

TEXTUAL AMENDMENTS:

*This **draft legislation** is released for public information. The amendments contained in this draft are merely proposals which are **subject to change and final approval by the Minister of Finance**. Early comments on this draft will be considered for possible inclusion in a revised draft Bill.*

It is the intention to release the revised draft Bill in the first seven days of October, prior to the commencement of the informal Parliamentary process.

There will be an opportunity to comment on the revised draft Bill, either directly to the National Treasury and SARS or during the public hearings in the Parliamentary Committees in mid-October 2003.

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.

Comments may be submitted to either:

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Amendment of section 9 of Act 32 of 1948

. Section 9 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any [**‘computer print-out’ as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)**] printout of information generated, sent, received, stored, displayed or processed by electronic means;

‘information’ includes any [**data stored by means of a ‘computer’ as defined in section 1 of the Computer Evidence Act, 1983**] electronic

representations of information in any form;”.

Amendment of section 11A of Act 40 of 1949

. Section 11A of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any [**‘computer print-out’ as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)**] printout of information generated, sent, received, stored, displayed or processed by electronic means;

‘information’ includes any [**data stored by means of a ‘computer’ as defined in section 1 of the Computer Evidence Act, 1983**] electronic representations of information in any form;”.

Amendment of section 8A of Act 45 of 1955

. Section 8A of the Estate Duty Act, 1955, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “instrument” of the following definitions:

“documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any [**‘computer print-out’ as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)**] printout of information generated, sent, received, stored, displayed or processed by electronic means;

‘information’ includes any [**data stored by means of a ‘computer’ as defined in section 1 of the Computer Evidence Act, 1983**] electronic representations of information in any form;”.

Amendment of section 3 of Act 58 of 1962

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

“(4) Any decision of the Commissioner under the definitions of ‘benefit fund, ‘pension fund’, ‘provident fund’, ‘retirement annuity fund’ and ‘spouse’ in section 1, section 6, section 8(4)(b), (c), (d) and (e), section 9D, section 9E, section 9F, section 10(1)(cH), (cK), (e), (iA), (j) and (nB), section 11(e), (f), (g), (gA), (j), (l), (t), (u) and (w), section 12C, section 12E, section 12G, section 13, section 14, section 15, section 22(1), (3) and (5), section 24(2), section 24A(6), section 24C, section 24D, section 24I, section 25D, section 27, section 30, section 31, section 35(2), section 38(4), section 41(4), section 57, paragraphs 6, 7, 9, 13, 13A, 14, 19 and 20 of the First Schedule, paragraph (b) of the definition of ‘formula A’ in paragraph 1 and paragraph 4 of the Second Schedule, paragraphs 18, 19(1), 20, 21, **[22]** 24 and 27 of the Fourth Schedule, paragraphs 2, 3, 6, 9 and 11 of the Seventh Schedule and paragraphs 29(2A), 29(7), 31(2), 65(1)(d) and 66(1)(c) of the Eighth Schedule, shall be subject to objection and appeal.”.

Amendment of section 5 of Act 58 of 1962

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

- (a) by the deletion in subsection (1) of paragraph (b); and
- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) any person (other than **[a person in respect of whom paragraph (b) applies or]** a company) during the year of assessment ended the last day of February each year; and”.

Amendment of section 9 of Act 58 of 1962

. Section 9 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (aa) of the proviso of the following paragraph:

- “(aa) 80 per cent or more of the value of the net **[asset] assets** of that company or other entity, determined on the market value basis, is attributable directly or indirectly to immovable property, (other than immovable property held by that company or entity as trading stock); and”.

Amendment of section 12H of Act 58 of 1962

. 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:
“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), where—”;
- (b) by the addition in subsection (2) of the word “and” at the end of subparagraph (ii) of paragraph (a).

Amendment of section 20 of Act 58 of 1962

. (1) Section 20 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (b) of the proviso and the words following paragraph (b) of the following paragraph:

- “(b) derived by any person from the carrying on within the Republic of any trade, any—
- (i) assessed loss incurred by such person during such year; or
 - (ii) any balance of assessed loss incurred in any previous year

of assessment,
in carrying on any trade outside the Republic.”.

(2) Subsection (1) shall be deemed to have come into operation on 6 December 2000.

Amendment of section 23B of Act 58 of 1962

. Section 23B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) No deduction shall be allowed under section 11(a) [**or (b)**] in respect of any expenditure or loss of a type for which a deduction or allowance may be granted under any other provision of this Act, notwithstanding that such other provision may impose any limitation on the amount of such deduction or allowance.”.

Amendment of section 23F of Act 58 of 1962

. Section 23F 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:

“Where any taxpayer has during any year of assessment incurred expenditure for the acquisition of trading stock which was neither disposed of by him during such year nor held by him at the end of such year, any deduction which may be allowed to him under the provisions of section 11(a) [**or (b)**] in respect of such expenditure shall not be allowed in such year, but such expenditure shall for the purposes of such provisions be deemed to have been incurred by him in the first subsequent year of assessment in which—“;

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

“(2) Where any taxpayer has during any year of assessment disposed of any trading stock in the ordinary course of his trade for any

consideration the full amount of which will not accrue to him during such year of assessment and any expenditure incurred in respect of the acquisition of such trading stock was allowed as a deduction under the provisions of section 11(a) [or (b)] during such year or any previous year of assessment, the amount of such expenditure so allowed as a deduction shall be deemed to have been recovered or recouped by such taxpayer and be included in the income of the taxpayer for the year of assessment during which such trading stock was so disposed of, and there shall be allowed to be deducted in—“; and

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

“(b) any expenditure incurred in respect of the acquisition of such asset was allowed as a deduction under the provisions of section 11(a) [or (b)] or was otherwise taken into account during such year or any previous year of assessment,”.

Amendment of section 24G of Act 58 of 1962

. Section 24G of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) any interest (other than interest which is deductible under section 11(a) [or (b)]) incurred by the taxpayer during the year of assessment in respect of any loan utilized for the purpose of financing any expenditure contemplated in paragraph (a) or (b); and”.

Amendment of section 66 of Act 58 of 1962

. Section 66 of the Income Tax Act, 1962, is hereby amended by the substitution in the Afrikaans text for paragraph (b) of subsection (13) of the following paragraph:

- “(b) in die geval van 'n maatskappy, vir die hele tydperk van die betrokke **[finansiële jaar]** boekjaar van daardie maatskappy wat die jaar van aanslag uitmaak.”.

Amendment of section 70B of Act 58 of 1962

. Section 70B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Every person who administers a portfolio of financial instruments, as defined in **[the Eighth Schedule]** section 1, on behalf of any other person and has the mandate of that other person to buy and sell any such financial instruments on such other person’s behalf, shall furnish to the Commissioner an annual return in such form and within such time and containing such information as the Commissioner may prescribe.”

Amendment of section 73A of Act 58 of 1962

. Section 73A of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the heading of the following heading:
“**Record keeping by persons [deriving income other than remuneration] who render returns**”; and
- (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
“(b) any **[data created by means of a “computer” as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983) including data in the electronic form in which it was originally created or in which it is stored for the purposes of backing up such data]** electronic representations of information in any form.”.

Amendment of section 74 of Act 58 of 1962

. Section 74 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any [**‘computer print-out’ as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)**] printout of information generated, sent, received, stored, displayed or processed by electronic means;

‘information’ includes any [**data stored by means of a ‘computer’ as defined in section 1 of the Computer Evidence Act, 1983**] electronic representations of information in any form;”.

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

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

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

Amendment of paragraph 8 of First Schedule to Act 58 of 1962

. Paragraph 8 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following

subparagraph:

“(1) Where any farmer has during any year of assessment incurred expenditure in respect of the acquisition of livestock, the deduction which may be allowed to him under section 11(a) **[or (b)]** of this Act in respect of the cost price of such livestock shall be limited to an amount which, together with the value of livestock held and not disposed of by him at the beginning of such year, does not exceed the income received by or accrued to him from farming during such year and the value of livestock held and not disposed of by him at the end of such year.”.

Amendment of paragraph 19 of First Schedule to Act 58 of 1962

. Paragraph 19 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

“(4) In determining under this paragraph any amount of normal tax which is or would be chargeable no regard shall be had to the deductions provided for in section 6 **[or 6bis]** of this Act, and nothing in this paragraph contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of **[his]** that person's taxable income.”.

Amendment of section 31 of Act 77 of 1968

. Section 31 of the Stamp Duties Act, 1968, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“‘documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any **[‘computer print-out’ as defined in section 1 of the Computer Evidence Act,**

1983 (Act No. 57 of 1983)] printout of information generated, sent, received, stored, displayed or processed by electronic means;
'information' includes any [data stored by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983] electronic representations of information in any form;”.

Amendment of section 57 of Act 89 of 1991

. Section 57 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“‘documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any **['computer print-out' as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)] printout of information generated, sent, received, stored, displayed or processed by electronic means;**
'information' includes any [data stored by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983] electronic representations of information in any form;”.

Amendment of section 13 of Act 31 of 1998

. Section 13 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the substitution in subsection (1) for the definitions of “documents” and “information” of the following definitions:

“‘documents’ include any document, book, marketable security, record, account, deed, plan, instrument, trade list, stock list, brokers note, affidavit, certificate, photograph, map, drawing and any **['computer print-out' as defined in section 1 of the Computer Evidence Act, 1983 (Act No. 57 of 1983)] printout of information generated, sent, received, stored, displayed or processed by electronic means;**”;

'information' includes any [data stored by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983] electronic representations of information in any form;".

Amendment of section 33 of Act 74 of 2002

. Section 33 of the Revenue Laws Amendment Act, 2002, is hereby amended—

(a) by numbering the existing wording of the English text as subsection (1);

(b) by the addition in the English text of the following subsection:

"(2) Subsection (1) shall come into operation on the date that the Collective Investment Schemes Control Act, 2002, comes into operation."

Amendment of section 36 of Act 74 of 2002

. (1) Section 36 of the Revenue Laws Amendment Act, 2002, is hereby amended by the deletion in subsection (1) of paragraph (b).

(2) Subsection (1) shall be deemed to have come into operation on 13 December 2002.

Amendment of section 113 of Act 74 of 2002

. Section 113 of the Revenue Laws Amendment Act, 2002, is hereby amended—

(a) by numbering the existing wording as subsection (1); and

(b) by the addition of the following subsection:

"(2) Subsection (1)(a) and (b) shall be deemed to have come into operation on 6 November 2002 and shall apply in respect of any original issue of a share or registration of transfer of any marketable security in terms of a company formation transaction, share-for-share transaction,

amalgamation transaction, intra-group transfer, unbundling transaction, liquidation distribution or other transaction, as the case may be, entered into on or after that date.”.

Amendment of section 128 of Act 74 of 2002

. Section 128 of the Revenue Laws Amendment Act, 2002, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) shall be deemed to have come into operation on the date on which section ~~[116(1)]~~ 118(1) of the Second Revenue Laws Amendment Act, 2001, comes into operation”.

Amendment of section 1 of Act 12 of 2003

. (1) Section 1 of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003, is hereby amended by the substitution for the definition of “Commissioner” of the following definition:

“‘Commissioner’ means the Commissioner for the South African Revenue Service appointed in terms of section ~~[13]~~ 6 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);”.

(2) Subsection (1) is deemed to have come into operation on 1 June 2003.

Short title and commencement

. (1) This Act shall be called the Revenue Laws Amendment Act, 2003.

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

2004.

TRAFFET