, section 41 of Act 85 of 1974, section 33 of Act 94 of 1983, section 7 of Act 108 of 1986, section 32 of Act 90 of 1988, section 34 of Act 113 of 1993, amended by section 34 of Act 113 of 1993, section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996, section 25 of Act 28 of 1997, section 35 of Act 53 of 1999, section 39 of Act 30 of 2000, section 42 of Act 59 of 2000, section 18 of Act 5 of 2001, section 48 of Act 60 of 2001, section 36 of Act 74 of 2002, section 58 of Act 45 of 2003, section 40 of Act 32 of 2004, section 47 of Act 31 of 2005 and section 32 of Act 20 of 2006

39. (1) Section 64B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (5) for paragraph (i) of the proviso to paragraph (c) of the following paragraph:

“(i) has not within ~~[six months]~~ the period referred to in section 47(6)(c)(i) taken such steps as contemplated in section 41(4) to liquidate, wind up or deregister that company; or”;

(b) by the substitution for subsection (13) of the following subsection:

“(13) In the determination of the net amount of any dividend declared by a company which carries on long-term insurance business, the amount to be taken into account in terms of subsection (3) in respect of dividends accrued to the company shall be limited[—

(a) where the company has established or deemed to have established separate funds as contemplated in section 29A, to dividends accrued on shares constituting an asset in its corporate fund; or].”

(2) Subsection (1)(b) shall be deemed to have come into operation on 7 February 2007 and shall apply in respect of any dividend cycle commencing on or after that date.

Amendment of section 80C of Act 58 of 1962, as inserted by section 34 of Act 20 of 2006

40. (1) Section 80C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) the legal substance or effect of the avoidance arrangement as a whole is inconsistent with, or differs significantly from, the legal form of its individual steps; or”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any arrangement (or any step therein or parts thereof) entered into on or after that date.

Amendment of section 80E of Act 58 of 1962, as inserted by section 34 of Act 20 of 2006

41. (1) Section 80E of the Income Tax Act, 1962, is hereby amended—

(a) by the addition in subsection (1) of the word “or” to item (aa) of subparagraph (i) of paragraph (b);

(b) by the addition in subsection (1) of the word “or” to item (bb) of subparagraph (i) of paragraph (b); and

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

“(a) the amounts derived by the party in question are cumulatively subject to income tax by one or more spheres of government of countries other than the Republic **[that are subject to tax in another country]** which is equal to at least two-thirds of the amount of normal tax which would have been payable in connection with those amounts had they been subject to tax under this Act; or”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any arrangement (or any step therein or parts thereof) entered into on or after that date.

Amendment of section 80L of Act 58 of 1962, as inserted by section 34 of Act 20 of 2006

42. (1) Section 80L of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for the definition of “**avoidance arrangement**” of the following definition:

“**‘avoidance arrangement’** means any arrangement that, but for this Part, results in a tax benefit;” and

(b) by the substitution for the definition of “**tax**” of the following definition:

“**‘tax’** includes any tax, levy or duty imposed by this Act or any other **[law] Act** administered by the Commissioner;”.

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any arrangement (or any step therein or parts thereof) entered into on or after that date.

Amendment of section 89quat of Act 58 of 1962, as inserted by section 46 of Act 85 of 1974, amended by section 37 of Act 94 of 1983, section 34 of Act 121 of 1984, section 22 of Act 65 of 1986, section 18 of Act 70 of 1989, section 42 of Act 113 of 1993, section 15 of Act 140 of 1993, section 33 of Act 21 of 1995, section 24 of Act 36 of 1996, section 50 of Act 59 of 2000, section 29 of Act 5 of 2001, section 49 of Act 74 of 2002 and section 17 of Act 34 of 2004

43. (1) Section 89quat of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph (b) of the following paragraph:

“(b) such taxable income exceeds—

(i) R20 000 in the case of a company; or

(ii) R50 000 in the case of any person other than a company.”.

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

Amendment of paragraph 19 of the First Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967, amended by section 33 of Act 88 of 1971, section 22 of Act 90 of 1972, section 32 of Act 69 of 1975, section 30 of Act 103 of 1976, section 16 of Act 104 of 1979, section 25 of Act 104 of 1980, section 29 of Act 91 of 1982, section 45 of Act 94 of 1983, section 42 of Act 129 of 1991, section 34 of Act 21 of 1995, section 40 of Act 28 of 1997 and section 81 of Act 45 of 2003

44. Paragraph 19 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (b) of the following item:

“(b) where the taxpayer is a person referred to in subparagraph (5)(a) and did not carry on farming operations before the commencement of the relevant period [and—

(i) the taxpayer’s taxable income from farming for the relevant period does not exceed R5 000, the amount of such taxable income; or

(ii) the taxpayer’s taxable income from farming for the relevant period exceeds R5 000 but not R7 500, the amount of R5 000; or

(iii) the taxpayer’s taxable income from farming for the relevant period exceeds R7 500], an amount equal to two-thirds of such taxable income.”.

Amendment of paragraph 20 of the First Schedule to Act 58 of 1962, as added by section 33 of Act 69 of 1975, amended by section 31 of Act 103 of 1976, section 25 of Act 113 of 1977, section 26 of Act 104 of 1980, section 30 of Act 91 of 1982 and section 43 of Act 129 of 1991

45. Paragraph 20 of the First Schedule to the Income Tax Act, 1962, is hereby amended— 5

- (a) by the substitution in subparagraph (1) for the words following item (c) but preceding item (i) of the following words: 10
 “the normal tax chargeable (as determined before the deduction of any rebate [or the addition of any loan portion of such tax]) in respect of the taxpayer’s taxable income for such year of assessment shall, notwithstanding any other provisions of this Act to the contrary, be determined at an amount equal to the sum of—”; and
- (b) by the substitution in subparagraph (1) for item (ii) of the following item: 15
 “(ii) an amount equal to the amount of normal tax (as determined before the deduction of any rebate [or the addition of any loan portion of such tax]) which would have been payable by the taxpayer in respect of the year of assessment if his or her taxable income for that year had been an amount equal to the balance of his or her taxable income for that year (as determined in accordance with subparagraph (4)).” 20

Amendment of paragraph 1 of the Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964, section 34 of Act 88 of 1971, section 34 of Act 69 of 1975, section 26 of Act 113 of 1977, section 27 of Act 104 of 1980, section 28 of Act 96 of 1981, section 46 of Act 94 of 1983, section 24 of Act 65 of 1986, section 17 of Act 104 of 1979, section 24 of Act 65 of 1986, section 43 of Act 101 of 1990, section 35 of Act 21 of 1995, section 41 of Act 28 of 1997, section 47 of Act 30 of 1998, section 82 of Act 45 of 2003 and section 43 of Act 32 of 2004 25

46. (1) Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended— 30

- (a) by the deletion of the definition of “formula A”;
- (b) by the substitution in the definition of “formula B” for the words in paragraph (b) preceding the proviso of the following words: 35
 “ ‘C’ represents an amount [equal to the sum of the amounts calculated in accordance with formula A in relation to the taxpayer in respect of the different pension and provident funds of which he is or was a member and from which any lump sum benefits were or may be derived in consequence of or following upon his retirement or death on or after 15 March 1961, and the aggregate of the lump sum benefits received by or accrued to him from retirement annuity funds in the circumstances described in paragraph 5(1) on or after 15 March 1961 and whether in the current or any previous year of assessment] of R300 000;” 40
- (c) by the deletion in the definition of “formula B” of the proviso to paragraph (b); and 45
- (d) by the substitution in the definition of “formula B” for paragraph (c) of the following paragraph: 50
 “(c) ‘D’ represents the sum of the deductions which may have been allowed to the taxpayer in terms of [sub-paragraph (1) of] paragraph 5 of this Schedule [or sub-paragraph (1) of paragraph 5 of the Fourth Schedule to the Income Tax Act, 1941.] in respect of previous years of assessment;” and
- (e) by the substitution in the definition of “formula B” for the words in paragraph (d) preceding the proviso of the following words: 55
 “ ‘E’ represents the sum of—
 (i) the taxpayer’s own contributions to any pension funds, provident funds and retirement annuity funds of which he or she is or was a member and from which any lump sum benefits were or may be

derived in consequence of or following upon his or her retirement or death on or after the fifteenth day of March, 1961, including so much of the amounts paid into such funds for his or her benefit by other pension funds, provident funds or retirement annuity funds as represented his or her own contributions to such other funds; and

(ii) any other amounts in respect of which formula C applies, that have been paid into such funds for the taxpayer's benefit by a pension fund contemplated in paragraph (a) or (b) of the definition of 'pension fund' in section 1, less the amount represented by the symbol A when so applying that formula,

but excluding so much of any [such] contributions or amounts referred to in subparagraph (i) representing contributions as ranked for deduction against the taxpayer's income in terms of section 11(k) or (n) of this Act or the corresponding provisions of any previous Income Tax Act".

(2) Subject to subsection (3), subsection (1) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

(3) Subsection (1)(e) shall be deemed to have come into operation on 1 March 2006 and shall apply in respect of any lump sum benefit accrued on or after that date.

Amendment of paragraph 2 of the Second Schedule to Act 58 of 1962, as amended by section 42 of Act 28 of 1997 and section 48 of Act 30 of 1998

47. (1) Paragraph 2 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 2 of the following paragraph:

"2. Subject to the provisions of [paragraph] paragraphs 2A, 2B and 2C, the amount to be included in the gross income of any person for any year of assessment in terms of paragraph (e) of the definition of 'gross income' in section [one] 1 of this Act shall be—

(a) the aggregate of the amounts received by or accrued to such person during that year by way of lump sum benefits derived in consequence of or following upon his retirement or death, less the deductions permitted under the provisions of paragraph 5 of this Schedule; and

(b) the aggregate of [the] any other amounts received by or accrued to such person during that year by way of lump sum benefits [during any year of assessment] from or in consequence of membership or past membership of any pension funds, provident funds or retirement annuity funds, less the deductions permitted under the provisions of paragraph 6 of this Schedule."

(2) Subsection (1) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

Amendment of paragraph 2A of the Second Schedule to Act 58 of 1962, as amended by section 43 of Act 28 of 1997, section 49 of Act 30 of 1998 and section 44 of Act 32 of 2004

48. (1) Paragraph 2A of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of the proviso.

(2) Subsection (1) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

Insertion of paragraph 2C into the second Schedule to Act 58 of 1962

49. (1) The Second Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 2B of the following paragraph:

"2C. Any lump sum benefit, or part thereof, received or accrued subsequent to the relevant person's retirement or death, or withdrawal or resignation from any pension fund, provident fund or retirement annuity fund or the winding up of any such fund, and in consequence of or following upon an event contemplated by the rules of the pension fund, provident fund or retirement annuity fund or in consequence of the approval of a scheme in terms of section 15B of the Pensions Funds Act, 1956 (Act No. 24 of 1956) or regulation 5.3(1)(b) of the Regulations under the Long-Term Insurance Act, 1998 (Act

No. 52 of 1998), shall not be included in gross income pursuant to paragraph 1
(e) of the definition of 'gross income' in section 1."

(2) Subsection (1) shall come into operation on 1 January 2006.

**Amendment of paragraph 3 of the Second Schedule to Act 58 of 1962, as amended
by section 47 of Act 94 of 1983 and section 50 of Act 30 of 1998** 5

50. (1) Paragraph 3 of the Second Schedule to the Income Tax Act, 1962, is hereby
amended by the substitution in paragraph 3 for the proviso of the following proviso:

"Provided that so much of any tax payable as is due to the [inclusion in the
income of such member or past member of any amount in accordance with
the] provisions of this paragraph, may be recovered from the person to whom or in 10
whose favour the lump sum benefit in question accrues".

(2) Subsection (1) shall come into operation on 1 October 2007 and shall apply in
respect of any lump sum benefit deemed to have accrued on or after that date.

**Amendment of paragraph 5 of the Second Schedule to Act 58 of 1962, as amended
by section 31 of Act 90 of 1962, section 25 of Act 90 of 1964, section 35 of Act 88 of 15
1971, section 21 of Act 72 of 1963, section 35 of Act 88 of 1971, section 35 of Act 69
of 1975, section 27 of Act 113 of 1977, section 28 of Act 104 of 1980, section 48 of Act
94 of 1983, section 25 of Act 65 of 1986 and section 37 of Act 20 of 2006**

51. (1) Paragraph 5 of the Second Schedule to the Income Tax Act, 1962, is hereby
amended— 20

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

"The deduction to be allowed [in determining the amount required to
be included in the taxpayer's gross income for any year of
assessment in terms of paragraph 2] for purposes of paragraph 2(a) 25
shall, if the lump sum benefits in question—]";

(b) by the deletion in subparagraph (1) of items (a), (b) and (c);

(c) by the substitution in subparagraph (1) for the words following item (c) of the
following words:

"be an amount (not exceeding the aggregate value of [such] the lump 30
sum benefits derived during that year in consequence of or following
upon the taxpayer's retirement or death) equal to the amount determined
in accordance with formula B [in relation to such taxpayer, but subject
to the provisions of subparagraph (2)];" and

(d) by the deletion of subparagraphs (2), (3), (4), (5) and (6). 35

(2) Subject to subsection (3), subsection (1) shall come into operation on 1 October
2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

(3) Subsection (1)(b), to the extent that it deletes item (c), shall be deemed to have
come into operation on 1 January 2006.

**Amendment of paragraph 6 of the Second Schedule to Act 58 of 1962, section 26 of 40
Act 90 of 1964, section 18 of Act 104 of 1979, section 5 of Act 30 of 1984, as amended
by section 32 of Act 141 of 1992, section 51 of Act 30 of 1998 and section 38 of Act
20 of 2006**

52. (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby
amended— 45

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

"The deduction to be allowed in determining the amount required to be
included in the taxpayer's gross income for any year of assessment in
terms of paragraph 2 shall, if the lump sum benefits in question[—]"; 50

- (b) by the substitution for subparagraph (1) of the following words:
 “[~~(1)~~] have been derived in consequence of or following upon his withdrawal or resignation from any pension funds, provident funds or retirement annuity funds or the winding up of any such funds[; or]₂”;
- (c) by the deletion of subparagraph (2); and
- (d) by the substitution in the proviso for paragraph (i) of the following paragraph:
 “(i) in respect of any lump sum benefits so derived by the taxpayer from any pension fund, provident fund or retirement annuity fund the sum of the deductions under this paragraph shall not be less than the lesser of either—
 (aa) the aggregate value of such lump sum benefits; or
 (bb) the sum of—
 (A) the taxpayer’s own contributions to such fund, including so much of any amounts paid into such fund for his benefit by any other pension fund, provident fund or retirement annuity fund as represented his own contributions to such other fund[;]; and
 (B) any other amounts in respect of which formula C applies, that have been paid into such funds for the taxpayer’s benefit by a pension fund contemplated in paragraph (a) or (b) of the definition of ‘pension fund’ in section 1, less the amount represented by the symbol A when so applying that formula,
 but excluding so much of [such] any contributions and amounts referred to in item (A) representing contributions as ranked for deduction against the taxpayer’s income in terms of section 11(k) or (n) of this Act or the corresponding provisions of any previous Income Tax Act;”.

(2) Subsection (1)(a), (b) and (c) shall be deemed to have come into operation on 1 January 2006.

(3) Subsection (1)(d) shall be deemed to have come into operation on 1 March 2006 and shall apply in respect of any lump sum benefit received or accrued on or after that date.

Amendment of paragraph 7 of the Second Schedule to Act 58 of 1962, as amended by section 27 of Act 88 of 1965, section 29 of Act 95 of 1967, section 36 of Act 88 of 1971 and section 25 of Act 85 of 1987

53. (1) The Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 7 of the following paragraph:

“7 The normal tax payable in respect of any year of assessment by any person whose income for that year of assessment includes an amount determined in accordance with the provisions of paragraph (2)(b) of this Schedule, shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of section 5(10) of this Act, but nothing herein contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.”.

(2) Subsection (1) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

Amendment of paragraph 1 of the Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and 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 and section 39 of Act 20 of 2006

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

- (a) by the substitution in the definition of “personal service company” for paragraph (b) of the following paragraph: 15
 “(b) where those duties must be performed mainly at the premises of the client, such person or such company is subject to the control or supervision of such client as to the manner in which the duties are performed or are to be performed in rendering such service [**and must be mainly performed at the premises of the client**];”;
- (b) by the substitution in the definition of “personal service trust” for paragraph (b) of the following paragraph: 20
 “(b) where those duties must be performed mainly at the premises of the client, such person or such trust is subject to the control or supervision of such client as to the manner in which the duties are performed or are to be performed in rendering such service [**and must be mainly performed at the premises of the client**];”;
- (c) by the substitution in the definition of “provisional taxpayer” for the words following subparagraph (ii) and preceding item (aa) of the following words: 25
 “but shall exclude for a period of three years as from the first year of assessment commencing on or after 1 April [**2007**] ~~2006~~—”;
- (d) by the substitution in the proviso to paragraph (ii) of the definition of “remuneration” for the words preceding paragraph (aa) of the following words: 30
 “: Provided that for the purposes of this paragraph a person shall not be deemed to carry on a trade independently as aforesaid[—]”;
- (e) by the substitution in the proviso to paragraph (ii) of the definition of “remuneration” for paragraph (aa) of the following words: 35
 [(aa)] if the services are required to be performed mainly at the premises of the person by whom such amount is paid or payable or of the person to whom such services were or are to be rendered and [he] the person who rendered or will render the services is subject to the control or supervision of any other person as to the manner in which his or her duties are performed or to be performed or as to his hours of work[; or]”; 40
- (f) by the deletion in the proviso to paragraph (ii) of the definition of “remuneration” of paragraph (bb); and 45
- (g) by the addition to paragraph (ii) of the definition of “remuneration” of the following proviso: 50
 “: Provided further that a person will be deemed to be carrying on a trade independently as aforesaid if he throughout the year of assessment employs three or more employees who are on a full time basis engaged in the business of such person of rendering any such service, other than any employee who is a connected person in relation to such person;”.

(2) Subject to subsection (3), subsection (1) shall be deemed to have come into operation on 1 March 2007. 55

(3) Subsection (1)(c) shall be deemed to have come into operation on 7 February 2007 and shall apply in respect of any year of assessment commencing on or after 1 April 2006.

Amendment of paragraph 2 of the Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 38 of Act 21 of 1995, section 45 of Act 28 of 1977, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004 and section 40 of Act 20 of 2006

55. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(1A) Notwithstanding the provisions of subparagraph (1), a person shall not be required to deduct or withhold employee’s tax in respect of any year of assessment of a company or trust solely by virtue of paragraph (d) of the definition of ‘personal service company’ or paragraph (d) of the definition of ‘personal service trust’ where the company or trust has in respect of such year of assessment provided that person with an affidavit or solemn declaration stating that the relevant [paragraphs do] paragraph does not apply and that person relied on that affidavit or declaration in good faith.”; and

(b) by the substitution in paragraph (aa) of the proviso to subparagraph (5)(a) for the words preceding subparagraph (A) of the following words:

“more than 80 per cent of the gross income of such person during the year of assessment consists of, or is likely to consist of, an amount or amounts received from any one client of such person, or any associated institution as defined in the Seventh Schedule to this Act in relation to such client, unless that person is a labour broker [which] who throughout the year of assessment employs [more than] three or more full-time employees—”.

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

Amendment of paragraph 9 of the Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001 and section 41 of Act 20 of 2006

56. (1) Paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following paragraph:

“(3) The amount to be deducted or withheld in respect of employees’ tax from any lump sum to which paragraph (d) or (e) of the definition of “gross income” in section 1 of this Act or section 7A thereof applies, shall be ascertained by the employer from the Commissioner before paying out such lump sum, and the Commissioner’s determination of the amount to be so deducted or withheld shall be final: Provided that no amount shall be so deducted or withheld in respect of any lump sum [payment contemplated in paragraphs 5(1)(c) or 6(2) of the Second Schedule that is received by or accrues to the employee on or before 10 November 2006 or such later date that the Minister may determine by Notice in the Gazette] benefit contemplated in paragraph (e) of that definition, which accrued to any person during any year of assessment if the taxable income (excluding any such benefit) of that person for the year of assessment immediately preceding that year does not exceed the tax threshold for that year.”.

(2) Subsection (1) shall come into operation on 1 October 2007 and shall apply in respect of any lump sum benefit accrued on or after that date.

Amendment of paragraph 11B of the Fourth Schedule to Act 58 of 1962, as amended by section 41 of Act of Act 90 of 1988, section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991, section 34 of Act 141 of 1992, section 3 of Act 168 of 1993, section 40 of Act 21 of 1995, section 35 of Act 36 of 1996, section 48 of Act 28 of 1997, section 53 of Act 30 of 1998, section 56 of Act 59 of 2000, section 33 of Act 30 of 2002, section 56 of Act 74 of 2002, section 22 of Act 16 of 2004 and section 43 of Act 20 of 2006

57. (1) Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the addition to the definition of “**net remuneration**” in subparagraph (1) of the following paragraph:

“(j) any retirement fund lump sum benefit”; and

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

“(2A) Where at the end of a tax period the total amount of employees tax which has been deducted or withheld by an employer from the net remuneration paid or payable by him or her to an employee during such tax period exceeds or falls short of the amount of Standard Income Tax on Employees determinable under subparagraph (3) in relation to such net remuneration by an amount not exceeding R5 or such other amount as the Commissioner may determine by Notice in the *Gazette*, the said total amount of employees tax shall at the option of the employer be deemed to be the amount of Standard Income Tax on Employees determinable in relation to such net remuneration under the said subparagraph.”.

(2) Subsection (1)(a) shall come into effect on 1 October 2007 and shall apply in respect of any lump sum benefit received and accrued on or after that date.

(3) Subsection (1)(b) shall be deemed to have come into effect on 1 March 2007.

Repeal of the Fifth Schedule to the Income Tax Act 1962, as added by section 26 of Act 52 of 1970, amended by section 50 of Act 88 of 1971, section 51 of Act 88 of 1971, section 24 of Act 90 of 1972, section 25 of Act 90 of 1972, section 26 of Act 90 of 1972, section 27 of Act 90 of 1972, section 58 of Act 85 of 1974, section 59 of Act 85 of 1974, section 60 of Act 85 of 1974, section 61 of Act 85 of 1974, section 62 of Act 85 of 1974, section 34 of Act 103 of 1976, section 35 of Act 103 of 1976, section 18 of Act 101 of 1978, section 31 of Act 104 of 1980, section 31 of Act 91 of 1982, section 32 of Act 91 of 1982, section 56 of Act 94 of 1983, section 57 of Act 94 of 1983, section 46 of Act 97 of 1986, section 47 of Act 97 of 1986 and section 58 of Act 59 of 2000

58. The Fifth Schedule to the Income Tax Act, 1962, is hereby repealed.

Amendment of paragraph 12A of the Seventh Schedule to Act 58 of 1962, as inserted by section 56 of Act 30 of 1998 and amended by section 59 of Act 31 of 2005

59. (1) The Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph 12A for item (c) of subparagraph (1) of the following item:

“(c) where those contributions are made with respect to the benefits of that employee and more than one dependant, [R1 000] the amount referred to in item (b) in respect of the employee and one dependant plus [R300] R320 for every additional dependant for each month in that year for which those contributions were made.”.

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

Amendment of paragraph 20 of the Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 26 of Act 19 of 2001, section 75 of Act 60 of 2001, section 71 of Act 74 of 2002, section 95 of Act 45 of 2003, section 58 of Act 32 of 2004, section 68 of Act 31 of 2005 and section 45 of Act 20 of 2006

60. (1) Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 5

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

“(b) has for any reason been reduced or recovered or become recoverable from or has been paid by any other person (whether prior to or after the incurral of the expense to which it relates), to the extent which such amount is not taken into account as a recoupment in terms of section 8(4)(a) or paragraph (j) of the definition of ‘gross income’ of an amount contemplated in item (a); [and] or”; and 10

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

“(4) Expenditure incurred by a person in respect of the acquisition of an asset shall be reduced by the amount of any foreign exchange gain or premium received as contemplated in section 24I, or increased by the amount of any foreign exchange loss or premium paid as so contemplated, if that gain [or], loss or premium is not included in or deducted from the income of [that] the person incurring the expenditure, or any other person forming part of the same group of companies as that person, in terms of section 24I(11A).” 15 20

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

(3) Subsection (1)(b) shall be deemed to have come into operation on 31 December 2006 and shall apply in respect of any year of assessment ending on or after that date. 25

Amendment of paragraph 29 of the Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001, amended by section 81 of Act 60 of 2001, section 38 of Act 30 of 2002, section 76 of Act 74 of 2002 and section 47 of Act 20 of 2006

61. (1) Paragraph 29 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 30

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

“an asset which is not listed on a recognised exchange and which constitutes a right of a unit holder or holder of a participatory interest, as the case may be, in—”; 35

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

“(ii) any arrangement or scheme contemplated in paragraph (e)(ii) of the definition of ‘company’, the last price published before the valuation date at which a [unit] participatory interest could be sold to the management company of the scheme or where there is not a management company the price which could have been obtained upon a sale of the asset between a willing buyer and a willing seller dealing at arm’s length in an open market on valuation date;” and 40 45

(c) by the substitution for subparagraph (8) of the following subparagraph:

“(8) Where the valuation date of a person is after 1 October 2001 the provisions of [subparagraph] subparagraphs (1)(a), (1)(b)(i), (2), (2A), (3), (5) and (6)(a) do not apply.”

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

Amendment of paragraph 31 of the Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001, amended by section 83 of Act 60 of 2001, section 78 of Act 74 of 2002 and section 49 of Act 20 of 2006

5

62. (1) Paragraph 31 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (a) of the following item:

“(a) an asset which is a financial instrument listed on a recognised exchange and for which a price was quoted on that exchange, the ruling price in respect of that financial instrument on that recognised exchange at close of business on the last business day before that date;”

10

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

Amendment of paragraph 39 of the Eighth Schedule to Act 58 of 1962, as amended by section 88 of Act 60 of 2001, section 100 of Act 45 of 2003, section 26 of Act 16 of 2004 and section 73 of Act 31 of 2005

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63. (1) Paragraph 39 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for the words preceding item (a) of the following words:

“For the purposes of [this paragraph] subparagraph (1), a connected person in relation to—”

20

(2) Subsection (1) shall be deemed to have come into operation on 1 February 2006 and shall apply in respect of any disposal on or after that date.

Amendment of paragraph 63. A of the Eighth Schedule to Act 58 of 1962, as inserted by section 53 of Act 20 of 2006

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64. (1) The Eighth Schedule of the Income Tax Act, 1962, is hereby amended—

(a) by renumbering paragraph “63. A” as paragraph “63A.”; and
(b) by the substitution in subparagraph (b) for the words preceding item (i) of the following words:

“substantially the whole of the use of that asset by that public benefit organisation on [or] and after valuation date was directed at—”

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(2) Subsection (1) shall be deemed to have come into operation on 1 April 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 64B of the Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 45 of 2003, amended by section 79 of Act of Act 31 of 2005 and section 35 of Act 9 of 2006

35

65. Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for item (b) of the following item:

“(b) the interest in the equity share capital of that foreign company was disposed of to a connected person in relation to that person either before or after that disposal; [and]”

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Amendment of paragraph 65B of the Eighth Schedule to Act 58 of 1962, as inserted by section 56 of Act 20 of 2006

66. (1) Paragraph 65B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (5) for the words preceding item (a) of the following words:

45

“Where a club fails to conclude a contract or fails to bring any replacement asset into use within the period prescribed in subparagraph (1)[(d)(iii)](c)(ii) and (iii), that club must—”

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

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Amendment of paragraph 66 of the Eighth Schedule to Act 58 of 1962, as amended by section 33 of Act 19 of 2001 and section 107 of Act 45 of 2003

67. (1) Paragraph 66 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1) for item (a) of the following item: 5
 “(a) that asset qualified for a capital deduction or allowance in terms of section 11(e), 11D(2), 12B, 12C, 12E, 14 or 14bis;”;
- (b) by the substitution in subparagraph (1) for item (c) of the following item: 10
 “(c) an amount at least equal to the receipts and accruals from that disposal has been or will be expended to acquire one or more assets (hereinafter referred to as the ‘replacement asset or assets’), all of which will qualify for a capital deduction or allowance in terms of section 11(e), 11D(2), 12B, 12C or 12E;”;
- (c) by the substitution for subparagraph (4) of the following subparagraph: 15
 “(4) A person must treat as a capital gain for a year of assessment, so much of the disregarded capital gain contemplated in subparagraph (2), as bears to the total amount of that disregarded capital gain apportioned to that replacement asset as contemplated in subparagraph (3) the same ratio as the amount of any deduction or allowance allowed in that year in terms of section 11(e), 11D(2), 12B, 12C or 12E in respect of the replacement asset bears to the total amount of the deduction or allowance in terms of that section (determined with reference to the cost or value of that asset at the time of acquisition thereof) which is allowable for all years of assessment in respect of that replacement asset.”. 20

(2) Subsection shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any disposal on or after that date. 25

Amendment of paragraph 84 of the Eighth Schedule to Act 58 of 1962, as amended by section 34 of Act 19 of 2001, section 110 of Act 60 of 2001, section 40 of Act 30 of 2002, section 100 of Act 74 of 2002 and section 117 of Act 45 of 2003

68. Paragraph 84 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of “personal expenses” for subparagraph (b) of the following subparagraph: 30

- “(b) [traveling] travelling or maintenance expenses;”.

Amendment of paragraph 4 of Part II of the Ninth Schedule to Act 58 of 1962, as amended by section 61 of Act 20 of 2006 35

69. (1) Part II of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph 4 for item (i) of subparagraph (d) of the following item:

- “(i) [does] is or will fall under a unified or coordinated system of management without compromising national sovereignty; and”.

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

Amendment of paragraph 1 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

70. (1) Paragraph 1 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended— 45

- (a) by the substitution for the definition of “gas” of the following definition: 50
 “‘gas’ means any subsoil combustible gas, consisting primarily of hydrocarbons, [consisting primarily of hydrocarbons,] other than hydrocarbons converted from bituminous shales or other stratified deposits of solid hydrocarbons;”;
- (b) by the deletion of the word “and” after the definition of “oil and gas income”; and 50

- (c) by the substitution in the definition of “refining” for paragraphs (a), (b), (c) and (d) of the following paragraphs:

“(a) any such activity which constitutes the separation of oil and gas condensates;

(b) the drying of gas; 5

(c) the removal of non-hydrocarbon constituents as a process integral to the production of oil and gas from a well and preliminary to the further refining of such separated condensates, oil, gas or dry gas, as the case may be, at another facility; or 10

(d) production.]

(a) any such activity which constitutes—

(i) the separation of oil and gas condensates;

(ii) the drying of gas; or

(iii) the removal of non-hydrocarbon constituents, as a process integral to the production of oil and gas from a well and preliminary to the further refining of such separated condensates, oil, gas or dry gas, as the case may be, at another facility; or 15

(b) production.”. 20

- (2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 2 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

71. (1) The Tenth Schedule to the Income Tax Act, 1962, is hereby amended— 25

- (a) by the substitution in paragraph 2 for item (b) of subparagraph (1) of the following item:

“(b) is not a resident and carries on a trade [through a branch or agency] within the Republic will not exceed 32 cents on each [rand] Rand of taxable income.”; and 30

- (b) by the substitution in paragraph 2 for subparagraph (2) of the following subparagraph:

“(2) Notwithstanding subparagraph (1)(b), the rate of tax on taxable income derived from oil and gas income of an oil and gas company that is not a resident and carries on trade [through a branch or agency] within the Republic will not exceed 29 per cent in respect of any oil and gas income solely derived (directly or indirectly) by virtue of an OP26 right as defined in Schedule II of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), previously held by that company.”. 35 40

- (2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 3 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

72. (1) Paragraph 3 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph: 45

“(1) The rate of tax will not exceed 5 per cent on the net amount of any dividend declared as determined in terms of section 64B(3) by an oil and gas company [derived from] out of the profits of its oil and gas income.”. 50

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

Amendment of paragraph 5 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

73. (1) Paragraph 5 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) For purposes of determining the taxable income of an oil and gas company during any year of assessment, any assessed losses (as defined in section 20) in respect of exploration or production may only be set-off against the oil and gas income, and income derived from the refining of gas [of] by that company to the extent those assessed losses do not exceed that income.”

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 6 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

74. (1) Paragraph 6 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words in subparagraph (1) preceding item (a) of the following words:

“For purposes of determining the taxable income of an oil and gas company during any year of assessment, the Commissioner may not disallow a deduction of expenditure in respect of loans, advances and debts (or of any other financial assistance) on the grounds that those loans, advances and debts are excessive in relation to the fixed capital of that company (as determined on the last day of such year of assessment of that company[,]) unless—”

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of paragraph 7 of the Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

75. (1) Paragraph 7 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (3) for the words following subitem (ii) item (a) of the following words:

“any gain derived by that company in respect of the amount contemplated in subitem (ii) is deemed to be an amount of gross income and that other company that acquired that right may deduct from its oil [an] and gas income as contemplated in paragraph 5(1) (but not including 5(2)) an amount [of gross income] equal to the [gross income] amount deemed [received by] to be gross income of the company that disposed of that right.”; and

(b) by the substitution in subparagraph (3) for the words following subitem (ii) of item (b) of the following words:

“that other company that acquired that right may deduct from its oil [an] and gas income as contemplated in paragraph 5(1) (but not including 5(2)) an amount [of gross income] equal to the [gross income] amount deemed [received by] to be gross income of the company that disposed of that right less the applicable deduction allowable as contemplated in section 11(a) or 22, as the case may be, in respect of that right.”

(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of Schedule No. 1 of Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999, section 64 of Act 30 of 2000, section 52 of Act 19 of 2001, section 53 of Act 30 of 2002, section 41 of Act 12 of 2003, section 155 of Act 45 of 2003, section 36 of Act 16 of 2004, section 14 of Act 9 of 2005 and section 36 of Act 9 of 2006

76. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Appendix II to this Act.

(2) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 21 February 2007.

Continuation of certain amendments of Schedule No. 1 to 6 and 10 to Act 91 of 1964

77. (1) (a) Subject to paragraph (b), every amendment or withdrawal of or insertion in Schedule Nos. 1 to 6, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2006 shall not lapse by virtue of section 48(6), 49, 56(3) or 75(16) of that Act.

(b) Paragraph (a) shall not include amendments made under sections 48 and 75(15) of the Customs and Excise Act, 1964 by Government Notices R. 691 and R. 692 of 21 July 2006.

(2) The amendment of Parts 1, 2, 3, 5A and 5B of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75(15) of that Act by Government Notices R. 281, R. 282, R. 283, R. 284, R. 285, R. 286 and R. 287 of 30 March 2007, in respect of the said Parts 1, 2, 3, 5A and 5B of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) or 75(16) of that Act.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 36 of Act 9 of 1989, section 4 of Act 69 of 1989, section 5 of Act 136 of 1992, section 13 of Act 97 of 1993, section 78 of Act 30 of 1998, section 67 of Act 30 of 2000, section 54 of Act 30 of 2002 and section 74 of Act 20 of 2006

78. (1) Section 4 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (1) for paragraph (h) of the following paragraph:

“(h) any instrument transferred by any public benefit organisation contemplated in paragraph (a) of the definition of ‘public benefit organisation’ in section 30(1) of the Income Tax Act, 1962 (Act No. 58 of 1962), that has been approved by the Commissioner in terms of section 30(3) of [the Income Tax Act, 1962,] that Act, to any other entity which is controlled by such public benefit organisation.”

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

Amendment of section 22 of Act 77 of 1968, as amended by section 6 of Act 102 of 1979, section 88 of Act 32 of 2004 and section 97 of Act 31 of 2005

79. (1) Section 22 of the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (b) of the following paragraph: 5
“(b) in the case of a lease for an indefinite period, [two] five years; or”;
- (b) by the substitution in subsection (2) for subparagraph (iii) of paragraph (c) of the following subparagraph: 10
“(iii) if the lease is to continue in force or may be continued, renewed or extended for an indefinite period following the original period or the definite periods referred to in subparagraph (ii), a period of [two] five years.”;
- (c) by the deletion of subsection (3); and
- (d) by the substitution for subsection (8) of the following subsection: 15
“(8) In the event of a lease terminating or being terminated before the end of the period in respect of which duty has been paid, the Commissioner shall, if satisfied of that fact and upon the application of the person by whom the duty was paid, [allow a] refund, [of] in the case that lease was terminated— 20
(a) within a period of five years from the date of the commencement of the rental period as contemplated in the lease agreement, the amount of such duty; and
(b) after a period of five years from the date of the commencement of the rental period as contemplated in the lease agreement, a proportionate amount of such duty.” 25
- (2) Subsection (1) shall be deemed to have come into operation on 1 June 2007 and shall apply in respect of any lease or agreement of lease executed on or after that date.

Amendment of Item 14 of Schedule 1 of Act 77 of 1968, as amended by section 19 of Act 114 of 1977, section 7 of Act 95 of 1978, section 90 of Act 32 of 2004, section 99 of Act 31 of 2005 and section 38 of Act 9 of 2006 30

80. (1) Item 14 of Schedule 1 of the Stamp Duties Act, 1968, is hereby replaced with the following Item:

14	<u>Lease or agreement of lease (including any instrument intended or operating as a lease or sub-lease or as an agreement to let or sub-let) whereby immovable property is let for a period as contemplated in section 22(2) which is longer than five years, whether with or without other assets or rights, provided transfer duty is not chargeable in respect of such lease or agreement:</u>	35 40
	<u>(1) In respect of a lease or agreement, an amount of duty calculated on a sum equal to the aggregate amount of rent payable (exclusive of value-added tax) in respect of the period for which the lease or agreement is required to be stamped as provided in section 22 of this Act, plus the amount of any other consideration whatsoever, the amount of which is quantifiable at the time of execution of that lease or agreement (excluding the duty payable under this item and exclusive of value-added-tax) due or payable in respect or by virtue of that lease or agreement at a rate of 0,5 per cent of the quantifiable amount of the lease: Provided—</u>	45 50

	(i) that where an amount of consideration in respect of a lease or agreement is not quantifiable at the time of execution of the lease, the duty calculated at a rate of 0.5 per cent on the sum of the amounts of that consideration which became quantifiable (exclusive of value-added tax) during any year of assessment, as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), of any lessor who is a taxpayer, as defined in section 1 of the Income Tax Act, 1962, or in the 12 months ending on the last day of February each year in the case of any other lessors; and	5 10
	(ii) the duty payable under this Item, calculated on the aggregate amount of rent and any other consideration payable under any lease or agreement shall not exceed 8 per cent of the value of the property in relation to that lease or agreement, which value shall be determined in accordance with the provisions of sections 5, 6, 7 and 8 of the Transfer Duty Act, 1949 (Act No. 40 of 1949).	15
	(2) Notwithstanding anything to the contrary in this Act contained, for the purposes of this Item an instrument which, if signed by the parties thereto, would constitute a lease or agreement as aforesaid or a continuance, renewal or extension thereof, shall, if signed by the lessee, be deemed to have been executed on the date on which it was so signed by the lessee, unless such instrument has within three months after that date also been signed by the lessor.	20 25

(2) Subsection (1) shall be deemed to have come into operation on 1 June 2007 and shall apply in respect of—

- (i) any lease or agreement of lease executed on or after that date; and
- (ii) any lease or agreement of lease executed before that date in respect of which consideration becomes quantifiable on or after that date as a result of the application of section 8(1)(e) of the Stamp Duties Act, 1968.

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 and section 77 of Act 20 of 2006

81. Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in the definition of “commercial accommodation” for paragraph (a) of the following paragraph:

“(a) lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guest house, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat, or similar establishment, which is regularly or systematically supplied and where the total annual receipts from the supply thereof exceeds

R60 000 [**per annum**] in a period of 12 months or is reasonably expected to exceed R60 000 [**per annum**] in a period of 12 months, but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof;” and

- (b) by the substitution for the definition of “**municipality**” of the following definition: 5

“**‘municipality’** means a municipality as defined in section 1 of the Income Tax Act [which—

(a) is an organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); and 10

(b) which has the power in terms of section 2 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), to levy municipal rates, 15

but does not include any institution or entity listed in the Schedules to the Public Finance Management Act, 1999 (Act No. 1 of 1999)];”.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of Act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004, section 104 of Act 31 of 2005, section 43 of Act 9 of 2006 and section 80 of Act 20 of 2006 20

82. Section 10 of the Value-Added Tax Act, 1991, is hereby amended— 25

- (a) by the substitution in subsection (2) for the words preceding paragraph (i) of the proviso of the following words:

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

- (b) by the substitution in subsection (2) for paragraph (ii) of the proviso of the following paragraph:

“(ii) where the portion of the [**value**] amount of the said consideration which represents tax is not accounted for separately by the vendor, the said portion shall be deemed to be an amount equal to the tax fraction of that consideration.”; and 35

- (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 40

“(3) For the purposes of this Act the [**value**] amount of any consideration referred to in this section shall be—”.

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001, section 172 of Act 45 of 2003, section 107 of Act 31 of 2005, section 47 of Act 9 of 2006 and section 83 of Act 20 of 2006 45

83. (1) Section 16 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (3)(a) for subparagraph (iv) of the following subparagraph: 50

- “(iv) charged in terms of section 7(3)(a) in respect of goods subject to excise duty or environmental levy as contemplated in that section and invoiced or paid, whichever is the earlier, during that tax period;” and
- (b) by the substitution in subsection (3)(b) for subparagraph (ii) of the following subparagraph: 5
- “(ii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor or in terms of section 7(3)(a) in respect of goods subject to excise duty or environmental levy as contemplated in that section and paid by the vendor during the tax period;”. 10
- (2) Subsections (1)(a) and (b) shall be deemed to have come into operation on 24 January 2005.

Amendment of section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993, section 33 of Act 27 of 1997, section 92 of Act 30 of 1998, section 88 of Act 53 of 1999, section 173 of Act 45 of 2003, section 17 of Act 20 of 1994, section 102 of Act 32 of 2004, section 108 of Act 31 of 2005, section 48 of Act 9 of 2006 and section 84 of Act 20 of 2006 15

84. (1) Section 17 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (i) of the proviso of the following words: 20
- “Where goods or services are acquired or imported by a vendor partly for consumption, use or supply (hereinafter referred to as the intended use) in the course of making taxable supplies and partly for another intended use, the extent to which any tax which has become payable in respect of the supply to **[him] the vendor** or the importation by **[him] the vendor**, as the case may be, of such goods or services or in respect of such goods under section 7(3) or any amount determined in accordance with paragraph (b) or (c) of the definition of ‘input tax’ in section 1, is input tax, shall be an amount which bears to the full amount of such tax or amount, as the case may be, the same ratio (as determined **[in accordance with a general written ruling]** by the Commissioner **[or a written ruling given by the Commissioner to such vendor]**) in accordance with a ruling as contemplated in section 41A or 41B as the intended use of such goods or services in the course of making taxable supplies bears to the total intended use of such goods or services: 35
- Provided that—”;
- (b) by the substitution in subsection (1) for paragraph (iii) of the proviso paragraph of the following paragraph: 35
- “(iii) where a method for determining the ratio referred to in this subsection has been approved by the Commissioner, **[by way of a general written ruling or a written ruling given to such vendor,** that method may only be changed with effect from a future tax period, or from such other date as the Commissioner may consider equitable.”; 40
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 45
- “(2) Notwithstanding anything in this Act to the contrary, a vendor, **[other than a foreign donor funded project,** shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16(3), any amount of input tax—” and 50
- (d) by the substitution for subsection (2A) of the following subsection: 50
- “(2A) Subsection (2) shall not apply to **[such] input tax in respect of** goods or services that are applied in the course **[of] or** furtherance of a foreign donor funded project to the extent that the Minister announces that **[those] the funding [are] of that foreign donor funded project is** zero-rated in terms of section 11(2)(q) by notice in the *Gazette*.”. 55

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

Amendment of Item 413.00 of Schedule 1 to Act 89 of 1991, as inserted by section 89 of Act 20 of 2006

85. (1) Item 413.00 of Schedule 1 to the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph 1(c) of the Notes to item no. 413.00 of the following paragraph: 5

“(c) the FIFA Flagship Store Operator may only import consumable, semi-durable or promotional Championship related goods under items 413.01, 413.02 and 413.03, excluding tobacco products and cosmetics, **[and only from a date six months before the 2009 Confederations Cup]** until one month after the date of the closing ceremony of the 2010 FIFA World Cup South Africa.” 10

(2) Subsection (1) is deemed to have come into operation on 1 April 2006.

Amendment of section 1 of Act 38 of 1996 as amended by section 31 of Act 46 of 1996, section 57 of Act 27 of 1997, section 85 of Act 30 of 2000, section 66 of Act 59 of 2000, section 124 of Act 31 of 2005 15

86. (1) Section 1 of the Tax on Retirement Funds Act, 1996, is hereby amended by the substitution in the definition of “tax period” for paragraph (c) of the following paragraph:

“(c) every consecutive period of 6 months ending on 31 August or the last day of February thereafter, as the case may be, other than a period ending after 28 February 2007;” 20

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

Amendment of section 30 of Act 32 of 2004

87. Section 30 of the Revenue Laws Amendment Act, 2004, is hereby amended by the substitution for subsection (2) of the following subsection: 25

“(2) Subsection (1) shall come into operation on **[a date to be determined by the President by Proclamation in the Gazette] 1 September 2007 and shall apply in respect of any disposal on or after that date.**”

Amendment of section 16 of Act 31 of 2005 30

88. Section 16 of the Revenue Laws Amendment Act, 2005, is hereby amended by the substitution in subsection (2) for paragraph (e) of the following paragraph:

“(e) Subsection (1)(g) shall come into operation on **[a date to be fixed by the President by proclamation in the Gazette] 1 August 2006 and shall apply in respect of any specified activity performed on or after that date.**” 35

Insertion of section 2A in Act 9 of 2006

89. (1) The following section is hereby inserted in the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 after section 2:

“Certain powers of Commissioner in relation to trust

2A. Where trust income or assets were vested in or distributed to any trust beneficiary during the 2006 year of assessment or the preceding two 40

years of assessment, the Commissioner may, for purposes of determining whether all the beneficiaries of that trust throughout the 2006 year of assessment were natural persons, disregard the trust beneficiaries in whom or to whom income or assets were not vested or distributed during the 2006 year of assessment and the preceding two years of assessment.”

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

Amendment of section 3 of Act 9 of 2006

90. (1) Section 3 of the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) during the period commencing 1 August 2006 and ending [31 May 2007] 30 June 2007.”

(2) Subsection (1) shall be deemed to have come into operation on 31 May 2007.

Insertion of section 9A in Act 9 of 2006

91. (1) The following section is hereby inserted in the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 after section 9:

“Additional provisions relating to tax relief

9A. (1) Any amount accrued to an applicant as a result of the relief contemplated in section 8 must be treated as exempt from normal tax in terms of section 10 of the Income Tax Act and any capital gain or capital loss arising from that accrual must be disregarded.

(2) An applicant may not claim any deduction and must disregard any capital loss in respect of any claim made against that applicant by another person that relates to any tax, contribution or levy for which relief has been granted in terms of section 8.

(3) Any capital gain or capital loss as a result of the waiver of an amount as contemplated in section 13 must be disregarded.”

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

Amendment of section 13 of Act 9 of 2006

92. (1) Section 13 of the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, is hereby amended by the addition of the following subsection:

“(4) Any reference to the date of 31 May 2007 in the regulations published in terms of this section must be construed to be the second date as contemplated in section 3(a).”

(2) Subsection (1) shall be deemed to have come into operation on 31 May 2007.

Amendment of Schedule 1 to Act 9 of 2006, as amended by section 105 of Act 20 of 2006

93. (1) The Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, is hereby amended by the substitution in Schedule 1 for subitem (i) of item 2 of the following subitem:

“(i) on each [rand] Rand of taxable income derived by a public benefit organisation [or recreational club] contemplated in paragraph (a) of the definition of ‘public benefit organisation’ in section 30(1) of the Income Tax Act, 1962 (Act No. 58 of 1962), that has been approved by the Commissioner in terms of section 30(3) of that Act, 29 cents;”

(2) Subsection (1) shall be deemed to have come into operation on 25 July 2006.

Amendment of the long title to Act 20 of 2006

94. (1) The long title to the Revenue Laws Amendment Act, 2006, is hereby amended—

- (a) by the substitution for the expression “to amend the regulation of a dividend cycle;” of the following expression to amend the definition of a dividend cycle”; 5
- (b) by the substitution for the expression “**to amend the definition of domestic or foreign financial investment holding company**” of the following expression:
 - “to amend the definition of domestic [or] and foreign financial instrument holding company” of the following expression”; 10
- (c) by the substitution for the expression “**to provide for a *de minimus* rule for refunds;**” of the following expression:
 - “to provide for a [*de minimus*] *de minimis* rule for refunds;”; 15
- (d) by the substitution for the expression “**and to provide for the rates of taxation in respect of recreational clubs or public benefit organisations;**” of the following expression:
 - “and to provide for the rates of taxation in respect of recreational clubs or public benefit organisations[;]”; 20
- (e) by the deletion of the full-stop at the end thereof; and
- (f) by the addition of the following expression:
 - “and to provide for matters connected therewith.”.

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

Amendment of section 3 of Act 20 of 2006

95. (1) Section 3 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection: 25

“(2) [Paragraphs (p) and (q) of subsection (1) shall come into operation on a date to be determined by the President by notice in the *Gazette*] Paragraphs (i) and (o) of subsection (1) shall be deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment commencing on or after that date.”. 30

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

Amendment of section 9 of Act 20 of 2006

96. (1) Section 9 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(2) Subsection (1), other than subsection (1)(e), is deemed to have come into operation on 2 November 2006 and shall apply in respect of any year of assessment ending on or after that date.”.

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

Amendment of section 10 of Act 20 of 2006 40

97. (1) Section 10 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Paragraph (j) of subsection (1), to the extent that it inserts paragraph (cO) into subsection (1), and paragraph [(i)] (k) of subsection (1), shall come into operation on 1 April 2007 and shall apply in respect of any year of assessment commencing on or after that date.”. 45

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

Amendment of section 11 of Act 20 of 2006

98. (1) Section 11 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (4) of the following subsection: 50

“(4) Paragraph (c) of subsection (1) [is] shall be deemed to have come into operation on [31 December] 2 November 2006 and shall apply in respect of any year of assessment [commencing] ending on or after that date.”.

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

Amendment of section 13 of Act 20 of 2006

99. (1) Section 13 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) is deemed to have come into effect on 2 November 2006 and shall apply in respect of **[expenditure actually incurred]** any activities undertaken on or after that date, or buildings, machinery, plant, implements, utensils or articles **[of a capital nature]** brought into use for the first time on or after that date.”

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

Amendment of section 14 of Act 20 of 2006

100. (1) Section 14 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution in paragraph (b) for the words preceding the amendment of the following words:

“by the insertion in subsection (4) after item (cc) of subparagraph (ii) of paragraph (a) of the following **[subitems] items**.”

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

Amendment of section 15 of Act 20 of 2006

101. (1) Section 15 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for the words preceding the amendment of the following words:

“Section 15 of the Income Tax Act, 1962, is hereby amended by the substitution for the words in paragraph (b) that precede the proviso of the following [paragraph] words.”

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

Amendment of section 21 of Act 20 of 2006

102. (1) Section 21 of the Revenue Laws Amendment Act, 2006, is hereby amended by renumbering the current section as section 21(1) and by the addition of the following subsection:

“(2) Subsection (1) shall be deemed to have come into operation on 2 November 2006 and applies in respect of any year of assessment commencing on or after that date.”

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

Amendment of section 28 of Act 20 of 2006

103. (1) Section 28 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) **[Paragraphs (a) to (h) are]** Subsection (1) shall be deemed to have come into operation on 8 November 2005 and shall apply in respect of any **[year of assessment ending]** transaction entered into, or distribution made, on or after that date.”

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

Amendment of section 35 of Act 20 of 2006

104. (1) Section 35 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution in paragraph (c) for the words preceding the amendment of the following words:

“by the **[addition] addition** to subsection (2) of the following paragraphs.”

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

Amendment of section 43 of Act 20 of 2006

105. (1) Section 43 of the Revenue Laws Amendment Act, 2006, is hereby amended by renumbering the current section as section 43(1) and by the addition of the following subsection:

“(2) Subsection (1) shall be deemed to have come into operation on 1 March 2006.” 5

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

Amendment of section 64 of Act 20 of 2006

106. Section 64 of the Revenue Laws Amendment Act, 2006, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (b) of the following paragraph: 10

“(b) by the insertion after subsection (4) of the following subsection:

(4A) The liability for duty on goods in terms of subsection (4) shall cease, in the case of—

(a) the master— 15

(i) upon receipt of the goods by a—

(aa) container terminal operator;

(bb) combination terminal operator;

(cc) transit shed operator;

(dd) bulk goods terminal operator; 20

(ee) road vehicle terminal operator;

(ff) container depot operator; or

(gg) degrouping operator; or

(ii) where, if determined by rule as contemplated in section 11, after due entry and release thereof— 25

(aa) if entered for home consumption, upon receipt thereof by the importer or the importer’s agent;

(bb) if entered for warehousing in a customs and excise warehouse, upon receipt by the licensee of such warehouse; 30

(cc) upon receipt by the person who has entered the goods for removal in bond in terms of section 18; or

(dd) upon receipt by any other person in circumstances and in accordance with procedures as may be prescribed by rule; or 35

(iii) where any goods have not been dealt with as contemplated in subparagraphs (i) and (ii), on delivery thereof to the State warehouse or any other place with the permission of the Commissioner as contemplated in section 11; 40

(b) the pilot—

(i) upon receipt of the goods by—

(aa) a transit shed operator; or

(bb) a degrouping operator; or

(ii) where, if determined by rule as contemplated in section 11, after due entry and release thereof— 45

(aa) if entered for home consumption, upon receipt of the goods by the importer or the importer’s agent;

(bb) if entered for warehousing in a customs and excise warehouse, upon receipt by the licensee of such warehouse; 50

(cc) upon receipt by the person who has entered the goods for removal in bond in terms of section 18; or

(dd) upon receipt by any other person in circumstances and in accordance with procedures as may be prescribed by rule; or 55

- (iii) where any goods have not been dealt with as contemplated in subparagraphs (i) and (ii), on delivery thereof to the State warehouse or any other place with the permission of the Commissioner as contemplated in section 11;
- (c) any other carrier—
- (i) upon receipt of the goods by any person contemplated in section 11; or
- (ii) where, if determined by rule as contemplated in section 11, after due entry and release thereof—
- (aa) if entered for home consumption, upon receipt thereof by the importer or the importer's agent;
- (bb) if entered for warehousing in a customs and excise warehouse, upon receipt by the licensee of such warehouse;
- (cc) upon receipt by the person who has entered the goods for removal in bond in terms of section 18; or
- (dd) upon receipt by any other person in circumstances and in accordance with procedures as may be prescribed by rule; or
- (iii) where any goods have not been dealt with as contemplated in subparagraphs (i) and (ii), on delivery thereof to the State warehouse or any other place with the permission of the Commissioner as contemplated in section 11;” and
- (b) by the substitution in subsection (1) for paragraph (d) of the following paragraph:
- “(d) by the substitution for subsection (5A) of the following subsection:
- “(5A) (a) The container operator shall be liable for the duty on all containerised goods received as contemplated in subsection (5)(a)(ii).
- (b) The liability of the container operator for duty on such goods shall cease—
- (i) after due entry and release thereof—
- (aa) if entered for home consumption, upon receipt of the goods by the importer or the importer's agent;
- (bb) if entered for warehousing in a customs and excise warehouse, upon receipt by the licensee of such warehouse;
- (cc) upon receipt by the person who has entered the goods for removal in bond in terms of section 18; or
- (dd) upon receipt by any other person in circumstances and in accordance with procedures as may be prescribed by rule; or
- (ii) upon receipt by a container terminal operator or a container depot operator or any other person at any other place specified by rule, where the container operator removes any container in bond as contemplated in section 18(1)(d); or
- (iii) in respect of goods containerized in—
- (aa) L.C.L. containers; and
- (bb) any other containers, delivered to a container operator as contemplated in subsection 5(a)(ii) and specified in a list to be compiled by the container operator concerned, upon delivery thereof to a container depot operator; or
- (iv) where any goods have not been dealt with as contemplated in subparagraphs (i) to (iii), upon delivery thereof to the State warehouse or any other place with the permission of the Commissioner as contemplated in section 11;”.

Amendment of section 70 of Act 20 of 2006

107. Section 70 of the Revenue Laws Amendment Act, 2006, is hereby amended by the renumbering of the existing section to section 70(1) and by the addition of the following subsection:

“(2) Subsection (1)(a) to (h) shall be deemed to have come into operation on 1 April 2006.” 5

Amendment of section 77 of Act 20 of 2006

108. Section 77(d) of the Revenue Laws Amendment Act, 2006, is hereby repealed.

Amendment of section 89 of Act 20 of 2006

109. Section 89 of the Revenue Laws Amendment Act, 2006, is hereby amended by renumbering the current section to section 89(1) and by the insertion of the following subsection: 10

“(2) Subsection (1) is deemed to have come into operation on 1 April 2006.”.

Repeal of section 96 of Act 20 of 2006

110. (1) Section 96 of the Revenue Laws Amendment Act, 2006, is hereby repealed. 15
(2) Subsection (1) shall be deemed to have come into operation on 7 February 2007.

Amendment of section 106 of Act 20 of 2006

111. Section 106 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) (a) Subsection (1) and Schedules 1 (other than Part VII to Schedule 1) and 2 are deemed to have come into operation on 1 April 2006; and (b) Part VII to Schedule 1 is deemed to have come into operation on 14 May 2004.” 20

Amendment of Schedule 1 of Act 20 of 2006

112. Schedule 1 of the Revenue Laws Amendment Act, 2006, is hereby amended— 25
(a) by the substitution for paragraph (c) of the definition of “**Championship site**” of the following paragraph:

“(c) any official *Championship* related parking areas, *Championship* press and television centres (including the International Broadcast Centres), VIP areas and any other areas or facilities as may be agreed in good faith by *FIFA* and the *Commissioner* utilised for official events;”; and 30

(b) by the substitution for paragraph 8 of the following paragraph:

“8. Notwithstanding anything to the contrary contained in the *Value-Added Tax Act, 1991*, an entity contemplated in paragraph 6 must levy *value-added tax* at the zero rate on all supplies by that entity of goods or services as contemplated in paragraph 7(1)(a) or (b) at a *Championship site*.” 35

Amendment of Schedule 2 of Act 20 of 2006

113. Schedule 2 of the Revenue Laws Amendment Act, 2006, is hereby amended by the substitution for the heading of the following heading: 40

**“Schedule 2
[Amendments to Schedule No. 4 to the Customs and Excise Act, 1964]
(Section 106)
Part 1A of Schedule No. 4 to the Customs and Excise Act, 1964** 45

Rebate of duty in respect of goods imported for the 2010 FIFA World Cup South Africa:”

Amendment of section 31 of Act 29 of 2005

114. (1) Section 31 of the Diamonds Amendment Act, 2005 (Act No. 29 of 2005), is hereby amended as set out in paragraph 3 of Appendix III to this Act.

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

Amendment of section 63 of Act 56 of 1986, as amended by section 10 of Act 10 of 1991 5

115. (1) Section 63 of the Diamonds Act, 1986 (Act No. 56 of 1986), and section 31 of the Diamonds Amendment Act, 2005 (Act No. 29 of 2005), are hereby amended as set out in Appendix III to this Act.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 2007. 10

Short Title and commencement

116. (1) This Act is called the Taxation Laws Amendment Act, 2007.

(2) Except in so far as is otherwise provided for in this Act or the context indicates otherwise, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2008. 15

Appendix I*(Section (2))***PART I****RATES OF NORMAL TAX AND REBATES**

1. The rate of tax referred to in section 2(1) of this Act to be levied in respect of the taxable income (excluding any retirement fund lump sum benefit) of any natural person or special trust (other than a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment ending on 29 February 2008 is set out in the table below:

Taxable Income	Rate of Tax
Not exceeding R112 500	18 per cent of the taxable income
Exceeding R112 500 but not exceeding R180 000	R20 250 plus 25 per cent of the amount by which the taxable income exceeds R112 500
Exceeding R180 000 but not exceeding R250 000	R37 125 plus 30 per cent of the amount by which the taxable income exceeds R180 000
Exceeding R250 000 but not exceeding R350 000	R58 125 plus 35 per cent of the amount by which the taxable income exceeds R250 000
Exceeding R350 000 but not exceeding R450 000	R93 125 plus 38 per cent of the amount by which the taxable income exceeds R350 000
Exceeds R450 000	R131 125 plus 40 per cent of the amount by which the taxable income exceeds R450 000

2.

Description	Reference to the Income Tax Act, 1962	Amount
Primary rebate	Section 6(2)(a)	R7 740
Secondary rebate	Section 6(2)(b)	R4 680

3. The rate of tax referred to in section 2(1) of this Act to be levied in respect of the taxable income of any trust (other than a special trust or a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment ending on 29 February 2008, is 40 per cent.
4. The rate of tax referred to in section 2(1) of this Act, in respect of the taxable income of companies (other than a public benefit organisation or recreational club referred to in paragraph 5 or a small business corporation referred to in paragraph 6) in respect of any year of assessment ending during the twelve month period ending on 31 March 2008, is, subject to the provisions of paragraph 8, as follows:—
- 29 per cent of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (g)) or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 37 per cent;
 - in respect of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 34 per cent;
 - on each rand of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income

Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

$$y = 35 - \frac{175}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 45 - \frac{225}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (d) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 29 cents, whichever is higher; Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of Rands contained in the said aggregate taxable income;
- (e) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of—
- (i) its individual policyholder fund, 30 per cent; and
 - (ii) its company policyholder fund and corporate fund, 29 per cent;
- (f) on each rand of the taxable income (excluding taxable income referred to in paragraphs (b), (c), (d), (e), and (g)) derived by a company which is not a resident, 34 per cent;
- (g) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero per cent:

Provided that the tax determined in accordance with any of subparagraphs (a) to (g), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said paragraphs.

5. The rate of tax referred to in section 2(1) of this Act to be levied in respect of each rand of taxable income of any public benefit organisation that has been approved by the Commissioner in terms of section 30(3) of the Income Tax Act, 1962 (Act No. 58 of 1962) or any recreational club that has been approved by the Commissioner in terms of section 30A(2) of that Act is, in the case of an organisation or club that is a company, in respect of any year of assessment ending during the twelve month period ending on 31 March 2008 or, in the case of an organisation or club that constitutes a person other than a company, in respect of any year of assessment ending during the twelve month period ending on 29 February 2008, 29 cents.

6. The rate of tax referred to in section 2(1) of this Act in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, in respect of any year of assessment ending during the twelve month period ending on 31 March 2008 is, subject to the provisions of paragraph 9, set out in the table below:—

5

Taxable Income	Rate of Tax
Not exceeding R43 000	0 per cent of taxable income
Exceeding R43 000 but not exceeding R300 000	10 per cent of the amount by which the taxable income exceeds R43 000
Exceeding R300 000	R25 700 plus 29 per cent of the amount by which the taxable income exceeds R300 000

10

7. The rate of tax referred to in section 2(1) of this Act to be levied on a person in respect of the taxable income comprising of any retirement fund lump sum benefit in respect of any year of assessment ending on 29 February 2008 is set out in the table below:

15

Taxable Amount	Rate of Tax
Not exceeding R300 000	18 per cent of the taxable income
Exceeding R300 000 but not exceeding R600 000	R54 000 plus 27 per cent of the taxable income exceeding R300 000
Exceeding R600 000	R135 000 plus 36 per cent of the taxable income exceeding R600 000

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25

8. The rates set forth in paragraphs 1, 3, 4, 5, 6 and 7 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax, 1962.

9. For the purposes of this Appendix, income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any other income which results directly from mining for gold.

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PART II

INCOME TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC
LEGISLATIVE CHANGE

10. General savings thresholds

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	5 10
Broad-based employee share schemes: Employees can receive tax-exempt shares if the shares are part of a broad-based employee share plan. Companies can also deduct shares issued under the plan.			15
Maximum exemption for shares received by employees.	The definition of "qualifying equity share" in section 8B(3).	R9 000.	20
Maximum deduction for shares issued by the employer.	The proviso to section 11(A).	R3 000.	25
Exemption for interest and certain dividends:			
Exemption for domestic interest and otherwise taxable domestic collective scheme dividends in respect of persons younger than 65 years.	Section 10(1)(i)(xv)(bb)(B).	R18 000.	30
Exemption for passive portfolio savings in respect of persons of 65 years or older.	Section 10(1)(i)(xv)(bb)(A).	R26 000.	35
Maximum application of the above exemption for foreign interest and otherwise taxable dividends.	Section 10(1)(i)(xv)(aa).	R3 000.	
Annual donations tax exemption:			
Exemption for donations made by entities.	Section 56(2)(a) and the proviso thereto.	R10 000.	40
Exemption for donations made by individuals.	Section 56(2)(b).	R100 000.	
Capital gains exclusions:			45
Annual exclusion for individuals and special trusts.	Paragraph 5(1) of the Eighth Schedule.	R15 000.	
Exclusion for the disposal of a primary residence.	Paragraph 45(1) of the 8th Schedule.	R1 500 000.	50
Maximum market value of all assets allowed to fall within the small business definition on disposal when over 55.	Definition of "small business" in paragraph 57(1) of the 8th Schedule.	R5 million.	55

Act No. 8, 2007

TAXATION LAWS AMENDMENT ACT, 2007

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	5
Exclusion amount on disposal of small business when over 55.	Paragraph 57(3) of the 8th Schedule.	R750 000.	10
Exclusion on death.	Paragraph 5(2) of the 8th Schedule.	R120 000.	10

11. Retirement savings thresholds

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	15
Deductible retirement fund contributions: Pension fund and retirement annuity fund members may deduct their contributions subject to certain percentage or monetary ceilings (the latter of which is provided below).			20
Pension fund monetary ceiling for contributions.	The proviso to section 11(k)(i).	R1 750.	25
Pension fund monetary ceiling for arrear contributions.	Paragraph (aa) of the proviso to section 11(k)(ii).	R1 800.	30
Retirement annuity fund monetary ceiling for contributions (if also a member of a pension fund).	Section 11(n)(aa)(B).	R3 500.	35
Retirement annuity fund monetary ceiling for contributions (if not a member of a pension fund).	Section 11(n)(aa)(C).	R1 750.	40
Retirement annuity fund monetary ceiling for arrear contributions.	Section 11(n)(bb).	R1 800.	40
Permissible lump sum withdrawals upon retirement: Pension fund and retirement annuity fund members may withdraw lump sums upon retirement.			45
Pension fund monetary amount for permissible lump sum withdrawals.	Paragraph (ii)(dd) of the proviso to paragraph (c) of the definition of "pension fund" in section 1.	R50 000.	50
Retirement annuity fund monetary amount for permissible lump sum withdrawals.	Paragraph (b)(ii) of the proviso to the definition of "retirement annuity fund" in section 1.	R50 000.	55
Exempt lump sum portion: Certain lump sums are partly tax free based on a formula within the Second Schedule. This formula contains input amounts as provided below.			60

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Tax free portion of lump sum benefit	Paragraph (b) of the definition of "formula B" in paragraph 1 of the Second Schedule.	R300 000.	10

12. Deductible Business Expenses for Individuals

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Car allowance: Individuals receive an annual vehicle allowance to defray business travel expenses, including deemed depreciation on the vehicle.			20
Ceiling on vehicle cost.	Section 8(1)(b)(iiiA)(bb)(A).	R360 000.	
Ceiling on debt relating to vehicle cost.	Section 8(1)(b)(iiiA)(bb)(B).	R360 000.	25

13. Employment related fringe benefits

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Exempt Scholarships and bursaries: Employers can provide exempt scholarships and bursaries to employees and their relatives, subject to annual monetary ceilings.			35
Annual ceiling for employees.	Paragraph (ii)(aa) of the proviso to section 10(1)(q).	R60 000.	40
Annual ceiling for employee relatives.	Paragraph (ii)(bb) of the proviso to section 10(1)(q).	R3 000.	
Exempt termination benefits: Employees of age 55 or older receive exemption for employment termination-related payments subject to a monetary ceiling.	Section 10(1)(x).	R30 000.	45
Medical scheme contributions: Medical scheme contributions are tax deductible if the individual pays (and tax-free if the employer pays) subject to monthly ceilings.			50
Monthly ceiling for schemes with one beneficiary.	Section 18(2)(c)(i)(aa) & paragraph 12A(1)(a) of the 7th Schedule.	R530.	55

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Monthly ceiling for schemes with two beneficiaries.	Section 18(2)(c)(i)(bb) & paragraph 12A(1)(b) of the 7th Schedule.	R1 060.	5
Additional monthly ceiling for each additional beneficiary.	Section 18(2)(c)(i)(cc) & paragraph 12A(1)(c) of the 7th Schedule.	R320.	10
Awards for bravery and long service: The deemed value of bravery and long service awards are reduced by the monetary amount indicated.	Paragraph (b) of the further proviso to paragraph 5(2) of the Seventh Schedule.	R5 000.	15
Employee accommodation: Employee accommodation is taxed through a formula if the employer owns the accommodation, but no tax is payable if the employee earns less than the amount indicated.	Paragraph 9(3)(a)(ii) of the 7th Schedule.	R43 000.	20 25
Exemption for de minimis employee loans: Employee loans below the amount indicated are not deemed to have any value as a fringe benefit.	Paragraph 11(4)(a) of the 7th Schedule.	R3 000.	30
Employer deductions for employee housing: Expenses incurred for providing employee housing is limited to the ceiling indicated (per dwelling).	Paragraph (ii) of the proviso to section 11(t).	R6 000.	35
Additional employer deductions for Learnerships: Employers receive additional deductions for learnerships depending on the circumstances.			40
For entering into a learnership with an existing employee, the additional deduction for the employer is limited to the monetary ceiling indicated.	Section 12H(2)(a)(i)(bb).	R20 000.	45
For entering into a learnership with a new employee, the additional deduction for the employer is limited to monetary ceiling indicated.	Section 12H(2)(a)(ii)(bb).	R30 000.	50
For completing a learnership (all employees), the additional deduction for the employer is limited to the monetary ceiling indicated.	Section 12H(2)(b)(ii).	R30 000.	55

Act No. 8, 2007

TAXATION LAWS AMENDMENT ACT, 2007

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	5
For entering into a learnership with an existing disabled employee, the additional deduction for the employer is limited to the monetary ceiling indicated.	Section 12H(2A)(a)(i)(bb).	R40 000.	10
For entering a learnership with a new disabled employee, the additional deduction for the employer is limited to the monetary ceiling indicated.	Section 12H(2A)(a)(ii)(bb).	R50 000.	15
For completing a learnership with disabled employees, the additional deduction for the employer is limited to the monetary ceiling indicated.	Section 12H(2A)(b)(ii).	R50 000.	20

14. Depreciation

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	25
Small-scale Intellectual property: Intellectual property with a cost below the amount indicated is immediately deductible.	Paragraph (aa) of the proviso to section 11(gC).	R5 000.	30
Urban Development Zone incentive: Developers undertaken projects in excess of the amount indicated must provide special notice to the Commissioner.	Section 13quat(10A).	R5 million.	35

15. Miscellaneous

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	45
Public benefit organizations:			
PBO trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)(cN)(ii)(dd)(ii).	R100 000.	50
Donations to transfrontier parks will be deduction only if the donation exceeds the amount indicated.	Section 18A(1C)(a)(ii).	R1 million.	55

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Recreational clubs: Club trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)(cO)(iv)(bb).	R50 000.	5 10
Farming:			
Farmer deductions for employee housing: Expenses incurred by farmers for providing employee housing is limited to the ceiling indicated (per employee).	Paragraph 12(5) of the 1st Schedule.	R6 000.	15
Prepaid expenses: Prepaid expenses amounts up to the amount indicated will not be deferred until delivery of goods, services or benefits.	Paragraph (bb) of the proviso to section 23H(1).	R50 000.	20
Small Business Corporation: Corporates will qualify for tax incentives if gross income does not exceed the amount referred to.	Section 12E(4)(a)(i).	R14 million.	25

16. Administration

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
Interest for underpayments: If final taxable income exceeds the provisional tax paid, the taxpayer must pay interest in respect of provisional tax underpayments to the extent that taxpayer's taxable income exceeds the amount indicated.			30 35 40
In the case of companies.	Section 89quat(2)(a).	R20 000.	
In the case of persons other than companies.	Section 89quat(2)(b).	R50 000.	
Interest for overpayments: If the provisional tax paid exceeds final taxable income, the taxpayer is entitled to interest in respect of provisional tax overpayments.			45
Where the overpayment exceeds the amount indicated.	Section 89quat(4)(a).	R10 000.	50

Act No. 8, 2007

TAXATION LAWS AMENDMENT ACT, 2007

Description <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount	
In the case of a company where the taxpayer's taxable income exceeds the amount indicated.	Section 89quat(4)(b)(i).	R20 000.	5
In the case of a person other than a company where the taxpayer's taxable income exceeds the amount indicated.	Section 89quat(4)(b)(ii).	R50 000.	10
Investment income exemption from provisional tax: If a natural person solely generates income from interest, dividends and real estate rentals, the income amount indicated will be exempt from provisional tax.			15 20
In the case natural persons below age 65.	Paragraph 18(1)(c)(ii) of the 4th Schedule.	R10 000.	
In the case of natural persons of 65 and older.	Paragraph 18(1)(d)(i) of the 4th Schedule.	R80 000.	25
S.I.T.E. threshold: Tax on employment income is subject to the S.I.T.E (the Standard Income Tax on Employees) system up to the amount indicated.	Items (a) and (b) of paragraph 11B(2) and items (a), (b)(ii) and (b)(iii) of paragraph 11B(3) of the 4th Schedule.	R60 000.	30
Automatic appeal to the High Court: The full bench of the High Court will have automatic jurisdiction to appeals if the disputed amount exceeds the amount indicated.	Section 83(4B)(a).	R50 million.	35 40

Appendix II

AMENDMENT OF SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT,
1964

(Section 76)

Tariff Item	Tariff Heading	Description	Rate of duty		
			Excise	Customs	
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco			5
104.01	19.01	Malt extract; food preparations of flour, groats, meal starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:			10 15 20
.10		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7 c/kg	34.7 c/kg	25
104.10	22.03	Beer made from malt			
.10		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l	
.20		Other	3 961.25 c/l of absolute alcohol	3 961.25 c/l of absolute alcohol	30
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must, other than that of heading no. 20.09			35
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances			
.02		Sparkling wine	512.14 c/l	512.14 c/l	40
.04		Unfortified wine	171.53 c/l	171.53 c/l	
.06		Fortified wine	316.67 c/l	316.67 c/l	
104.17	22.06	Other fermented beverages, (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:			45
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l	50
.15		Other fermented beverages, unfortified	198.05 c/l	198.05 c/l	
.17		Other fermented beverages, fortified	401.88 c/l	401.88 c/l	
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	198.05 c/l	198.05 c/l	55
.90		Other	401.88 c/l	401.88 c/l	
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength			60

Act No. 8, 2007

TAXATION LAWS AMENDMENT ACT, 2007

Tariff Item	Tariff Heading	Description	Rate of duty		
			Excise	Customs	
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:			5
.10		Wine spirits, manufactured by the distillation of wine	6100.71 c/l of absolute alcohol	6100.71 c/l of absolute alcohol	10
.15		Spirits, manufactured by the distillation of any sugar cane product	6100.71 c/l of absolute alcohol	6100.71 c/l of absolute alcohol	15
.25		Spirits, manufactured by the distillation of any grain product	6100.71 c/l of absolute alcohol	6100.71 c/l of absolute alcohol	20
.29		Other spirits	6100.71 c/l of absolute alcohol	6100.71 c/l of absolute alcohol	25
.40		Liqueurs and other spirituous beverages	6100.71 c/l of absolute alcohol	6100.71 c/l of absolute alcohol	30
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes			35
.10		Cigars, cheroots, and cigarillos, of tobacco or of tobacco substitutes	164 057.97 c/kg	164 057.97 c/kg	40
.20		Cigarettes, of tobacco or of tobacco substitutes	307.82 c/10 cigarettes	307.82 c/10 cigarettes	45
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:			50
.10		Cigarette tobacco and substitutes thereof	16 483.51 c/kg net	16 483.51 c/kg net	55
.20		Pipe tobacco and substitutes thereof	8 738.60 c/kg net	8 738.60 c/kg net	60

Appendix III

Transitional Diamond Export Levy Provisions

(Sections 114 and 115)

Definitions

1. For purposes of this Schedule, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Diamonds Act, 1986 (Act No. 56 of 1986), or the Diamonds Amendment Act, 2005 (Act No. 29 of 2005), bears the meaning so assigned. 5

Exemption from Export Duty

2. Section 63 of the Diamonds Act, 1986 (Act No. 56 of 1986), is hereby amended— 10

- (a) by the deletion of subsection (1)(a)(ii); and
 (b) by the insertion after paragraph (c) of subsection (1) of the following paragraphs:

“(d) if that diamond is exported by a person that has allocated or offered its unpolished diamonds pursuant to an agreement in terms of section 59 in force before the date of coming into operation of the Diamonds Second Amendment Act, 2005 (Act No. 30 of 2005); or 15
 (e) in respect of an unpolished diamond of a person other than a person described in paragraph (d), if that exported unpolished diamond has been previously offered but not sold at a diamond exchange and export centre.”. 20

Extension of former section 59 agreements

3. Section 31 of the Diamonds Amendment Act, 2005 (Act No. 29 of 2005), is hereby amended by the substitution for subsection (9) of the following subsection: 25

“(9) Any—

- (a) certificate, permit, license, exemption or any form of authorisation issued before the date on which section 4 of this Act takes effect (other than exemption or certificate of exemption described in paragraph (b)) continues in force for a period not exceeding one year as from that date, subject to the terms and conditions under which it was granted or issued or was deemed to have been granted or issued; or 30
 (b) exemption (or certificate of exemption) described in section 63 of the Diamonds Act, 1986 (Act No. 56 of 1986), continues in force until a date fixed by the Minister of Finance by notice in the Gazette, subject to the terms and conditions under which it was granted or issued or was deemed to have been granted or issued.” 35