

A first batch of legislation for inclusion in the **Small Business Tax Amnesty and Amendment of Taxation Laws Bill, 2006**, is hereby released for public comment.

It would be appreciated if comments on the draft legislation could be furnished by **Wednesday, 22 March 2006**. Due to time constraints, it will not be possible to respond individually to comments received. However, receipt of comments will be acknowledged and fully considered by the National Treasury and SARS. A further opportunity to comment on the draft legislation will be available when the legislation is before the Parliamentary Committees in May 2006.

Comments must be submitted to:

Ms. Adele Collins

E-mail: acollins@sars.gov.za

Fax No.: (012) 422-5195

AND

Ms. Pearl Malumane

E-mail: pearl.malumane@treasury.gov.za

Fax No.: (012) 315-5516

REPUBLIC OF SOUTH AFRICA

**SMALL BUSINESS TAX AMNESTY
AND AMENDMENT OF TAXATION
LAWS BILL**

(As introduced in the National Assembly as a money Bill)
(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B - 2006]

DRAFT

GENERAL EXPLANATORY NOTE:

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

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

BILL

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

CHAPTER I

SMALL BUSINESS TAX AMNESTY

(Separate batch)

CHAPTER II

GENERAL AMENDMENTS TO TAXATION LAWS

Amendment of section 2 of Act 40 of 1949

1. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended—
- (a) by the substitution in subsection (1) for the expression “10 per cent” in paragraph (a) of the expression “8 per cent”;
 - (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 - “(b) subject to the provisions of subsection (5), if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person—

DRAFT

- (i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R190 000]** R500 000;
- (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R190 000]** R500 000 but does not exceed **[R330 000]** R1 million;
and
- (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R330 000]** R1 million,

[if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person].”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any property acquired or interest or restriction in any property renounced on or after that date.

Amendment of section 5 of Act 40 of 1949

2. Section 5 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (7) for paragraph (b) of the following paragraph:

“(b) the municipal **[or divisional council]** valuation of the property concerned;”.

Amendment of section 4A of Act 45 of 1955

3. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended by the substitution for the expression “R1,5 million” of the expression “R2,5 million”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of the estate of any person who dies on or after that date.

DRAFT

Fixing of rates of normal tax in terms of Act 58 of 1962

4. The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962, in respect of—

- (a) the taxable income of any person (other than a company) for the year of assessment ending on 28 February 2007; and
- (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2007,

shall be as set out in Schedule 1 to this Act.

Amendment of section 6 of Act 58 of 1962

5. Section 6 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the expression “R6 300” in paragraph (a) of the expression “R7 200”.

Amendment of section 8 of Act 58 of 1962

6. Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the expression “16 000 kilometres” wherever it occurs in paragraphs (aa) and (bb) of the second proviso to subparagraph (ii) of paragraph (b) of the expression “18 000 kilometres”.

Amendment of section 10 of Act 58 of 1962

7. Section 10 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the expression “R2 000” in item (aa) of subparagraph (xv) of paragraph (i) of the expression “R2 500”;

DRAFT

- (b) by the substitution in subsection (1) for the expression “R22 000” in subitem (A) of item (bb) of subparagraph (xv) of paragraph (i) of the expression “R24 500”;
- (c) by the substitution in subsection (1) for the expression “R15 000” in subitem (B) of item (bb) of subparagraph (xv) of paragraph (i) of the expression “R16 500”.

Amendment of section 12E of Act 58 of 1962

8. Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for the expression “R6 million” wherever it occurs in subparagraph (i) of paragraph (a) of the expression “R14 million”.

Amendment of section 12H of Act 58 of 1962

9. (1) Section 12H 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:

“(1) Notwithstanding section 23B, but subject to subsection (3), there shall be allowed to be deducted from the income derived by any employer during any year of assessment, an allowance determined in accordance with subsection (2) or (2A), where—”;
 - (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) **[For purposes of subsection (1)]** Subject to subsection (2A), the amount of the allowance contemplated in subsection (1) in respect of—”;
 - (c) by the substitution in subsection (2) for the expression “R17 500” in item (bb) of subparagraph (i) of paragraph (a) of the expression “R20 000”;

DRAFT

- (d) by the substitution in subsection (2) for the expression “R25 000” in item (bb) of subparagraph (ii) of paragraph (a) of the expression “R30 000”;
- (e) by the substitution in subsection (2) for the expression “R25 000” in subparagraph (ii) of paragraph (b) of the expression “R30 000”; and
- (f) by the insertion after subsection (2) of the following subsection:

“(2A) If the learner contemplated in subsection (1) is a disabled person at the time of entering into the learnership agreement, the amount of the allowance in respect of—

(a) a registered learnership agreement entered into by that employer with that learner who at the time of entering into that agreement—

(i) was employed by that employer or associated institution in relation to that employer, is an amount equal to the lesser of—

(aa) in the case of a learnership with a duration of—

(A) less than 12 months, 150 per cent of the total amount of the remuneration of that learner for the period of that learnership as stipulated in the agreement of employment between that learner and employer; or

(B) 12 months or more, 150 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or

(bb) R40 000; or

(ii) was not employed by that employer or any associated institution in relation to that employer, is an amount equal to the lesser of—

(aa) in the case of a learnership with a duration of—

(A) less than 12 months, 175 per cent of the total amount of the remuneration of that learner for the period of that learnership as

DRAFT

stipulated in the agreement of employment between that learner and employer; or

(B) 12 months or more, 175 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or

(bb) R50 000; and

(b) the completion of any registered learnership agreement as contemplated in subsection (1)(b), is an amount equal to the lesser of—

(i) in the case of a learnership with a duration of—

(aa) less than 12 months, 175 per cent of the total amount of the remuneration of that learner for the period of that learnership as stipulated in the agreement of employment between that learner and employer; or

(bb) 12 months or more, 175 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or

(ii) R50 000.”;

(g) by the insertion in subsection (6) after the definition of “associated institution” of the following definition:

“‘disabled person’ means a person who falls within the definition of ‘people with disabilities’ as contained in section 1 of the Employment Equity Act 1998 (Act No. 55 of 1998);”;

(h) by the substitution in subsection (6) for the expression “1 October 2006” in paragraph (b) of the definition of “registered learnership” of the expression “1 October 2011”.

(2)(a) Subsection (1)(a), (b), (f) and (g) will come into operation on 1 July 2006 and applies in respect of any learnership entered into on or after that date.

DRAFT

(b) Subsection (1)(c), (d) and (e) is deemed to have come into operation on 1 March 2006 and applies in respect of any learnership agreement entered into on or after that date.

Amendment of section 24I of Act 58 of 1962

10. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—

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

“(ii) the date it is translated, the market-related forward rate available for the remaining period of such forward exchange contract or in respect of a forward exchange contract which is an affected contract, the forward rate in terms of such forward exchange contract;” and

(b) by the addition to subsection (10) of the following proviso:

“Provided that where that exchange item is realised during any year of assessment, the exchange difference in respect of that exchange item shall be determined by multiplying that exchange item by the difference between the ruling exchange rate on the date on which that exchange item is realised and the ruling exchange rate on transaction date, after taking into account any exchange difference included in or deducted from the income of that person in terms of this section in respect of that exchange item.”;

(2)(a) Subsection (1)(a) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2006.

(b) Subsection (1)(b) is deemed to have come into operation on 8 November 2005 and applies in respect of years of assessment ending on or after that date.

DRAFT

Amendment of section 56 of Act 58 of 1962

11. (1) Section 56 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the expression “R30 000” in paragraph (b) of the expression “R50 000”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any donation which takes effect on or after that date.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962

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

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

“(i) an allowance in respect of which paragraph (c) or (cA) applies; or”;

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

“(c) 50 per cent of[—

(i) **the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such 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**

(ii) the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e);”;

DRAFT

(b) by the insertion in the definition of “remuneration” of the following paragraph after paragraph (c):

“(cA) 60 per cent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance traveled by the recipient, and which is calculated at a rate per kilometer which does not exceed the appropriate rate per kilometer fixed by the Minister of Finance under section 8(1)(b)(iii);”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any remuneration paid or payable on or after that date.

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962

13. Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for the expression “R20 000” in subitem (ii) of item (a) of the expression “R40 000”.

Amendment of paragraph 10 of Seventh Schedule to Act 58 of 1962

14. Paragraph 10 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(a) in the case of any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his or her private or domestic purposes, **[if the lowest fare payable by a passenger utilizing such facility (had he paid the full fare) at the relevant time in respect of any such journey**

DRAFT

- exceeds R500,]** an amount equal to **[such]** the lowest fare payable by a passenger utilising such facility (had he or she paid the full fare), less the amount of any consideration given by the employee or his or relative in respect of such facility:”; and
- (b) by the deletion in subparagraph (2) of subitem (ii) of item (a).

Amendment of paragraph 5 of Eighth Schedule to Act 58 of 1962

15. Paragraph 5 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1) for the expression “R10 000” of the expression “R12 500”; and
- (b) by the substitution in subparagraph (2) for the expression “R50 000” of the expression “R60 000”.

Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962

16. Paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the expression “R1 million” of the expression “R1,5 million”.

Amendment of paragraph 57 of Eighth Schedule to Act 58 of 1962

17. Paragraph 57 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for the expression “R500 000” of the expression “R750 000”.

DRAFT

Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962

18. Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (3)(c)(iii)(aa) for the words preceding subsubitem (A) of the following words:

“(bb) by means of a distribution [***in specie as contemplated in paragraph 75***] by a company, unless the full amount of that distribution—“; and

(b) by the substitution in subparagraph (4) for the words preceding item (a) of the following words:

“(4) Where [**subsection**] subparagraph (3) does not apply due to the fact that any distribution as provided for in subparagraph (3)(c)[**(ii)(aa)**]—”.

Amendment of Schedule No. 1 of Act 91 of 1964

19. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Schedule 2 to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, subsection (1) shall be deemed to have come into operation on 15 February 2006.

Continuation of certain amendments of Schedules Nos. 1 to 6 and 10 to Act 91 of 1964

20. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, 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 2005 shall not lapse by virtue of the provisions of section 48(6), 49, 56(3) or 75(16) of that Act.

DRAFT

(2) The amendment of Parts 1, 2, 3 and 5 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 of that Act by Government Notices R. ?? of ??, in respect of the said Parts 1, 2, 3 and 5 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) of that Act.

Amendment of item 14 of Schedule 1 to Act 77 of 1968

21. (1) Item 14 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

(a) by the substitution in subitem (1) for the words in paragraph (a) of the *Exemption from duty under paragraph (1)* preceding the proviso of the following words:

“(a) For the purposes of this Item, no duty shall be payable in the event that the duty calculated on a lease or agreement of lease does not in aggregate exceed **[R200]** R500 over the period of the lease.”;

(b) by the substitution in subitem (1) for paragraph (b) of the *Exemption from duty under paragraph (1)* of the following paragraph:

“(b) For the purposes of this Item, where the total consideration payable in respect of a lease or agreement of lease is not quantifiable at the time of execution of that lease, no duty shall be payable in the event that the duty calculated on a lease or agreement of lease on the amount of consideration that has become quantifiable—

(i) 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 that Act; or

(ii) in the 12 months ending on the last day of February each year in the case of any other lessor,

if that amount does not in aggregate exceed **[R200]** R500 during such year of assessment, or 12 month period, whichever is applicable.”.

DRAFT

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any lease agreement executed on or after that date.

Amendment of section 1 of Act 109 of 1985

22. (1) Section 1 of the Regional Services Councils Act, 1985, is hereby amended by the deletion of the definitions of “drawings”, “employer”, “enterprise”, “regional establishment levy” and “regional services levy”.

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

Amendment of section 2A of Act 109 of 1985

23. (1) Section 2A of the Regional Services Councils Act, 1985, is hereby amended—

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

“(a) **[Subject to the provisions of subsection (2),]** The Administrator may, with effect from a date determined by him, empower and direct any local body to do anything which may, in the opinion of the Administrator, be necessary or expedient for or facilitate the establishment or the proper functioning of a council.”;

(b) by the deletion of subsection (2).

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

DRAFT

Amendment of section 4 of Act 109 of 1985

24. (1) Section 4 of the Regional Services Councils Act, 1985, is hereby amended by the substitution in subsection (3) for subparagraph (ii) of paragraph (a) of the following subparagraph:

“(ii) that local body, person or institution undertakes to exercise or perform any regional function or part thereof on behalf of the council **[and may claim a levy contemplated in section 12(1)(a) on behalf of the council]**; and”.

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

Amendment of section 11 of Act 109 of 1985

25. (1) Section 11 of the Regional Services Councils Act, 1985, is hereby amended—

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

“(3) Any local body represented on a council, or a person or institution admitted by agreement in terms of section 4(3)(a)(iii) as a member of the council, and whose interests are affected by a decision of that council taken after reconsideration in terms of subsection (2), may within such time and in such manner as the Administrator may prescribe by regulation, appeal against that decision to an appeal board which shall consist of the Administrator.”;

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

“(4) An appeal in terms of subsection (3)**[(a)]** shall be noted only in respect of—”.

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

DRAFT

Amendment of section 11A of Act 109 of 1985

26. (1) Section 11A of the Regional Services Councils Act, 1985, is hereby amended by the deletion of paragraph (i).

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

Repeal of section 12 of Act 109 of 1985

27. (1) Section 12 of the Regional Services Councils Act, 1985, is hereby repealed.

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

Amendment of section 13 of Act 109 of 1985

28. (1) Section 13 of the Regional Services Councils Act, 1985, is hereby amended—

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

“(a) The Administrator may, subject to the provisions of subsection (3), by notice in the *Official Gazette* make regulations in respect of any matter referred to in this Act **[(except a matter contemplated in section 12, but including a matter contemplated in the proviso to subsection (6) thereof)]** which in the opinion of the Administrator is necessary or expedient for the effective execution or furtherance of the provisions and objects of this Act.”;

(b) by the deletion of subsection (2);

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

DRAFT

Repeal of section 14 of Act 109 of 1985

29. (1) Section 14 of the Regional Services Councils Act, 1985, is hereby repealed.

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

Repeal of section 15 of Act 109 of 1985

30. (1) Section 15 of the Regional Services Councils Act, 1985, is hereby repealed.

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

Amendment of section 15A of Act 109 of 1985

31. (1) Section 15A of the Regional Services Councils Act, 1985, is hereby amended by the deletion in subsection (1) of the proviso.

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

Substitution of section 16 of Act 109 of 1985

32. (1) The following section hereby substitutes section 16 of the Regional Services Councils Act, 1985:

“Act binding on State and statutory bodies[, and effect of certain exemptions from taxes or levies]

16. This Act shall bind the State and all bodies established by or under any law[, and no provision contained in any other law

DRAFT

published on or before 31 July 1985 providing for an exemption from any taxes or levies shall be applicable to the regional services levy or the regional establishment levy].”.

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

Amendment of section 1 of Act 84 of 1990

33. (1) Section 1 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion of the definitions of “drawings”, “employer”, “enterprise”, “regional establishment levy” and regional services levy”.

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

Amendment of section 3 of Act 84 of 1990

34. (1) Section 3 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended—

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

“(a) **[Subject to the provisions of subsection (2),]** The Joint Executive Authority may, with effect from a date determined by it, empower and direct any local body to do anything which may, in the opinion of the Joint Executive Authority, be necessary or expedient to facilitate the establishment or the proper functioning of a board.”;

(b) by the deletion of subsection (2).

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

DRAFT

Amendment of section 5 of Act 84 of 1990

35. (1) Section 5 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the substitution in subsection (6) for subparagraph (ii) of paragraph (a) of the following subparagraph:

“(ii) that local body, person or institution undertakes to perform any regional function or part thereof on behalf of the board **[and may claim a levy contemplated in section 16 on behalf of the board]**; and”.

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

Amendment of section 14 of Act 84 of 1990

36. (1) Section 14 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended—

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

“(4) Any local body represented on a board and whose interests are affected by a decision of that board taken after reconsideration in terms of subsection (3), may within such time and in such manner as the Joint Executive Authority may determine, appeal against that decision to the Joint Executive Authority, which shall give such decision thereon as it may deem fit.”;

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

“(5) An appeal contemplated in subsection (4)**[(a)]** shall be noted only in respect of—”.

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

DRAFT

Amendment of section 15 of Act 84 of 1990

37. (1) Section 15 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion of paragraph (i).

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

Repeal of section 16 of Act 84 of 1990

38. (1) Section 16 of the KwaZulu and Natal Joint Services Act, 1990, is hereby repealed.

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

Amendment of section 18 of Act 84 of 1990

39. (1) Section 18 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended—

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

“(a) The competent authority may, on the recommendation of the Joint Executive Authority and subject to the provisions of subsection (3), by notice in the *Official Gazette* make regulations in respect of any matter referred to in this Act **[(except a matter contemplated in section 16, but including a matter contemplated in the proviso to subsection (7) thereof)]** which in the opinion of the Joint Executive Authority are necessary or expedient for the effective carrying out or furtherance of the provisions and objects of this Act.”;

(b) by the deletion of subsection (2).

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

DRAFT

Amendment of section 20 of Act 84 of 1990

40. (1) Section 20 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion in subsection (1) of the proviso.

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

Repeal of section 21 of Act 84 of 1990

41. (1) Section 21 of the KwaZulu and Natal Joint Services Act, 1990, is hereby repealed.

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

Amendment of section 22 of Act 84 of 1990

42. (1) Section 22 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion of subsection (2).

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

Substitution of section 23 of Act 84 of 1990

43. (1) The following section hereby substitutes section 23 of the KwaZulu and Natal Joint Services Act, 1990:

“Act binding on State and statutory bodies, and effect of certain exemptions from taxes or levies.

DRAFT

23. This Act shall bind the State and all bodies established by or under any law[, and no provision contained in any other law published on or before 31 July 1985 providing for an exemption from any taxes or levies shall be applicable to the regional services levy or the regional establishment levy].”.

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

Amendment of section 2 of Act 89 of 1991

44. Section 2 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the words in paragraph (k) preceding the first proviso of the following words:

“(k) the entering into, the buying or selling of any derivative:”;

Amendment of section 12 of Act 89 of 1991

45. Section 12 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (h) for the words in item (cc) of subparagraph (i) preceding subitem (A) of the following words:

“(cc) by an institution in the Republic which is exempt from income tax in terms of section [30] 10(1)(cN) of the Income Tax Act and which has been formed for the—“.

Amendment of section 27 of Act 89 of 1991

46. (1) Section 27 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (4) for the expression “R1 million” in subparagraph (i) of paragraph (c) of the expression “R1,2 million”; and

DRAFT

- (b) by the substitution in subsection (4B) for the expression “R1 million” in subparagraph (i) of paragraph (a) of the expression “R1,2 million”;
- (c) by the substitution in subsection (5) for the expression “R1 million” in paragraph (b) of the expression “R1,2 million”.

(2) Subsection (1) is deemed to have come into operation on 1 July 2006 and applies in respect of any tax period commencing on or after that date.

Amendment of section 55 of Act 89 of 1991

47. Section 55 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(a) required to be kept in terms of subsection (1) and section **[75(1)(f)] 73A** of the Income Tax Act, shall be retained and carefully preserved by the vendor for the period referred to in the said section **[75(1)(f)] 73A;**” and

- (b) by the substitution in subsection (3) for the words in paragraph (b) preceding subparagraph (i) of the following words:

“(b) required to be kept in terms of subsection (1), but in respect of which a return referred to in the said section **[75(1)(f)] 73A** need not be submitted, shall—”.

Amendment of section 10 of Act 209 of 1993

48. Section 10 of the Local Government Transition Act, 1993, is hereby amended—

- (a) by the deletion in subsection (1) of subparagraph (iii) of paragraph (h);
- (b) by the deletion in subsection (1) of the proviso to paragraph (i).

DRAFT

Amendment of section 10D of Act 209 of 1993

49. (1) Section 10D of the Local Government Transition Act, 1993, is hereby amended by the deletion in subsection (4) of subparagraph (i) of paragraph (a).

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

Amendment of paragraph 1 of Schedule 2 to Act 209 of 1993

50. (1) Paragraph 1 of Schedule 2 to the Local Government Transition Act, 1993, is hereby amended by the deletion of item (a).

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

Amendment of section 2 of Act 38 of 1996

51. (1) Section 2 of the Tax on Retirement Funds Act, 1996, is hereby amended by the substitution for the expression “18 per cent” of the expression “9 per cent”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any tax period commencing on or after that date.

Amendment of section 1 of Act 31 of 1998

52. (1) Section 1 of the Uncertificated Securities Tax Act, 1998, is hereby amended—

(a) by the addition to the definition of “**beneficial ownership**” of the following proviso:

“Provided that where a company cancels or redeems its own securities,

DRAFT

that company is deemed to have acquired the beneficial ownership in those securities.”.

Amendment of section 6 of Act 31 of 1998

53. Section 6 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the addition in subsection (1) to paragraph (b) of the following subparagraph:

“(xi) to the extent that the securities are participatory interests in a collective investment scheme in securities as contemplated in section 39 of the Collective Scheme Investment Control Act, 2002 (Act No. 45 of 2002);”.

Amendment of section 93 of Act 117 of 1998

54. (1) Section 93 of the Local Government: Municipal Structures Act, 1998, is hereby amended by the deletion of subsection (6).

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

Short title, commencement and savings

55. (1) This Act is called the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for 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 2007.

DRAFT

(3) Any levy which could be imposed under the Regional Services Councils Act, 1985, the KwaZulu and Natal Joint Services Act, 1990, the Local Government Transition Act, 1993, or the Local Government: Municipal Structures Act, 1998, before or on the date of the amendment of that Act by this Act, shall be imposed and recovered in accordance with and subject to the provisions of the Act concerned as if that Act had not been so amended.

DRAFT

SCHEDULE 1

RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2007, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2007

(Section 4)

1. The rates of normal tax referred to in section 4 of this Act in respect of persons (other than companies) are as follows:—

(a) in respect of the taxable income of any person (other than a person in respect of which subparagraph (b) applies), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income—	
Does not exceed R100 000.....	18 per cent of each R1 of the taxable income;
Exceeds R100 000 but does not exceed R160 000	R18 000 plus 25 per cent of the amount by which the taxable income exceeds R100 000;
“ R160 000 “ “ “ “ R220 000	R33 000 plus 30 per cent of the amount by which the taxable income exceeds R160 000;
“ R220 000 “ “ “ “ R300 000	R51 000 plus 35 per cent of the amount by which the taxable income exceeds R220 000;
“ R300 000 “ “ “ “ R400 000	R79 000 plus 38 per cent of the amount by which the taxable income exceeds R300 000;
“ R400 000	R117 000 plus 40 per cent of the amount by which the taxable income exceeds R400 000.

(b) in respect of the taxable income of any trust (other than a special trust), an amount of 40 cents on each rand of taxable income.

2. The rates of normal tax referred to in section 2 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—

DRAFT

- (a) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f), (g) and (h)), 29 cents, 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 cents;
- (b) 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, an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income—	
Does not exceed R40 000.....	0 per cent of the taxable income;
Exceeds R40 000 but does not exceed R300 000	10 per cent of the amount by which the taxable income exceeds R40 000;
Exceeds R300 000.....	R26 000 plus 29 per cent of the amount by which the taxable income exceeds R300 000.

- (c) on each rand of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 34 cents;
- (d) 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:

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

DRAFT

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:

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

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);

- (e) 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;
- (f) 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 cents; and
 - (ii) its company policyholder fund and corporate fund, 29 cents;

DRAFT

- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) derived by a company which is not a resident and which carries on a trade through a branch or agency within the Republic, 34 cents;
- (h) 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 cents:

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

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

4. For the purposes of paragraph 2, 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.

5. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned.

DRAFT

SCHEDULE 2

**AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE
ACT, 1964**

(Section 19)

Tariff item	Tariff heading	Description	Rate of duty	
			Excise	Customs
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco		
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		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7 c/kg	34.7 c/kg
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	3 667.82 c/l of absolute alcohol	3 667.82 c/l of absolute alcohol
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must, other than that of heading no. 20.09		
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances		
.02		Sparkling wine	465.58 c/l	465.58 c/l
.04		Unfortified wine	158.09 c/l	158.09 c/l
.06		Fortified wine	287.88 c/l	287.88 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:		
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l
.15		Other fermented beverages, unfortified	183.38 c/l	183.38 c/l
.17		Other fermented beverages, fortified	365.35 c/l	365.35 c/l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	183.38 c/l	183.38 c/l
.90		Other	365.35 c/l	365.35 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		
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:		
.10		Wine spirits, manufactured by the distillation of wine	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol
.15		Spirits, manufactured by the distillation of any sugar cane product	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol

DRAFT

.25		Spirits, manufactured by the distillation of any grain product	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol
.29		Other spirits	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol
.40		Liqueurs and other spirituous beverages	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes		
.10		Cigars, cheroots, and cigarillos, of tobacco or of tobacco substitutes	148 515.70 c/kg net	148 515.70 c/kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	278.04 c/10 cigarettes	278.04 c/10 cigarettes
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:		
.10		Cigarette tobacco and substitutes thereof	15 649.41 c/kg net	15 649.41 c/kg net
.20		Pipe tobacco and substitutes thereof	8 261.93 c/kg net	8 261.93 c/kg net